

Comments of the Bulgarian Government to the report of the Commissioner for Human Rights of the Council of Europe following her visit to Bulgaria on 25-29 November 2019

The Republic of Bulgaria would like to express its gratitude for the work of the Commissioner for Human Rights as well as its readiness to continue the constructive cooperation with the Council of Europe.

Bulgaria highly values the role of the Commissioner in fostering effective observance of human rights in Europe, based on the values and standards of the Council of Europe and reflecting the international commitments of the respective States in the field of human rights. We take note of her proactive approach, openness and constructive criticism in trying to assist member states in the implementation of Council of Europe human rights standards at national level. Bulgarian authorities appreciate the consistent cooperation with her office as well as with the other monitoring bodies of this Organisation. We are committed to continuing a constructive dialogue and implementing the recommendations and conclusions that offer viable solutions to existing shortcomings and address particularly difficult situations, taking into account the national specificity and the national positions expressed by the government.

Bearing this in mind, we find somewhat disappointing that certain conclusions of the report seem unjustified and unbalanced. We respect the right of the Commissioner to offer her views on important topics on the Bulgarian human rights agenda, but regret the fact that some of her views are based on partial information and seem to deliberately ignore other views, largely relayed in Bulgarian society and contributing to shaping the national debate on topical human rights issues.

Therefore we would like to add some information that we think should be taken into consideration while drafting the report.

Racism, intolerance and discrimination

The first part of the report focuses on the negative phenomena of racism, intolerance and discrimination. While discussing several isolated events of demonstration of hate speech, it also briefly touches upon the State's efforts towards its prevention. Herewith we would like to expand on them, since several public events were organised over the recent years with the purpose of sending a very clear signal of insusceptibility to hatred and discriminatory attitudes.

Bulgaria is pursuing a coherent policy aimed at preventing and eliminating all forms of discrimination and creating understanding and tolerance among persons having a different ethnicity, religion or language.

Intolerance and hate speech

We must emphasise that the State has taken a consistent and strong position to condemn publicly any manifestation of hatred, intolerance, discrimination and antisemitism. A lot of efforts have been made, aimed at affirming the vision of Bulgaria as a country of tolerance that

guarantees the equal participation of all communities, regardless of ethnic, religious or other identity.

Since 2017, the annual Lukov march – an ultranationalist and neo-Nazi youth torch-bearing procession, aimed at glorifying the legacy of a pro-Nazi politician and Holocaust promoter, was continuously banned by an order of the mayor of Sofia which was subsequently overturned by the administrative court on the basis of the constitutional right to peaceful assembly. The march has drawn strong and widespread condemnation, not only by Bulgarian and international Jewish groups, but also by the government, the mainstream parties of the ruling majority and of the opposition, the mayor of Sofia, and the civil society. The government and the Sofia Municipality engaged with the Bulgarian Jewish community and civil society organizations in a series of active efforts to curb the procession, supported by the WJC and other international Jewish organisations. While the public condemnation and the calls for the march to be suspended did not stop the event until this year, these actions limited its scope and challenged the assertion of the organisers and supporters of the march that General Lukov was a national hero and not a Nazi supporter who promoted hate and antisemitism.

In February 2020, a decision by the Supreme Administrative Court upholding the ban by the mayor of Sofia resulted in the **cancellation of the so-called “Lukov march”** for the first time in 17 years. The event was limited to a short flower-laying ceremony at Lukov’s home with less than 100 supporters in attendance.

The decision of the Court was preceded by the actions of the Sofia City Prosecutor’s Office of lodging an application for ending the registration of the “Lukov march” organiser – namely “Bulgarian National Union Edelweiss”, pursuant to the Law on Non-Profit Organisations. In the course of an investigation, the Sofia City Prosecutor’s Office had identified numerous public statements by members of the leadership and activists of BNU Edelweiss, statements and opinions from the organisation containing incitement to violence and hate speech based on racial, ethnic, religious, gender, and antisemitic propaganda.

On 15 February 2019, the Shalom Organization of the Jews in Bulgaria and the GLAS (Gays and Lesbians Accepted in Society) Foundation signed a memorandum of understanding and cooperation, united by the common desire to live in a democratic, civil society without divisions, intolerance and hate speech. The parties will share experience and expertise to raise public awareness of the need for concrete measures to prevent and combat forms of intolerance and their physical manifestations, in particular hate speech and hate crime. In addition, they will continue to work to create a safe environment for groups, communities and individuals who are subject to intolerance. On 10 March 2019, the Central Israelite Spiritual Council and 11 NGOs joined the campaign to build a partnership network of civil society organizations committed to a society without intolerance and hate speech, and signed a **Memorandum of cooperation and partnership in the fight against hate speech and discrimination** in Bulgarian society. Government officials attended both signing ceremonies and voiced their strong support for the civil society initiative.

At the start of the Bulgarian Presidency of the EU Council, **an international conference entitled “Sofia Says No to Hate Speech”** gathered on 15 February 2018 the Mayor of Sofia, the National coordinator on combatting antisemitism, other government officials, diplomats,

academics, lawyers, civil society actors, media and students to demonstrate their unity in the desire to counter hate speech and intolerance.

Building on the momentum created by the conference, a **public campaign “Sofia – City of Tolerance and Wisdom”** under the auspices of Sofia Mayor was launched on 11 September 2018 with a “Together Against Hate Speech” Manifesto, signed by Sofia Mayor, the National coordinator for combating antisemitism and the President of the Shalom Organization of the Jews in Bulgaria committing the signatories to combat intolerance and hate speech. The signatories pledge not only not to use hate speech themselves but also never to be silent or passive when others use hate speech, as well as to act with firmness and swiftness, whenever and wherever hate speech is used, whether it be on a public or political platform, in private in their presence, on social networks, in sports arenas, on any of the buildings and streets in Bulgaria, whether in written or spoken form. The public campaign is intended as a long-term project to unite institutions and civic organisations in opposition to hate speech and discrimination building upon a number of initiatives, events and educational activities, such as the **initiative “Let’s Clean Hatred off the Streets of Sofia”** to clean swastikas and other offensive graffiti off walls in the Bulgarian capital with the participation of 100 volunteers.

