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Promoción y protección de todos los derechos humanos, civiles, políticos, económicos, sociales y culturales, incluido el derecho al desarrollo

Informe de la Experta independiente sobre las cuestiones de las minorías

Adición

Misión a Bulgaria (4 a 11 de julio de 2011)*

Resumen

Debe felicitarse al Gobierno de Bulgaria por sus numerosas leyes, políticas y programas destinados a promover la lucha contra la discriminación y la igualdad, así como los derechos de las minorías, incluida la minoría romaní. El Gobierno subrayó una y otra vez a la Experta independiente su compromiso con la no segregación y con la integración de los romaníes en lo que respecta a la educación, el empleo, la vivienda y la atención de la salud. El Gobierno de Bulgaria hizo llegar a la Experta independiente numerosos documentos de política en los que se exponen esos compromisos, incluidos los previstos en el marco de la Unión Europea (UE). Sin embargo, a pesar de que algunas políticas han estado en vigor durante muchos años, los romaníes siguen situados en lo más bajo de la escala socioeconómica, y sufren discriminación y exclusión en todos los ámbitos de la vida, algo que los deja en un estado de total marginación y en situación de pobreza persistente.

El Gobierno debe aparejar las políticas de integración de los romaníes, inspiradas por la UE y las organizaciones no gubernamentales (ONG), con una ejecución liderada por el sector público y con los recursos financieros necesarios para mejorar las condiciones de vida de los romaníes. Hasta la fecha, la aplicación sigue siendo muy insuficiente, con iniciativas que tienen un impacto poco más que superficial y que, inevitablemente, no colman las expectativas levantadas.

* El resumen del presente informe se distribuye en todos los idiomas oficiales. El informe propiamente dicho figura en el anexo del resumen y se distribuye únicamente en el idioma en que se presentó.

Las minorías religiosas musulmanas y otras minorías, incluyendo la judía y la constituida por los Testigos de Jehová, subrayaron sus experiencias, generalmente positivas, en materia de libertad de religión, pero expresaron su preocupación en relación con el aumento de los incidentes de violencia, intimidación, vandalismo de los lugares de culto y discurso del odio, inclusive por parte de políticos nacionalistas, de que son víctimas dichas minorías. En 2011, partidos políticos nacionalistas instigaron y organizaron, en el exterior de la mezquita de Sofía y en lugares de culto en otras ciudades, protestas que se han traducido en episodios de violencia contra miembros de minorías religiosas y que han atizado las tensiones entre las comunidades.

Anexo

Report of the independent expert on minority issues on her mission to Bulgaria

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I. Introduction

1. The independent expert conducted an official visit to Bulgaria between 4 and 11 July 2011. She thanks the Government for its invitation, its cooperation and the assistance it provided in the preparation and conduct of her visit. She also thanks the numerous non-governmental organizations, both national and international, academic institutions, and others working in the field of minority issues, in particular the Bulgarian Helsinki Committee.

2. The independent expert consulted with senior Government representatives, including the Minister of Foreign Affairs, the Minister of the Interior (who is also Deputy Prime Minister and Chairman of the National Council for Cooperation on Ethnic and Integration Issues) and the Minister of Culture. She consulted the Director of the Directorate of Religious Denominations at the Council of Ministers, a magistrate of the Constitutional Court, senior staff of the Ministry of Education, Youth and Sciences and the Ministry of Labour and Social Policy, the President of the National Statistical Institute; and the Director of the Demographic and Social Statistics Department. She met with the Deputy Mayor of Sofia, the Mayors of Blagoevgrad and Kurdjali, the Regional Governor of Pazardzhik District, as well as senior representatives of the regional administration. She consulted the Chairman and members of the Commission for Protection against Discrimination, the Ombudsman of the Republic, as well as their representatives in the Kurdjali region.

3. According to the 2011 census results, ethnic Bulgarians make up 84.8 per cent of the 7,364,570 population, ethnic Turkish Bulgarians 8.8 per cent and Roma 4.9 per cent. Orthodox Christians are 76 per cent of the population, Muslims 10 per cent. About 5.6 million people listed Bulgarian as their mother tongue; other mother tongue languages listed include Turkish, Romani, Russian and Macedonian.¹

4. The independent expert visited Sofia and different regions in which minority communities live, including the cities of Blagoevgrad, Pazardzhik, Plovdiv and Kurdjali. She consulted community members in the Roma communities of Fakulteta, Sofia, and Stolopinovo, Plovdiv. She met Roma women to hear their issues and concerns, representatives of the Turkish Muslim and other Muslim communities, and leaders of the Jewish community and the Jehovah's Witnesses. She also consulted with representatives of ethnic Macedonian and Pomak communities.