In early 2019, a number of high-profile personalities and people from various walks of life posted videos on Facebook publicly stating support for the manifesto. An event in the Government Building on 16 February 2019 gathered Bulgarian intellectuals, civil society leaders, senior government officials, municipal leaders and diplomats to show support for the manifesto and add their signatures to the manifesto.

A first-ever march of tolerance and unity “Together for Bulgaria, together for Europe” drawing more than 1,500 people from across Bulgarian society onto the streets of Sofia took place on 10 March 2019. The march was initiated by WJC President Ronald S. Lauder, who travelled to Sofia to take part, in cooperation with Shalom and the Sofia municipality. Bulgarian participants included Speaker of Parliament, Vice Prime Minister and Foreign Minister, Mayor of Sofia, the National coordinator on combatting antisemitism, MPs. The second annual march of tolerance was scheduled for 15 March 2020 but had to be cancelled due to the ban imposed on public gatherings in view of the COVID-19 pandemic.

In November 2018, Bulgaria became a **full member of the International Holocaust Remembrance Alliance (IHRA)**, substantiating further its commitment and capacity to advance the education, remembrance and research on the Holocaust and the genocide of the Roma, and to counter the influence of historical distortion, antisemitism, hate speech and all forms of racism and discrimination, through the implementation of national policies and initiatives and international cooperation.

Within the effort to gain IHRA membership, in October 2017 the Bulgarian Government took a decision to adopt and apply the IHRA “Working Definition of Antisemitism”. Bulgaria became the fifth EU Member State to adopt the definition. The decision tasked the Ministers and Heads of Agencies to take the necessary measures to translate the working definition into operational practice within the areas of their responsibility. The Government also proposed to the National Assembly (Bulgarian Parliament) to apply the definition in its future work. The decision represents a starting point for a comprehensive assessment of the problem and

consideration of policies and measures to address it. It allows the authorities to refer to one single definition and its illustrative examples of contemporary antisemitism, and has already served as a tool for public accountability.

With the same decision, the Government appointed a Deputy Minister of Foreign Affairs as **national coordinator on combating antisemitism** who works with relevant ministries and state authorities, as well as with the Jewish community and civil society organizations, to coordinate policies and actions to prevent and counter antisemitism. The responsibilities of the national coordinator include facilitation of surveys of public attitudes, research and risk assessment, monitoring, data collection and reporting of antisemitic hate speech and hate crimes. He also interacts with media and is involved in the co-ordination of national and international projects against antisemitism. These include working with the European Commission Co-ordinator on Combatting Antisemitism and the equivalents in other European Union MS and other partner countries, as well as with the competent authorities of the United Nations, OSCE/ODIHR, the Council of Europe, UNESCO, and the EU Fundamental Rights Agency.

The **Memorandum of Cooperation** between the Bulgarian Government (represented by the national coordinator on combatting antisemitism), the Organisation of the Jews in Bulgaria: a Shalom and the World Jewish Congress signed in November 2018 aims at promoting sustainable cooperation between the parties through the exchange of information, experience and good practices, building of trust and consolidation of the capacities for joint measures and actions in the field of prevention and combating antisemitism and improving the security of the Jewish community. It provides for a holistic approach in fighting all forms of antisemitism and hate crime through education and cultural activities; training of law-enforcement authorities; legislative improvements; sharing of information and data about hate crime; enhancing data collection and recording and countering hate speech on the Internet.

Since the appointment of a national coordinator on combatting antisemitism in 2017, the Government has taken a consistent and strong line in publicly denouncing manifestations of antisemitism, xenophobia and hate speech. Acting upon alerts and reports by the Jewish community, the national coordinator has taken up with national and local authorities to respond swiftly on antisemitic incidents by investigating and prosecuting the perpetrators, removing and confiscating Nazi-related memorabilia from sale and discouraging and preventing the sale of such items.

The Bulgarian EU Council Presidency in the first half of 2018 put the fight against antisemitism, hate speech, xenophobia and other forms of intolerance among its priorities. The Bulgarian MFA and Yad Vashem's International School for Holocaust Studies organized a **training seminar** for educators and policy makers on the Holocaust and combating antisemitism and the rise of hate speech and hate crime in Sofia on 22-23 May 2018 to discuss regional cooperation, devise practical strategies, and address challenges in Holocaust education, promoting human rights, and countering antisemitic hate crimes. Participants included representatives from EU MS and EU candidate countries, as well as the IHRA, OSCE/ODIHR, Council of Europe/European Commission against Racism and Intolerance (ECRI) and EU Agency for Fundamental Rights (FRA).

In order to deliver on its commitments under the 2018 EU Council Declaration on the fight against antisemitism to adopt and implement a holistic strategy to prevent and fight all forms of antisemitism, as part of their strategies on preventing racism, xenophobia, radicalisation and violent extremism, the Bulgarian MFA in cooperation with other stakeholders has initiated the development of an **Action Plan on combatting antisemitism 2021-2025**. Bulgaria has announced its intention to use the Norwegian action plan as a model for developing its own plan, as most of the measures in Norway's action plan are in line with the overall objectives and priorities of the Bulgarian government's policies to combat antisemitism and hate speech.

The elaboration of the action plan will be preceded by the first-ever dedicated public opinion survey and study of attitudes towards Jews in Bulgaria which aims to provide policy makers with robust and reliable evidence needed to devise the courses of action and to establish the practice of regular attitude surveys. The Bulgarian MFA has submitted a project idea on "Strategic cooperation between Bulgaria and Norway in support of Bulgaria's international commitments to combating antisemitism and preserving Jewish heritage" for funding under the EEA Financial Mechanism; and the Norwegian Financial Mechanism 2014-2021 with a focus on the development and the initial implementation of the action plan.

In recent years, Bulgarian law enforcement and criminal justice authorities have been actively participating in training provided by the OSCE/ODIHR and EU FRA in order to improve their ability to **record and collect hate crime data**.

In response to an official request by the Bulgarian government for the customization and application of ODIHR's Practical Guide on "Understanding Antisemitic Hate Crimes and Addressing the Security Needs of Jewish Communities", developed within the project "Turning Words into Action to Address Antisemitism", an ODIHR Needs Assessment Mission visited Sofia in December 2017. Following the mission to Bulgaria, OSCE/ODIHR assessed the practical consultation and co-operation between local and national authorities and Jewish communities and formulated a number of recommendations. The Customization Report for Bulgaria can be used as a basis for delivering trainings to law enforcement officials, as well as a model for addressing the security needs and experiences of other communities vulnerable to hate crimes.

ODIHR's practical guide Understanding Anti-Semitic Hate Crime and Addressing the Security Needs of Jewish Communities translated into Bulgarian and the Customization Report were present at an event in Sofia on 22 November 2018 organized by the ODIHR, in partnership with the Bulgarian Ministry of Foreign Affairs, the Shalom Organization of the Jews in Bulgaria and the World Jewish Congress. The event brought together some 30 government representatives, law-enforcement officers and Jewish community representatives, and included a panel discussion on "Antisemitism and Hate Crime in Bulgaria: Challenges, Opportunities, Recommendations for the Future", as well as a training workshop for law-enforcement officers and Jewish community representatives to enhance their understanding of the specific threats and to foster cooperation.

As part of ODIHR's project Building a Comprehensive Criminal Justice Response to Hate Crime, three pilot training courses for police officers and prosecutors (75 participants

altogether) have taken place in the first half of 2018 in 3 Bulgarian cities allowing participants to identify and overcome differences in their respective understandings of hate crimes and in their approaches to processing hate crime cases. At a workshop in June 2018 in Sofia, ODIHR launched a Manual on joint hate crime training for police and prosecutors to address hate crimes in the Bulgarian language. The manual, based on lessons learned from the three pilot courses, is intended for use in the Bulgarian context. Work under the project also opened the prospect of greater inter-agency co-operation on addressing hate crimes among prosecutors, the Ministry of Interior, the Commission for Protection against Discrimination, the Ombudsman's Office and civil society.

Under the same project, Bulgaria co-sponsored a side event within the OSCE Human Dimension Implementation Meeting in Warsaw on 20 September 2018 entitled "Building a Comprehensive Criminal Justice Response to Hate Crime: innovative practices to address hate crimes in Bulgaria, Greece, Italy, and Poland". The side event aimed at presenting the results and good practices resulting from the work in the four project countries, including the joint training manual on hate crimes for police and prosecutors in Bulgaria.

In 2019, ODIHR assisted Bulgarian CSOs in building a coalition of various organizations working to address different forms of intolerance and discrimination. Activities included a workshop on ODIHR's hate crime methodology and civil society reporting platform in Sofia on 19-21 February 2019 with 20 participants, the exchange of international good practices, and meetings to map the role of each coalition member. These efforts culminated in the creation of the Bulgarian Hate Crime Recording Coalition, trained to properly record and report hate crimes and equipped with a hate crime recording form. The coalition is comprised of organizations representing diverse groups, including Bulgaria's Jewish, Roma and LGBTI communities. The coalition will submit the data for publication in ODIHR's hate crime database.

FRA and ODIHR jointly conducted in Sofia on 20-21 June 2019 a support **workshop on ways to improve national approaches to official hate crime recording and data collection** in Bulgaria. The workshop was hosted by the MFA and brought together more than 30 representatives of the police, Ministry of Justice, Prosecutor's Office, the judiciary and several civil society organizations (CSOs) involved in hate crime monitoring. The event included an opening address by the Minister of the Interior, a high-level panel discussion to raise awareness of the need to strengthen Bulgaria's response to hate crimes, and a technical workshop with practitioners.

In June 2019, a first-ever national 3-day training of police officers on responding to hate crimes based on homophobic and transphobic motives took place in Bulgaria. The training was conducted by the Youth LGBT organization Deystvie with the support of the Bulgarian Ministry of the Interior. 54 police officers from the ministry and its regional departments took part in the training. The project funded by the American Bar Association foresees 4 regional and 1 national trainings in 2020.

In preparing a new series of anti-LGBT hate crime trainings for police officers, the organizers have approached the SOGI Unit of the Council of Europe with a request for partnership and support methodology-wise, expert-wise and further credibility to their efforts

in the field. The support which is under consideration would include the provision of a translation into Bulgarian of the CoE manual "Policing Hate Crime against LGBTI persons" to facilitate its use country wide. A Bulgarian police officer was nominated by the Ministry of the Interior to attend the European Training on Hate Crime Against LGBTI Persons organized by SOGI Unit in October/November 2019 which was focused on the manual. In 2019, the Ministry of Foreign Affairs appointed a first-ever Bulgarian representative to the Governmental LGBTI Focal Points Network of the European Region (FPN) who participated in the FPN bi-annual meetings in Oslo (13-15 May 2019) and Prague (21-23 October 2019), as well as in the annual IDAHOT+ Forum (May 2019, Oslo).

On 24 July 2019, the Supreme Administrative Court (SAC) of the Republic of Bulgaria upheld the ruling of the Sofia-city Administrative court on the Cristina Palma and Mariama Diallo case recognising the same-sex couples' right to reside in Bulgaria on the basis of the right to move freely within the European Union, valid for all citizens of the Union and their family members. The SAC decision is final and in effect. It is in line with the case-law of the Court of Justice of the European Union (CJEU) which had ruled on a similar case (Coman and others, C-673/16) that the EU Member States have to respect the **right of residence of same-sex couples** who have been married in another country and wish to live together in their countries, as the right to move freely within the EU is a fundamental right guaranteed to all.

Regarding the recommendation to amend the legislation to ensure that racist motivation is an aggravating circumstance for all criminal acts, we would like to clarify the following:

According to Art. 54 of the Criminal Code and the established case law the court determines the punishment within the limits provided by the law for the committed crime, guided by the provisions of the general part of the code and taking into account the degree of public danger of the act and the perpetrator, the motives for committing the act and others mitigating and aggravating circumstances. Mitigating circumstances impose a lighter sentence and aggravating circumstances impose a heavier sentence. Therefore, there is no obstacle to the racist motivation for any crime of a general nature to be taken into account by the court as an aggravating circumstance and to result in a more severe punishment.

The Bulgarian Government will continue to create the necessary conditions and policies for an environment free of all forms of discrimination, including through working with the CoE and other international and regional organizations to take common action against these challenges.

Roma issues

The State's efforts aimed at the successful integration of the Roma in the society have always been and will continue to be one of the main priorities of the Bulgarian authorities.