II. Non-discrimination and equality: legal and institutional framework

5. The 1991 Constitution states that "all persons are born free and equal in dignity and rights." Additionally, "all citizens shall be equal before the law. There shall be no privileges or restriction of rights on the grounds of race, national or social origin, ethnic self-identity, sex, religion, education, opinion, political affiliation, personal or social status or property status." Bulgaria has ratified international treaties relevant to anti-discrimination and minority rights, including the International Convention on the Elimination of All Forms of

¹ Some NGOs expressed concerns that an estimated 700,000 people were discouraged from declaring their identity as Roma, Macedonian or Pomak by a policy of the National Statistical Institute. The Government stated to the independent expert that the census was conducted in full conformity with international standards and that extensive consultations were conducted with representatives of the Roma in particular.

Racial Discrimination. Bulgaria has also ratified the Council of Europe's Framework Convention for the Protection of National Minorities in May 1999 and falls under its monitoring procedures.²

6. Prior to Bulgaria's accession to the European Union in 2007, the European Commission had highlighted the situation of the Roma as an ongoing human rights concern. Following accession, Bulgaria was required to conform to EU Anti-Discrimination Directives, including the Racial Equality Directive (2000/43/EC) and the Employment Equality Directive (2000/78/EC) which set out the minimum standards of racial equality.³

7. The National Council for Cooperation on Ethnic and Integration Issues (NCCEII, previously the National Council for Cooperation on Ethnic and Demographic Issues) was established in 1997 by the Council of Ministers and is headed by the Deputy Prime Minister. Its mandate is to coordinate State programmes and policies related to ethnic minorities and monitor the implementation of integration policies, in consultation with government bodies, civil society and other relevant stakeholders.⁴ NGOs representing ethnic minorities, including Roma, are members.

8. In 2003, Bulgaria adopted the Protection against Discrimination Act. Article 4 (1) of the Act prohibits discrimination on the grounds of sex, race, extraction, ethnicity, nationality, origin, religion or faith, or any other ground. Article 7 authorizes affirmative action or special measures benefiting disadvantaged persons or groups identified in article 4 (1).

9. The Act established the Commission for Protection against Discrimination, an independent specialized institution for prevention of and protection against discrimination and for ensuring equal opportunities. Nine members (five elected by the National Assembly and four appointed by the President) sit for five-year terms. Currently, four members are of non-Bulgarian ethnic background. The mandate of the Commission is to monitor compliance with and implementation of the Act and other laws regulating equality of treatment. It can receive and investigate complaints by victims and third parties and initiate proceedings. In 2010, it initiated 268 cases, organized 388 public hearings and ruled on 293 cases. In April 2010, the Council of Ministers decided to reduce the number of Commission members to seven citing budgetary grounds; this drew criticism from NGOs which consider the body under-resourced. To date, the decision has not been implemented.

10. Bulgarian is the official language, however article 36 (2) of the Constitution states that "citizens whose mother tongue is not Bulgarian shall have the right to study and use their own language alongside the compulsory study of the Bulgarian language." However, this is not interpreted as providing the right for minorities to receive education in their mother tongue as the language of instruction. Minority languages can be studied as "selected subjects" where a sufficient minimum number of students make the choice. Bulgaria has not signed or ratified the European Charter for Regional and Minority Languages which requires the provision of education in regional or minority languages and the provision of judicial administrative and public services in minority languages.

III. The situation of the Roma minority

11. Bulgaria has the largest Roma population in the EU in proportion to total population. Roma rights organizations consider that the true Roma population is as much as 10 per cent of the total population, considerably higher than official statistics (4.9 per cent or 325,343

² Bulgaria has not authorized the publication of the last report of the Advisory Committee.

³ Bulgaria was required to transpose the Racial Equality Directive into domestic law by 1 January 2007.

⁴ See A/HRC/WG.6/9/BGR/1.

people) suggest. Low census figures may be due to factors such as individuals being reluctant to identify as Roma because of discrimination and social stigma associated with this ethnic group and census policies and methodologies relating to minority self-identification, which NGOs consider flawed. Muslim Roma may identify themselves as Turks, while high illiteracy rates among the Roma may be a factor in producing low census figures.

12. The independent expert consulted with representatives of the Roma communities of Fakulteta in Sofia, and Stolipinovo in Plovdiv. She also met with NGO staff working with Roma communities. The Roma in Bulgaria are not homogenous but rather made up of distinctly different groups and sub-groups which differ in religion, mother tongue, cultural and traditional practices and lifestyles.⁵

13. Several NGO and community representatives, social researchers and journalists highlighted that discrimination, strongly negative attitudes and hostility towards Roma persist in Bulgarian society. Derogatory stereotypes and prejudices are commonplace and portray the Roma as criminal and untrustworthy, dirty, lazy and a societal problem. Such stereotypes are commonly repeated in the media and in political discourse. Although Bulgaria's Code of Ethics for the media limits mention of a perpetrator's ethnic background, surveys reveal that some 50 per cent of references to Roma in the press relate to crime or illicit activities.⁶ One senior politician stated that Roma settlements were "an incubator for generating crime".⁷

14. The Government responded to these criticisms by noting that the Penal Code was strengthened in 2009 with the addition of "incitement to ethnic hostility or hatred, in speech, print or other mass media or through electronic information systems" and the prohibition of hate speech. The penalties were also increased. Additionally, the Government undertook, in conjunction with the Roma community and international NGOs, a number of public education programmes aimed at countering hate speech.