We are of the opinion that the issues raised by the Commissioner in this part of the report should take on board all stakeholders' view, without giving preference to one or another group or opposing particular groups of the society.

In accordance with her mandate the Commissioner cannot act upon individual complaints, but can draw conclusions and take wider initiatives on the basis of reliable information regarding human rights violations suffered by individuals. We regret that in the context of her visit to Bulgaria while seeking to draw general conclusions on the basis of isolated incidents, the Commissioner reached conclusions that do not correspond to the real situation in the country and lead to a distortion of the overall human rights situation in Bulgaria.

Regarding the findings that Bulgarian authorities are not complicit and are disinterested of the situation of Roma, we consider them unfounded and subjective. We regret that the report does not contain information provided by the authorities on the issues in question.

In order to overcome existing problems, it is important to underline that the Ministry of Justice continues carrying out activities aimed at adopting the common measures recommended to Bulgaria for the implementation of the group of decisions of the European Court of Human Rights (ECtHR), joined by the *Yordanova et al. vs. Bulgaria* case. These decisions (under Article 8 of the ECHR) concern the disproportionate interference of the authorities with the right to privacy and family life in cases of forced evictions or forced destruction of illegal structures.

In the context of **fulfilment of the measures under *Yordanova***, the report mentions the inter-ministerial working group engaged in analysis of current regulations and preparation of legislative changes. The legislative proposals have been finalized and, in order to prepare the necessary preliminary partial assessment of the impact of the amendment bill and its financial justification, the Ministry of Regional Development and Public Works has requested information from the institutions whose activities it will affect: the municipalities (the National Association of Municipalities in the Republic of Bulgaria (NAMRB)), the regional governors and the Directorate for National Building Control (DNBC).

Meanwhile, for the first time in Decision No. 11731 / 03.10.2018 on admin. case No. 1517/2018, the Supreme Administrative Court directly referred to Art. 8 of the ECHR, to Art. 6 of the APC and the case No. 46577/15 of *Ivanova and Cherkezov vs. Bulgaria*. The aforementioned decision was followed by others in the same sense (Decision No. 10329 of 03.07.2019 on admin. case No. 14131/2018 of the SAC, Decision No. 11689 of 02.08.2019 on admin. case No. 9569/2018 of the SAC second panel, Decision No. 6783 of May 8, 2019, on admin. case No. 14679/2018, of the SAC, second panel). These decisions practically apply the principles and criteria set out in the draft law, even though it has not yet entered into force.

Under the Norwegian Financial Mechanism, within the new programming period 2014-2021, a project proposal was prepared for financing activities for implementation of the decisions of *Yordanova* and others and *Nencheva* and others against Bulgaria, in view of the fact that these two decisions refer to violations of the rights of children and of vulnerable groups, including Roma.

With a view to addressing the challenges **hindering social inclusion and sustainable integration**, complex actions were developed through the launching of the integrated operation

“Socio-economic integration of vulnerable groups” in 2018 (over BGN 100 million). Through the initiative projects for new social housing, urban reconstruction and development are already underway. For the period 2017-2020, there are 10 grant contracts for social housing projects with the municipalities of Ruse, Stara Zagora, Blagoevgrad, Pernik, Kardzhali, Lovech, Smolyan, Razgrad, Silistra and Velingrad, for a total value of 30 million Bulgarian leva (BGN), the realization of which will rehabilitate 648 dwellings in urban areas. According to the Guidelines for Project Applications / Operational Program "Regions for Growth" 2014-2020 / in support of providing modern social housing for vulnerable groups and other disadvantaged groups, project proposals have been submitted until the end of 2019.

To improve **housing conditions**, activities continue on compiling cadastre maps and registers as a basis for urban development plans. Local self-government authorities are encouraged to implement urban regulation of the residential areas with predominant Roma population and include new zones for housing development. Funds from the state budget are used for development of cadastral maps and cadastral registers as well as improving the existing and developing new technical infrastructure in Roma residential areas.

Regarding the statements made *in § 14* of the report referring to problems in the **field of education** we would like to clarify that- the Regional Directorate of Education - Plovdiv conducts a periodic review to determine the status of children and pupils who left together with their parents Voivodinovo village, Maritza municipality, Plovdiv district, after the demolition of illegal structures in January 2019. According to the data provided by the Regional Directorate of Education – Plovdiv, as of January 31, 2020, 8 of these children live in the “East” region of Plovdiv and are enrolled in the following schools: "Naiden Gerov" High School - 2 students; Pencho Slaveikov Primary School - 5 students; Kiril Nektariev Primary School - 1 student. According to the school directors, all pupils regularly attend classes and do not have absenteeism for invalid reasons.

The chosen place of residence of many members of the ethnic Roma group on this particularly territory in Plovdiv expectedly leads to predominance of Roma students in the corresponding schools. According to the latest census from 2011, the largest neighbourhood with Roma population in the Republic of Bulgaria is Stolipinovo, with more than 40,000 inhabitants.

From the information provided in this paragraph, it is not clear to which particular school it is referred to in order for an inspection to be carried out / regarding the claim made on the low level of education in an educational establishment /. The results of the national external assessment in grade IV for the academic year 2018/2019 show that elementary education in schools in the “East” district does not differ significantly from that in the "St. St. Cyril and Methodius” Elementary School, Voivodinovo village, Maritza municipality.

It is further important to be mentioned that in recent years, measures have been taken by the Ministry of Education and Science to overcome the causes of reproduction of social inequalities among vulnerable groups of people due to the low educational status of parents. A national study was commissioned on “Mapping the environment of kindergarten-parents

interaction” taking into account the influence of the ethno-cultural characteristics and educational status of the parents, the educational needs of the children and the demographic specificity of the regions. It has been commissioned to develop video material to motivate parents of children from vulnerable groups to participate in pre-school education.

By amending and supplementing the Ordinance on the Financing of Institutions in the System of Preschool and School Education of 01.01.2018, additional funds from the state budget, educational institutions with concentration of children and students from vulnerable groups were provided, namely to work with these children.

Through the provision of additional funds, educational institutions are provided with the opportunity to carry out supplementary training for children and students whose mother tongue is different from Bulgarian and who do not speak Bulgarian, those who encounter difficulties or gaps in mastering the educational content, social worker, educational mediator or teacher's aide, as well as staff engaged in measures to support access to education and prevent the risk of dropout of pre-school and school education for children and students from vulnerable groups. The amount of funds provided for work with children and students from vulnerable groups for 2019 is 25 307 800 Bulgarian leva (BGN).

Targeted government action is currently underway to ensure optimal conditions for the implementation of **differentiated care**, aimed at improving educational outcomes and achieving higher education for students with disabilities, vulnerable groups, Roma. A toolkit is being developed for early identification of students at risk of early school leaving and for applying a differentiated approach in determining their needs for individual support; intensive trainings of pedagogical specialists are held, aimed at increasing their professional competence for applying the differentiated approach in determining the needs of the students for additional training.

The results of the measures taken show that out of 1,110 schools with high concentration of students from vulnerable groups, in the 2019/2020 school year, 1 107 schools formed additional training groups. The measures largely address both the need to implement inclusive education policies and the need to provide the necessary facilities and resources to work with students from vulnerable groups.

In regard with the information under §18 mentioning some civil registration issues, it is important to clarify that according to the Civil Registration Act, **address registration** (application for permanent and current address) is carried out at addresses determined by the mayor of the municipality on the territory of the municipality. Every person subject to civil registration under this law is obliged to state in writing his / her permanent and current address, which must correspond to the address designated by the mayor of the municipality. It is not necessary for the address registration to be carried out in a person's own property.

Pursuant to the provisions of Art. 92, para. 8 and para. 9, of the same Act, all facts and circumstances relevant to the issuance of an identity document and address registration that cannot be certified by the person shall be established by a committee designated by order of the Mayor of the municipality, which includes employees from the municipal administration and from the territorial structural units of the Ministry of Interior, General Directorate "Civil

Registration and Administrative Services" at the Ministry of Regional Development and Public Works and the Social Assistance Agency. On the basis of the opinion of the committee, the competent authorities (mayors or officials designated by them) shall carry out the address registration.

After the address registration, persons requesting assistance from the State should submit an application-declaration to the respective Social Assistance Directorate at their current registered address and subject to the conditions and requirements they will be included in a support programme. If these persons do not have health insurance, they shall be insured at the expense of the State budget after they submit an application-declaration, since social assistance is based on the personal will of the person in need of support.

In regard with the information included in § 28 we would like to provide an up to date information, relevant to the period of the visit, which unfortunately was not mentioned in the report. In 2018 the Government appointed new Chairperson of the Council and in 2019 two meetings of the Council were held.

A preparation of the new strategic document for Roma integration post 2020 is currently being finalised. The new strategic document will be focused on measures to accelerate Roma integration, prevent and eliminate segregation, taking into account the gender dimension and situation of young Roma, and will set baseline and measurable milestones and targets. Special focus will be put on Roma women, youth and children.

On the basis of the reports and data submitted to the System for monitoring and control of the implementation of the National Strategy of the Republic of Bulgaria for Roma Integration 2012-2020, the Bulgarian Academy of Sciences is preparing an analysis of the progress of the Strategy. The analysis will be used as a guidance in the process of elaboration of the next National Roma Integration Strategy.

Right of association

In the context of **the right of association** guaranteed by Art. 10 of the ECHR as well as by the Constitution of the Republic of Bulgaria, we are in the process of implementing the decisions of the ECHR in the "OMO Ilinden and Others v. Bulgaria" group of cases, which are currently undergoing enhanced monitoring of implementation by the Committee of Ministers of the Council of Europe.

The Committee of Ministers acknowledged the progress made so far by Bulgaria in the implementation of both individual and general measures, taking into account the new registration mechanism introduced by amendments in the Non-Profit Legal Entities Act (NPLEA), the Commercial Register Act and the Non-Profit Legal Entities Register in 2018.

The last updated Addendum of an action plan was submitted to the Committee of Ministers on 2 September 2019.

The transfer of the registration of the Non-Profit Legal Entities to the Registry Agency marks an important stage of the registry reform in relation to the goals set in the Updated

Strategy for continuing the judicial reform on the regulation of the workload of courts. It achieved the following positive effects:

- reduced administrative burden in the process of registration of Non-Profit Legal Entities - faster registration procedure, lower state fees, electronic filing of documents;
- increased transparency and accountability of Non-Profit Legal Entities by publishing all financial statements and reports on the activities of organizations;
- the court acquitted itself of cases of low legal complexity, which made it possible to divert resources to litigation;
- the organizational and technical resources of the Registry Agency have become fully operational.

Regarding the information provided in the report on the action taken by the Prosecutor's Office to revoke **the registration of two non-governmental organisations**, it is important to be mentioned that such information was not requested by the Commissioner during the meeting with the Prosecutor General of the Republic of Bulgaria.

A possible ending of an organisation's registration significantly differs in its procedure from the registration itself. The registration process is initiated with the presentation of all legally specified documentation. In this case, the law provides for the organisation to be registered as long as its documentation fulfils the legal provisions of the Non-Profit Legal Entities Act (NPLEA). The ending of a registration significantly differs from this procedure, since it is initiated by petition filed in court and its argumentation is developed in the context of a court trial, reviewed by courts of three instances (administrative, appellate and supreme). The burden of proof lies on the petitioner as specified by the applicable law. Additionally, an irregularity at the registration stage does not automatically present a valid reason for ending the registration - the provisions in this case are specified in Art. 13 Par. 3 NPLEA, giving the legal entity a six-month period to correct the established irregularity as long as its founding and activity do not breach the Constitution, the laws or the good morals. As long as the irregularity is corrected, there can be no reason for ending the organisation's registration.

The case at question has not been decided by the competent national court yet. Therefore any conclusion on the constitutionality or legality of a potential ending of an organisation's registration would be premature.

The Republic of Bulgaria is a State Party to all main international human instruments in the field of human rights, including those of the United Nations, the Council of Europe and the European Union. All necessary legal and institutional guarantees are established in the country for the effective realisation of human rights and fundamental freedoms, as well as for prevention and protection against any violations.

As far as the question of recognition of minorities is concerned, we would like to refer to the State's position, contained in the **first and all subsequent reports, submitted by Bulgaria, on the implementation of the Framework Convention for the Protection of National Minorities**. In this context and with regard to some misinterpretations in the

Commissioner's report, it is necessary to reiterate certain parts of this position, which are legally and factually substantiated and remain unchanged.