15. Roma experience the highest levels of poverty. According to a World Bank study,⁸ in March 2010, nearly 9 out of 10 Bulgarian Roma had per capita incomes equal to the incomes experienced by the poorest four-tenths of the population, with 67 per cent of Roma being among the poorest 20 per cent of all people in Bulgaria. The Government pointed out that national strategies and programmes exist for reducing poverty and promoting social inclusion of persons belonging to vulnerable groups; it highlighted the Convergence Programme (2011–2014) and the National Reform Programme (2011–2015). Bulgaria is currently in the process of drafting a National Strategy for Poverty Reduction and Promotion of Social Inclusion.

16. The Roma remain extremely poorly represented in national Government, and inadequately represented within municipal authorities. Consequently, the Roma lack a level of political participation that would enable them to influence national and local policy and decision-making on issues that affect Roma communities.

⁵ Ilona Tomova, "Ethnic Dimensions of Poverty in Bulgaria," report commissioned by the World Bank, September 1998, p. 14, available at <http://siteresources.worldbank.org/EXTGLDEVLEARN/Resources/IlonaTomova.pdf>.

⁶ Kamelia Dimitrova, "The Economic Crisis Closes in on Bulgarian Roma," Roma Rights Journal, No. 1, 2009, available at <http://www.errc.org/cms/upload/media/04/15/m00000415.pdf>.

⁷ See <http://www.euractiv.com/enlargement/commission-hits-out-racist-roma-statement-bulgarian-minister-news-498190>.

⁸ "Roma Inclusion: An Economic Opportunity for Bulgaria, Czech Republic, Romania and Serbia," Policy Note (World Bank, September 2010), available at http://siteresources.worldbank.org/INTROMA/Resources/Policy_Note.pdf.

17. Roma women face particular challenges. Foundation ROMA, an NGO in Stolopinovo, discussed with the independent expert the disproportionate lack of education among Roma women, persistent incidences of early marriage and pregnancy, high levels of domestic violence and prostitution. NGO workers noted a disturbing trend of young Roma women travelling to locations outside the country and ending up in prostitution. Some 400 women from Stolopinovo alone had reportedly gone to Dortmund, Germany. The independent expert was concerned about the implication that Roma women were falling prey to traffickers. Declining employment opportunities was cited as a factor increasing the numbers who leave. The Government acknowledged concerns regarding trafficking and pointed to the activities of the National Anti-Trafficking Commission and local commissions, including information campaigns and training on prevention of trafficking.⁹

18. The Government has adopted numerous strategic documents on Roma integration. A new Framework Programme for the Integration of Roma in Bulgarian Society (2010-2020) was approved by the Council of Ministers in May 2010. The Government stated that this new initiative approaches the Roma as a population with large economic and social potential which can contribute to the development of society and is in compliance with the political framework of the EU for observing the principle of equal opportunities and non-discrimination for all citizens.¹⁰ The programme coordinates the activities of all State bodies for Roma integration as part of the overall national policy aimed at increasing the standard of living and guaranteeing equal opportunities for all.¹¹

19. The Decade of Roma Inclusion 2005-2015 was launched in Sofia in 2005 and requires participating States to prepare and implement National Action Plans. Bulgaria's Action Plan was adopted in 2005 as a long-term strategy for action towards integration of Roma communities. Four priority areas – education, health, employment and improving housing conditions – are required for all States; Bulgaria has also added culture, protection against discrimination and ensuring equal opportunities as additional national priorities.

20. As part of the European Framework for National Roma Integration Strategies put forward by the European Commission in April 2011, the European Union has called for member States to develop a meaningful National Roma Integration Strategy by the end of 2011, focusing in particular on education, employment, health and housing. These plans emphasize the full involvement and consultation with Roma themselves, and the Government notes that a genuine process of large-scale Roma participation has taken place. The draft National Strategy incorporates all programmes developed by the Government with focus on the Roma and will replace the package of documents that currently exist in this area with the aim of achieving a more comprehensive approach in line with European Commission requirements. The National Strategy is supplemented by an action plan.

21. In July 2011, 17 Roma representatives were elected together with Government officials to the working group that prepared the Bulgarian Roma Strategy. Roma representatives emphasized the need for the strategy to be concrete, grounded in reality and to take into account local conditions and the views of local and regional stakeholders. Some expressed scepticism on the grounds that numerous similar schemes have failed to deliver results.

22. Despite the numerous Government plans and initiatives, Roma representatives and NGOs consistently stated that implementation is limited and sporadic at best and that

⁹ See also Bulgaria's National Programme for Prevention and Counteracting the Illegal Trafficking of People and Protection of its Victims, adopted in 2010, which lists Roma women as a high-risk group.