In the absence of the definition of the term "national minorities" in the Framework Convention, the determination of its personal scope of application is within the exclusive competence of the Parties themselves.

Bulgaria implements in practice the principle that ethnic identity is a matter of free personal choice for any individual. Self-identification is one indispensable criterion to be considered when defining the personal scope of application of the Framework Convention. By its very nature, though, self-identification is a subjective criterion. It shall be recalled, however, that according to paragraph 35, second sentence, of the Explanatory Report to the Framework Convention: "The individual's subjective choice is inseparably linked to objective criteria relevant to the person's identity." It is evident from this explicit text that the personal scope of application of the Framework Convention is inherently linked to the existence of both subjective and objective criteria cumulatively. Subjective criteria should not be assigned decisive significance, while the objective criteria could not be disregarded practically, especially given the unstable dynamics of the subjective criteria (i.e. different self-identification of the same person in changing circumstances). Consequently, any individual, who may wish to come under the protection, flowing specifically from the principles of the Framework Convention, must fully satisfy both types of criteria cumulatively in order to qualify for such protection.

Within this clear legal framework, the Bulgarian authorities have adopted a genuinely inclusive approach regarding the personal scope of application of the Framework Convention. Based on the Constitution of the Republic of Bulgaria, in connection with the relevant provision of the Framework Convention, and to the extent that the individual choice of every person regarding his/her belonging to a given ethnic, religious or linguistic minority group or community is linked to the existence of objective criteria, relevant to that person's identity, the principles of the Framework Convention are applicable to all citizens of the Republic of Bulgaria. They are given the opportunity to freely state their affiliation to a certain ethnic, religious or linguistic group. The protection of their rights and freedoms is guaranteed by the Bulgarian Constitution, the national legislation and Bulgaria's international legal obligations in the field of human rights, in strict conformity with the principles of equality and non-discrimination.

Violence against women and domestic violence

The State attaches great importance to the matters raised by the Commissioner in this part of the report. Gender equality, women empowerment, fight against discrimination and domestic violence are amongst the key national priorities in the field of human rights.

However it seems that the Commissioner takes a rather partial stance on issues pertaining to the national human rights discourse by stigmatising some of the democratically

expressed views in the public debate as "deep-seated gender stereotypes" concerning gender roles.

By doing so, the Commissioner moves past the expressed opinion of a large part of the Bulgarian society (often the majority) and portrays independently existing topics of the public debate (for instance the ratification of the Istanbul Convention, the freezing of the Child Protection Strategy, the postponement of the entry into force of the Social Services Act) as directly linked to a climate of intolerance against human rights defenders in Bulgaria (especially those working in the field of women's rights and the rights of LGBTI).

Hence we consider that such an approach could lead to misconstrued and biased conclusions. Diverse opinions expressed in a democratic way and substantiated my arguments in the above mentioned cases only prove the existence of an active civil society in Bulgaria. Moreover, the cases under considerations show the efforts of the Government to take into account the prevailing public attitudes and national realities by being flexible in the search for compromise while taking political and/or legal decisions accounting for Bulgarian societal traditional values and local mentalities.

In this context, it is noteworthy mentioning that conclusions like "NGOs working in a variety of areas characterized the decision as a severe blow to women's rights" do not necessarily represent the views of the civil society in Bulgaria as a whole since the latter was clearly divided over the debate on the ratification of the Istanbul Convention. Winning the "battle of ideas" by democratic means is an inherent feature of a genuinely democratic society and in our view do not create a hostile political climate discouraging freedom of expression on a general level.

Regrettably it also seems that the Commissioner does not sufficiently take into account the replies provided by the Bulgarian authorities on issues already raised under other monitoring mechanisms and bodies of the CoE, such as the issue of the accession of the Republic of Bulgaria to the Istanbul Convention. In the course of her visit to our country and in her meetings with the official authorities, the Commissioner was unambiguously informed that the **decision of the Bulgarian Constitutional Court** on the contradiction between the Bulgarian Constitution and some basic provisions of the Istanbul Convention is final and definitively obstructs the possibilities of completing the national accession procedure to this international legal act. Launching a call for resuming a debate on this ratification despite the final decision emanating from the Constitutional Court calls into question the principle of the rule of law in Bulgaria, which is one of the pillars of the Council of Europe.

We need to underline the fact that the Bulgarian authorities have already taken a series of legislative, institutional and policy measures to prevent and combat violence against women and domestic violence on national level. As it was mentioned in the report, in 2019 the Penal Code was amended in order to strengthened the legal basis for punishing the perpetrators. The penalties for crimes against youth and crimes against marriage were aggravated as well. In this regard, more **effective protection was introduced in the Penal Code**. Under the current provision anyone who lives with a person under the age of 16 years of old would be legally prosecuted, regardless whether the two are married or not.

In 2019 an inter-ministerial working group was established under the Ministry of Justice with the main task to draft proposals for **amendments to the Protection of Domestic Violence Act**. The Group includes representatives of the state judiciary and NGOs. The Working Group aims at improving the legislation on protection against domestic violence and social support for victims and to bring it into line with the European legislative practices. The Working Group discusses issues that need regulation related to: regulating prevention and education in the field of combating domestic violence; creating a mechanism for a coordinated approach and cooperation between the various competent authorities, including the establishment of a national coordinating body on domestic violence; establishment of a Central Register of enforced judgments under the Protection of Domestic Violence Act; streamlining proceedings to enforce measures to protect against domestic violence in the direction of speed, effective law enforcement and creating safeguards to protect the interests of victims, especially when it comes to women and children. In this regard, measures are being discussed to alleviate the burden of proof in favour of victims of gender-based violence, especially in cases of domestic violence and to abolish the one-month deadline for filing a petition for a prosecution order. These measures will include criminalization of offenses like psychological harassment within the family, physical violence in all its aspects, and related violence against women and children. The amendments will also seek to improve the system of assistance centres for victims of domestic violence.

Concerning the findings of slow and heavy procedures for providing assistance and assistance to victims of domestic violence and considering the Legal Aid Act, we would like to clarify the following:

Within the Justice Program of the Norwegian Financial Mechanism 2014-2021 it is foreseen the implementation of two predefined projects:

- "Prevention and Countering Violence against Women and Children and Domestic Violence"; and
- "Improving access to justice for persons below the poverty line with a particular focus on women, children and the Roma community".

The first project is aimed **at enhancing the capacity of the Bulgarian institutions in the field of domestic violence** and violence against women and children with an emphasis on the **capacity of professionals in the justice sector** to comply with the institutional practices and European standards in the field of domestic and gender-based violence.

The second project aims at enhancing the capacity of Bulgarian institutions in the field of domestic violence and violence against women, children and the Roma community by **improving access to justice for Bulgarian citizens living below the poverty line**. Special attention is given to three main target groups: victims of domestic and gender-based violence, at-risk children and Roma communities, especially in remote and isolated rural areas. Projects' implementation is expected to start in 2020.

The topic of eliminating all forms of discrimination against women continued to play a strategic role in the programs and curricula of **compulsory initial and ongoing human rights training** at the National Institute of Justice. The topic is part of training on family law,

international civil law and process, domestic violence, child rights, trafficking in human beings, asylum and migration. Both junior judges, junior prosecutors and junior investigators are being trained, as well as magistrates and judicial practitioners, in order to maintain and enhance their professional competence and to uphold the rule of law and human rights in practice.

Methodological guidelines for actions of police authorities in cases of domestic violence have been developed and approved for the activities of police officers, detailing mechanisms for action at each stage of the alert, site visits, interview with victims, work with perpetrators, etc. The Academy to the Ministry of Interior conducts a continuous process of vocational training and training, including on the ground in the Regional Directorates of the Ministry of Interior.

An international **awareness campaign** to raise citizens' awareness of the issue of domestic violence and promote their civic engagement, with the message "Stop Domestic Violence! Violence begins with shouts but must not end with silence" launched simultaneously on November 25, 2019 in the Republic of Bulgaria, Romania and Hungary.

Efforts are also being made to implement recommendations related to the need to collect data relevant to victims, perpetrators, victims, social services in cases of domestic violence. In this regard, we would like to point out that in November 2019, the National Police Directorate-General signed a contract for the implementation of a **project on "Improving the efficiency of police work in the field of domestic and gender-based violence"** in Norway Financial Mechanism (NFM) 2019-2021, valued at EUR 620,000. The project includes activities to create an automated information system (AIS) for combating and preventing crimes based on gender and domestic violence; training police officers to work with the domestic violence system; purchase of hardware for the operation of the database; developing an algorithm for risk assessment in cases of domestic and gender-based violence.

Issues pertaining to gender-based violence are included in the curriculum of the compulsory initial training of the candidates for junior judges and the candidates for junior prosecutors. In addition, since 2015, the subject of domestic violence also falls within the **National Institute of Justice Regional Training Program** scope of activity. The topic of eliminating all forms of discrimination against women continued to play a strategic role in the programs and curricula of compulsory initial and ongoing human rights training at the National Institute of Justice. The topic is part of the training on family law, international civil law and process, domestic violence, child rights, trafficking in human beings, asylum and migration. Junior judges, junior prosecutors and junior investigators are trained, as well as magistrates and judicial practitioners, in order to maintain and enhance their professional competence and to uphold the rule of law and human rights in practice.

Moreover, there are available tools on the methodology regarding domestic violence instances for police officers. These tools include guidance and practical means on how to react and deal with cases of domestic violence. The Academy of the Ministry of Interior is also offering regional and national trainings on these issues.

By Order of the Prosecutor General of the Republic of Bulgaria from April 2018, Guideline organisation has been established of the work of the Prosecutor's Office in files and

pre-trial proceedings initiated by reports of domestic violence, threat of murder and violated protection order from domestic violence. The organisation was set up to prioritise the examination and pre-trial proceedings on these issues, as well as to establish a unified mechanism for prompt response in such cases.

A testimonial form has been approved, indicating signs of domestic violence and explaining the rights of the victim. The instruction is published on the Prosecutor's Office website.

In fulfilment of the requirements of Art. 6 of the Assistance and Financial Compensation of the Victims of the Crimes Act, the Prosecutor's Office has established an organization for informing the victims of their rights under this Act, by preparing protocols under Art. 6a of the mentioned Act. By an Order of the Prosecutor General of the Republic of Bulgaria, from 2016, a procedure was established for registering the protocols for **notification of victims of crime about their rights**, in accordance with the Assistance and Financial Compensation of Victims of Crime Act. The National Investigation Service and the Investigation Departments of the District Prosecutor's Offices keep a special diary records for the protocols under Art. 6a of this Act.

For the purpose of informing citizens about the legal framework under which protection against domestic violence is carried out, with indication of the specific necessary steps for this, on the website of the Prosecutor's Office a specific information is available under No. 17 in Home tab, section "For citizens", Q&A menu.

The Prosecutor's Office has at this stage set up an organisation and developed a draft package of measures to put in place a unified mechanism for the statistical reporting of cases initiated against domestic violence offenses. The mechanism was developed in accordance with the introduced criminalization of acts committed in the context of domestic violence.

According to the statistical reporting organization, which has been introduced in the Prosecutor's Office for years, statistics on the incidence of rape and other forms of sexual harassment of underage girls are currently being collected.

The National Statistical Institute within the framework of an EU initiative and responding to the increased data needs in the field of criminality and violence on national and European level, plans to participate in the European project on gender based violence survey. The project will be realized during the period 2020-2022 according to common methodology, developed by Eurostat, and will ensure comparable data on violence against women at EU level. It can be considered as an important step in the process of such survey introduction in regular statistical practice of the country.

In connection with the latest **amendments in the Criminal Code**, adopted in 2019, related to penalisation of crimes committed in the context of domestic violence (murder, bodily harm, abduction, compulsion, etc.), as well as stalking and failure to obey protection order, since 2020 the NSI will be able to provide data according to these legislative changes.

In relation to the conclusions noted in § 60 of the report, it should be stressed that the national policy on equality between women and men is clearly defined by the **Law on Equality**

between Women and Men and the National Strategy for the Promotion of equality between women and men, including the action plans in its implementation. These policy-making documents were developed with the participation of the members of the National Council for Equality between Women and Men at the Council of Ministers - ministries, agencies, social partners, civil society organizations, scientific circles, etc., and adopted by the Council of Ministers. The Law on Equality between Women and Men (Prom. SG issue 33 of 2016) (LEWM) establishes a legal framework for the implementation of state policy for equality between women and men and thus sets guarantees to ensure equal opportunities for women and men in all areas of public life. We believe that more comprehensive regulation of the area of equality between women and men contribute to ensuring a life free of violence for women and their children.