¹⁰ A World Bank Report published in 2010 focused on the benefits of educating Roma so they can secure work, estimating Bulgaria would be at least €526 million better off per annum (see footnote 8, p. 17).

¹¹ See A/HRC/WG.6/9/BGR/1, para. 167.

resource allocation is inadequate to meet the expectations and stated objectives. Some analysis of funding directed towards Roma integration suggests that out of €1.4 billion available to Bulgaria between 2007 to 2013 under the European Social Fund, only one per cent has been earmarked for Roma integration projects and only €2.5 million for Roma education initiatives.¹² The Government maintained that the financial resources allocated to Roma integration were significantly higher, but explained that it “does not allocate any specific amount to Roma integration initiatives, as its strategic approach acknowledges Roma integration as a horizontal priority which has to be mainstreamed in all priority areas of intervention – employment, education and training, social inclusion, etc. That is why, in order to register progress with regard to Roma integration, the operational programme contains a specific chapter describing the various measures in the individual sectors, the types of interventions and quantitative indicators, including also the targets, which have to be reached. This approach has been accepted as expedient and adequate by the European Commission which endorsed the operational programme.”¹³

23. Roma representatives highlighted the “myth” that vast resources are directed towards Roma programmes, a myth that helps to perpetuate negative attitudes towards Roma. Based on Ministry of Finance figures, journalists and Roma rights activists pointed out that the Government spent only approximately €0.47 per Roma per month during the first five years of the Roma Decade.¹⁴ Some expressed their perceptions that integration initiatives largely remain on paper and respond to requirements of external and donor audiences, rather than internal realities.

A. Education

24. Roma children consistently underperform in educational outcomes, compared to other children; they have high drop-out rates and high levels of illiteracy.¹⁵ De facto segregated Roma schools remain a significant barrier to improving the educational outcomes of Roma children. Article 29 (1) of the 2004 Protection against Discrimination Act requires the Minister of Education, Youth and Sciences and local Government bodies to take such measures as are necessary to exclude racial segregation in educational institutions. However, the Bulgarian Helsinki Committee and the European Roma Rights Centre reported that between 44 to 70 per cent of Roma students attend residentially segregated schools, either in rural Roma settlements or in segregated inner-city ghettos.¹⁶ Relative to mainstream Bulgarian schools, such segregated schools have poor infrastructure and facilities and provide a generally lower quality of education.

25. Many Roma start school without a proper grasp of Bulgarian since they commonly speak Romany or Turkish in their community interactions; this leaves them disadvantaged from the early years of education. The 2011 census data revealed that 85 per cent of Roma identified Roma as their mother tongue. One Roma person referred to a “lost generation” of those who failed in education partly due to a lack of facility with the Bulgarian language.

¹² See “Roma Decade Passes Bulgarian Roma By” at <http://www.balkaninsight.com/en/article/roma-decade-passes-bulgarian-roma-by>.

¹³ Comments made by the Government on the draft report.

¹⁴ In comparison, €72.9 million will be spent during 2011 on rubbish collection in Sofia, equivalent to €4.05 for each resident per month (see footnote 12).

¹⁵ For a full discussion of Roma education issues see “Advancing Education of Roma in Bulgaria,” Country Assessment and the Roma Education Fund’s Strategic Directions, 2007, available at http://academos.ro/sites/default/files/biblio-docs/326/bulgaria_report.pdf

¹⁶ Written comments concerning Bulgaria for consideration by the Committee on the Elimination of Racial Discrimination at its 74th session, December 2008, available at http://www2.ohchr.org/english/bodies/cerd/docs/ngo/BHC_ERRC_Bulgaria_CERD74.pdf.

Roma girls frequently drop out of school at a young age because of early marriage and the priority given to the education of boys. Consequently, they often have particularly poor educational outcomes at post-primary levels compared to boys and men in Roma communities.

26. Enrolment levels for Roma children are much lower than the average at all levels of education. According to the World Bank,¹⁷ at least four out of five working-age men in the majority population completed secondary education compared to less than one in five Roma men. Education levels among women are even lower. While at least seven out of ten women in the majority population completed secondary or tertiary education, no more than one in ten Roma women did. Education enrolment rates are improving, but remain far from encouraging. In 2010, among 15-18 year olds, only approximately half of Roma men and one third of Roma women were still enrolled in school (compared with nine out of ten in the majority population).

27. According to research quoted by the European Commissioner for Employment, Social Affairs and Inclusion, Bulgaria's early school-leaving rate, which was 14.7 per cent in 2009, is close to the EU average, but is particularly high among Roma. The Open Society Institute put it at 43 per cent in 2008.¹⁸ The results of the 2011 census reveal that among those identifying as belonging to the Roma ethnic group, 23.2 per cent do not attend school, compared to 5.6 per cent of ethnic Bulgarians; 11.8 per cent of Roma are illiterate, compared to 0.5 per cent of ethnic Bulgarians.¹⁹

28. The Government pointed out to the independent expert that there has never been a policy of school segregation, de jure or de facto, of Roma children in the national education system, therefore the term "segregation" is inaccurate. Furthermore it considers assertions that infrastructure and facilities in predominantly Roma schools are inferior to be questionable. It asserted that poor school attendance by Roma children and high drop-out rates are due mainly to traditions and strong pressure from within the community. It considers that the role of parents is crucial and that change must come from within the Roma communities.