It should also be noted that the individual areas of action are prioritised in **the National Strategy for the Promotion of Equality between Women and Men** and its Implementation Plans, which contain specific measures within the competence of institutions and organisations.

Two of the fundamental principles underpinning state policy on equality between women and men in the LEWM are “**equal treatment of women and men and non-discrimination and gender-based violence**“ and “**tackling gender stereotypes**“. The law stipulates that in exercising their powers, the state and local government bodies, the public authorities and the economic operators take measures to implement the principles of the state policy on equality between women and men. These principles are reflected in both successive national strategies for 2010-2015 and 2016-2020, respectively in the Action Plans, where among the five priority areas are: combating the gender-based violence and protecting and supporting the victims; changing the existing gender stereotypes in society in different spheres of public life.

With regard to the conclusion in § 75 on the lack of sufficient accommodation and support services for victims of violence and the need for the government to increase the number of social services for this target group, we believe that the victims of violence, as a specific vulnerable group, require specialised services and support programmes. An integrated approach is necessary in order to assess their needs and multidisciplinary work in the case of child/individual, victim of violence. In this context, it is important that they receive not only social support, but also specialised one through programmes and measures focusing on preventing the risk of recurrence of violence and the recovery of victims.

By the end of January 2020, there were 6 **Crisis Centres** for persons, with a total capacity of 64 beds, of which 42 occupied and 19 **Crisis Centres for Children**, with a total capacity of 196 beds, of which 125 occupied (as shown by the data, the services are operating at full capacity). A Crisis centre is a set of social services for children and/or victims of violence, trafficking or other forms of exploitation, provided for a period of up to 6 months, aimed at providing individual assistance, meeting the daily needs and legal advice to users, or socio-psychological assistance where immediate intervention is required, including through mobile crisis intervention teams. The Mother and Baby Unit provides temporary accommodation for up to 6 months for pregnant women and mothers at risk of abandoning their children,

encourages parental affection, supports young mothers through social, psychological and legal counselling and support. Although the service is mainly aimed at pregnant women and mothers at risk of abandoning their children, pregnant women and mothers with children who have been victims of domestic violence are also part of the social service users. As of the end of January 2020, the number of Mother and baby Units is 13, with a total capacity of 81 beds, of which 32 occupied. In addition to these forms of residential care services, information, counselling and support services are also provided to support the victims of violence in 141 Public Support Centres, with a total capacity of 5 705 beds. The Public Support Centres provide specialised support to individuals, including survivors of domestic violence, and work on specific psycho-social support, legal assistance and counselling programmes is carried out.

In regard of the conclusion in the report on uneven and insufficient coverage of the needs for such services, as well as the recommendation to increase their number, it should be clarified that the SSA provides for the planning of social services at national level by developing a National Social Services Map. In this way, the state is committed to establishing a full network of social services throughout the country in the long term. The National planning is particularly important as it will be the basis for defining the package of social services at municipal and district level for which funding from the state budget should be provided.

Media freedom

Regarding the Commissioner's findings and conclusions in the chapter of the report concerning media freedom, it is regrettable that there was not a possibility to discuss at least some of them at length with the competent authorities. Unfortunately, the information provided by the State is not analysed in detail. While there are certain issues in the sphere of media freedom, every instance of harassment, violence or other criminal acts perpetrated against media representatives are duly investigated by the police, paying special attention to the profession of the victims.

All complaints, filed from media representatives, who have become victims of violence, harassment or intimidation, have led to opening of pre-trial proceedings. In the few cases, in which the facts of the case did not amount to crimes, prosecuted on behalf of the public, the victims were directed to file a complaint, initiating court proceedings.

Regarding the opinion in § 34, that "Council of Electronic Media has not applied stronger sanctions such as the **withdrawal of broadcasting licenses**", it needs to be underlined that this sanction is actually the strongest one possible on the part of CEM. Its unpredictable application is contrary to the rule of law, since the legal order requires foreseeability and proportionality. Hence, according to Art. 123, par. 1 of the Radio and Television Act, a broadcasting license can be withdrawn only after a written warning giving the broadcaster a reasonable time period for correcting the violation. There have to be two previous monetary sanctions issued to the provider for the same violation, so that the withdrawal – as the most severe step ending the broadcaster's rights to exercise any radio- and television activity – is proportional to the violation.

We would also like to point out that should the withdrawal of broadcasting licenses be the subject of easier requirements, it might potentially cause the adverse effect of self-censorship which would put any such methods at odds with Art. 40 of the Constitution of the Republic of Bulgaria.

In regard with § 81 we would like to add that the Council for Electronic Media maintains and regularly updates the Register on Ownership in Electronic Media, featuring the actual persons, who own each media, in all cases in which this data is available. Since February, 2020, CEM created an additional opportunity **for disclosing the ownership of media** by interlinking its Register with the Trade Register and the Register of Legal Non-Profit Entities, maintained by the Registry Agency.

The Radio and Television Act foresees limitations with regards to issuing a license for radio- and television activity on the territory of the Republic of Bulgaria to a person or linked persons, one of whom is already in the possession of a similar license, issued for regional or local radio- and television activity. The only exception to that limitation is the Bulgarian national radio and television.

Amendments in the Radio and Television Act are currently prepared by expert working groups. The changes concern, inter alia, the methods of financing of public media, including the Bulgarian national radio and television. Their work is expected to be concluded in the coming month.

Regarding the conclusion in § 92, stating that “only a few journalists are represented in this body”, it needs to be pointed out that CEM has five members, four of which are journalists – two of them having an university degree in journalism and mass communications, while another two have a long-standing career as journalists and producers in the Bulgarian national television. This means that exactly 80% of the members are in fact journalists.

Bulgaria acknowledges the importance of the visit and the consistence of the dialogue held with the Bulgarian officials.

The issues selected by the Commissioner and discussed during the visit are important for the society as well as for the Government, which work will continue to be focused on adopting measures and policies to resolve existing problems and to achieve the highest international standards in the field of protection and promotion of human rights.