29. Article 9 (1) of the Public Education Act gives parents or guardians the right to choose the school that their child(ren) will attend. Previously, children were restricted to attending the school in their locality, which was an important driver for segregation in education. However, in practice, significant obstacles remain to achieving desegregation, including schools that defiantly refuse to register Roma children; lack of transport to schools outside Roma ghettos; resistance from Roma parents to send their children to mixed schools where they fear they will face discrimination or will not receive an education appropriate to their culture; and failure to enforce the desegregation policy or penalize municipal authorities that fail to meet commitments.

30. The Strategy for Educational Integration of Children and Pupils from Ethnic Minorities was approved in 2004 and updated in 2010 as part of reforms to the national educational system to improve the quality of education for all children. Council of Ministers Order No. 4 of 11 January 2005 established the Centre for Educational Integration of Children and Young People from the Minorities (COIDUEM) to support the implementation of the Government policy regarding the educational needs of minority children. Three main strategic objectives form the focus of the Centre's activities: (1) ensuring equal access to quality education of children and young people from the ethnic

¹⁷ "Roma Inclusion" (see footnote 8), p. 9.

¹⁸ See <http://fellowship.birn.eu.com/en/alumni-initiative/alumni-initiative-articles-eu-commissioner-roma-exclusion-getting-worse>.

¹⁹ See 2011 Population Census in the Republic of Bulgaria (Final data), available at http://www.nsi.bg/census2011/PDOCS2/Census2011final_en.pdf.

minorities and their effective integration in normative documents and educational practice; (2) preservation and development of the cultural identity of children from ethnic minorities; and (3) creation of prerequisites for successful socialization of children and young people from ethnic minorities and a favourable social and psychological climate.

31. Under Bulgaria's National Action Plan for Roma Inclusion (2005-2015), education is the first priority area addressed; the stated goal being to guarantee the right to equal access to quality education to children and pupils from the Roma minority. Among stated targets is the "desegregation of schools and kindergartens in the detached Roma quarters." Activities projected over the period include "moving the children out of the Roma quarters and closing the segregated schools and kindergartens. The necessary transportation will be provided taking into consideration the parents' preferences; adequate integration and inclusion of Roma children in a multi-ethnic environment."²⁰

32. Consultations with municipal authorities in Pazardzhik District revealed the institutional belief that a tipping point exists with regard to the number of Roma children in each classroom. One regional official noted that when the number rises above four or five, tensions arise and non-Roma parents begin to remove their children from school. Nevertheless, another school principal highlighted that his school was successfully achieving a 50-50 student body of Roma and non-Roma pupils, which indicates that institutional perceptions about tensions caused by Roma pupils may be overstated and potentially hampering integration efforts. It was noted that Roma parents are more likely to send their children to mixed schools with a higher percentage of Roma children.

33. Most children who attend special schools for those with learning difficulties and residential care institutions for orphans are Roma,²¹ although many reportedly have no learning impairment and have living parents. The percentage of Roma children in the children's homes visited by researchers was 63 per cent.²² Some parents living in poverty reportedly abandon or give up their children to such institutions for either domestic or international adoption. If the mother cannot be found or parents do not visit a child for six months the child becomes eligible for adoption. In 2010, the Government adopted a national strategy, "Vision of Deinstitutionalization of Children in Bulgaria," and an action plan which were seen as an important step towards improving the situation.²³ Roma boys form the majority of those detained in juvenile detention facilities. Regulation No. 6 (2002) of the Minister of Education, Youth and Sciences explicitly forbids the enrolment of pupils with normal intellectual capabilities in establishments for children with disabilities and its implementation is monitored by the Commission for Protection against Discrimination.

B. Employment

34. According to the World Bank, the vast majority of working-age Roma lack sufficient education to participate successfully in the labour market.²⁴ Unemployment rates in Roma communities are disproportionately high. Those with jobs are frequently in low-skilled, low-income labour sectors – the only means of making a living for many Roma

²⁰ See Republic of Bulgaria, National Action Plan, Roma Inclusion Decade 2005-2015, available at <http://www.romadecade.org/files/downloads/Decade%20Documents/National%20Action%20Plan-Bulgaria.pdf>.

²¹ According to Bulgaria's State Agency for Child Protection, Save the Children, January 2006.

²² *Life Sentence: Romani Children in Institutional Care*. European Roma Rights Centre, Bulgarian Helsinki Committee, Milan Šimečka Foundation and Osservazione, June 2011.

²³ *Ibid.*, p. 27

²⁴ See "Economic costs of Roma exclusion," World Bank, April 2010, available at http://siteresources.worldbank.org/EXTROMA/Resources/Economic_Costs_Roma_Exclusion_Note_Final.pdf.

who are commonly excluded from other labour markets. Contrary to stereotypes, many Roma do not receive public benefits to support their households, but instead may have two or three low-skilled, low-paid jobs. Some 56.2 per cent of Roma were unemployed in 2004, while in 2007, the figure was 48.3 per cent. The unemployment rate for ethnic Bulgarians was 12.1 per cent in 2004 and 7.6 per cent in 2007.²⁵ The NGOs consulted estimate that in some communities, the number of those unemployed is significantly higher.

35. Men in Roma communities who work commonly find jobs in construction, manual work for municipalities and as security guards, reportedly often making less than their non-Roma counterparts. Employed Roma men earn nearly one third less than men from the majority population. One NGO representative stated that of all the low-paid trash cleaners and street sweepers, nearly 95 per cent were Roma. According to the World Bank, high poverty levels among the Roma are “rooted in extraordinarily poor labour market outcomes. Few Roma have jobs, and even when they do, earnings are often low.”²⁶ The Roma consider that little action has been taken to enforce domestic or international anti-discrimination legislation with respect to employment.

36. A Roma woman explained to the independent expert that if someone looks white they can “pass as Bulgarian” and get a job in a hospital or cleaning for a private company, but if they are visibly “gypsy” their options are limited to outdoor work for extremely low wages. A private-sector cleaning job pays twice as much as municipal cleaners. One Roma woman stated that she was the only Roma cleaner at a hospital in Sofia, because they did not know that she was Roma due to her light skin; she said that she would lose her job if it was known that she was Roma. According to World Bank statistics, only 22 per cent of Roma women are employed in Bulgaria.

37. The Government highlighted a number of projects and programmes implemented by the Ministry of Labour and Social Policy to help the unemployed and disadvantaged communities, including the Roma, to find employment and to provide them with training. In its 2010 Progress Report on the Decade of Roma Inclusion, the Government stated that 5,767 persons were included in activities to raise the employability and skills of unemployed Roma and 17,958 persons were covered by measures to increase the competitiveness of Roma in the labour market. Employment was provided to 12,159 people through their involvement in various programmes. Under the national programme, “Activate the Inactive,” some BGN 325,000 were spent to provide employment to Roma. A further BGN 908,000 were allocated to another national programme, “From Social Assistance to Employment,” which does not target Roma specifically, but rather everyone who receives social assistance.²⁷

38. Under the Activate the Inactive programme, a labour mediator model was used. By the end of 2010, some 91 labour mediators of Roma origin were working at 69 local labour directorates. As a result, some 10,098 inactive persons reportedly registered as job seekers in the labour offices. The Government highlighted the additional activities of the Employment Agency, including running job fairs targeting Roma to facilitate their access to information and their employment chances. Job fairs were reportedly attended by 1,104 Roma job seekers and 71 employers. Some 460 job vacancies were available and 411 persons were subsequently employed. A 2010 initiative, “Take Your Life Into Your Own

²⁵ Ilona Tomova, “The Roma in Bulgaria: Education and Employment,” Sofia, Bulgarian Academy of Sciences, table 3, available at http://www.suedosteuropa-gesellschaft.com/pdf_2008/roma/tomova_ilona.pdf.

²⁶ “Roma Inclusion” (see footnote 8).

²⁷ See <http://www.romadecade.org/files/downloads/20th%20ISC/Bulgaria%20Decade%20Progress%20Report%202010.pdf>.

Hands,” with a budget of BGN 11 million, aims to reach long-term unemployed with little education as well as the unskilled and inactive.

39. Roma representatives noted that such initiatives are inefficient and insufficient to adequately address the extent of the problem of Roma unemployment. They pointed out the impact of the economic crisis on the Roma as municipal budgets and manual jobs are cut; the credit crunch has also reduced the possibility for Roma to access small business loans. With economic stability and increasing foreign investments, labour markets turned to the Roma to expand work forces; however, unskilled, manual workers were the first to lose their jobs as the economy stalled.²⁸ The construction sector accounts for the largest share of employed Roma, and this sector has reportedly shrunk by some 30 per cent since 2009.

C. Health

40. Roma life expectancy rates are over 10 years less than the average.²⁹ According to 2001 census data, just 5.4 per cent of Roma were between 60 and 100 years of age, while the national average was 22.3 per cent. The highest peak of mortality among Roma occurs around age 40-49, with the main reasons reportedly being cardiac-vascular and cerebral-vascular diseases. According to data by the National Statistics Institute for 2003, child mortality is 9.9/1000 among Bulgarians; 17/1000 among those of Turkish background, and 28/1000 among the Roma. According to data by Fact Marketing (2004), 68 per cent of Roma households have a member suffering from a chronic disease; 58 per cent of Roma have no access to dental care; 55 per cent indicate that difficult access to physicians because of geographical distance is detrimental to their health; and 46 per cent of Roma have no health insurance.³⁰

41. The number of mentally or physically disabled Roma is reportedly six times higher than the rest of the Bulgarian population. According to members of the NCCEII, health care reform revealed alarming tendencies in Roma health conditions, including the prevalence of infectious diseases, such as tuberculosis and viral hepatitis. According to hospital data from Sliven, 60 per cent of tuberculosis patients were Roma.³¹

42. The persistent impact of poverty and sub-standard living conditions on health is evident. The NCCEII acknowledged that such “tendencies have been observed for more than a decade due to overwhelming poverty, poor nutrition, permanently poor living conditions and lack of proper sanitary conditions.”³² It includes in factors contributing to Roma health problems, bureaucracy of the medical system and direct or indirect discrimination; mass unemployment resulting in low levels of health insurance; low educational levels and awareness of health information and education; and medical practitioners working in Roma neighbourhoods who are not familiar with cultural differences and traditions of the Roma.

43. The Health Strategy for Disadvantaged Persons Belonging to Ethnic Minorities was adopted in September 2005. Its main objectives are overcoming negative tendencies in the

²⁸ “Roma Decade Passes Bulgarian Roma By” (see footnote 12).

²⁹ Ivailo Tournev, “Ensuring Minorities Access to Health Care in Bulgaria: Concept of health mediators – history, job description and mediator’s activities,” available at http://www.vhpb.org/files/html/Meetings_and_publications/Presentations/SOFS25.pdf.

³⁰ The Government stated that official medical statistics, including hospital data, do not register the ethnicity of patients.

³¹ Rositsa Ivanova, “Healthcare policy for vulnerable groups, especially Roma in Bulgaria,” Sofia, 2011, available at <http://academos.ro/sites/default/files/biblio-docs/326/sofs24.pdf>.

³² Decade of Roma Inclusion 2005-2015, 2010 Progress Report, Government of Bulgaria (see footnote 27).

health status of disadvantaged ethnic minorities; ensuring equal access to health care services; increasing health insurance of ethnic communities; and reducing infant and maternal mortality.³³ Building on experiences in other European countries, the Health Mediators programme was established in 2001 to work particularly with the Roma. Health mediators act as a bridge between Roma communities and the health and social services. Largely supported and funded by NGOs since 2001, the health mediators model was adopted by the Government as part of its health strategy, with established indicators relating to the number of mediators employed.

44. The National Network of Health Mediators was founded in 2007. In 2008-2011, 105 mediators were appointed in 57 municipalities through delegated budgets. Health mediators work with and in communities and build relationships which allow them to assess and respond to needs. They provide services, including accompanying Roma requiring medical services; providing information and assisting in contacts with general practitioners and health experts; assisting with communications with the Health Insurance Fund; child protection; providing health education and information for preventative care in such areas as family planning, reproductive health, vaccinations and the principles of hygiene. Health mediators play a role in the prevention of drug abuse, which is widespread in some Roma communities.

45. In the period 2004-2011, the Ministry of Health allocated financial resources, through grants from the Global Fund to Fight AIDS, Tuberculosis and Malaria, to a network of NGOs based in Roma communities. They provide services for the prevention of HIV and sexually transmitted infections (STIs) in 10 regions, and tuberculosis care and support services in all 28 regions.

D. Housing

46. The poor living conditions in Roma “ghettos” is an issue of high priority for Roma organizations and communities. According to NGOs, including the Bulgarian Helsinki Committee, an estimated 50 to 70 per cent of Roma housing is considered illegal and therefore falls outside the Municipal Master Plans. As such they are ineligible for infrastructure services or improvements provided by local authorities. Consequently, they commonly have limited access to potable running water, lack sewage and sanitation works, paved streets, waste collection or street lights. Problems have been exacerbated by a steady inflow of Roma from poor rural areas to urban settlements, which has increased overcrowding and pressure on already inadequate service provision, and added significantly to the number of illegal dwellings.

47. Roma and NGO representatives described to the independent expert the physical and social barriers and isolation experienced in segregated communities which commonly have no public transport links. Non-Roma taxi drivers will frequently not enter Roma communities. The elderly, disabled or those with young children face particularly severe difficulties to leave the ghetto. The transportation difficulties have created profound problems, for example, for Roma children to attend mixed schools in non-Roma localities without the provision of regular, free bus services.

48. Fakulteta, a Roma neighbourhood on the outskirts of Sofia, has existed since the 1930s. Most homes are illegal and built on municipal land without permits. A local Roma NGO noted that electricity was provided by private utility companies charging relatively high rates. The community has, on occasion, been left without electricity in mid-winter because of termination of service due to non-payment by some households, even though

³³ A/HRC/WG.6/9/BGR/1, para. 170.

others regularly paid bills. Despite efforts by Roma organizations to lobby for the legalization of the settlement and its incorporation into the Municipal Master Plan, no progress has been made. Roma organizations assist Roma with legalizing their properties on an individual basis; however, the process is complex and costly, and homes must conform to building regulations which they rarely meet.

49. Roma believe that municipal authorities oppose legalization of ghettos because it would restrict the ability to evict communities occupying prime land close to city centres. While the Government and international donors continue to fund the construction of apartments for Roma in cities, including Sofia and Plovdiv, Roma representatives highlighted problems related to the remote geographical location of construction projects and stated that the communities' priorities and wishes were not taken into account in their planning and location. The independent expert was informed by Sofia municipal authorities that plans were in place to build a new borough with social housing for Roma and others, including many currently residing in Fakulteta. Some believe this is a step towards eviction.

50. The threat of eviction remains constant for those occupying illegal homes in Fakulteta and other Roma settlements, including Stolopinovo. Indeed, numerous evictions have taken place.³⁴ On 8 September 2009, Bourgas municipal authorities forcibly evicted 27 Romani households from the Gorno Ezerova community and demolished their homes. Some residents were allegedly beaten by the police.³⁵ The community had reportedly been in existence for over 50 years, was recognized by public authorities and provided with some services and utilities. The community of Meden Rudnik, also in Bourgas, was also evicted on 25 September 2009.³⁶

51. Bulgaria's National Action Plan for Roma Inclusion includes, as a priority, housing for the Roma. A key stated activity is the implementation of programmes to improve Roma living conditions. Also highlighted is finding solutions to the land ownership and illegal construction issues in areas with high concentrations of Roma populations, based on the amendments in the respective legislation. An indicator of success for this programme is the number of legalized Roma houses which conform to the respective technical and legal standards. Roma representatives stated that little progress had been achieved to legalize Roma homes even where properties came close to meeting building regulations.

52. Infrastructure provision is also stated as an activity in the Action Plan, calling for the reconstruction and further building of existing technical and social infrastructure, and building of new infrastructure in areas inhabited by Roma. Roma representatives again highlighted the lack of significant progress in those areas deemed illegal. Roma leaders and Roma local officials voiced frustration at the Government's failure to constructively address the legal status and infrastructure problems of Roma neighbourhoods, including Stolipinovo and Fakulteta which have over 40,000 residents each, parts of which have existed for generations. They urged review of legislation, including the Territorial Planning Act, and flexible approaches to allow incorporation of settlements into the Municipal Master Plans.

53. The Government pointed out that problems relating to Roma housing have been aggravated by confusion regarding ownership and continuing illegal construction. It maintained that it was seeking sustainable solutions, including provision of municipal

³⁴ "Roma housing demolition policy constitutes ethnic cleansing – Bulgarian Helsinki Committee," The Sofia Echo, 16 September 2009, see http://sofiaecho.com/2009/09/16/785755_roma-housing-demolition-policy-constitutes-ethnic-cleaning-bulgarian-helsinki-committee.

³⁵ COHRE press release, 23 April 2010 available at <http://www.cohre.org/news/press-releases/bulgaria-cohre-reports-to-un-that-roma-face-racial-discrimination-in-housing>.

³⁶ The Government states that all evictions were carried out in full compliance with national legislation and following lengthy legal proceedings.

social housing. It emphasized that social housing and other alternatives could not be offered by municipal authorities to illegal inhabitants who have an address registration in other municipalities. To do so would contradict “the principle that no one shall profit from his/her illegal behaviour.” Regarding legalization of settlements, the Government stated that its efforts were not utilized by Roma, and a large part of the buildings occupied by Roma are under a “regime of tolerability” as long as they meet certain technical requirements. The Bulgarian authorities stated that they were not aware of any cases of eviction of Roma from their own property.

54. The Government noted that a National Programme for Improving the Housing Conditions of Roma (2005–2015) was adopted by the Council of Ministers in March 2006 and is implemented according to action plans. The programme is aimed at improving living conditions by upgrading existing public technical and social infrastructure in Roma neighbourhoods and supporting new housing. The programme directly engages local communities and applies a partnership principle with various stakeholders – local and national administration, communities, civic and business organizations, etc.³⁷

55. Opposition to Roma settlements and new social housing for Roma is publicly voiced, even by municipal authorities. Regarding proposals to use vacant land for housing for the Roma, one District Mayor in Sofia stated publicly that a waste disposal site or cows grazing on the land would be preferable and would constitute less of a problem than a gypsy neighbourhood in the district. The Mayor allegedly stated that the Roma were incompatible with the rest of the population. The Mayor was found guilty by Bulgaria’s Commission for Protection against Discrimination (CPD) of discrimination on the basis of racist speech and causing offence and humiliation.³⁸

IV. Religious minorities in Bulgaria

56. During her visit to Sofia and the Kurdjali region, the independent expert met with numerous representatives of the Turkish Muslim minority, including Muftis and the Chair of the Supreme Muslim Council. Community representatives consistently emphasized the generally good and harmonious relations with the majority population, and significantly improved relations with the Government over recent years and since democratic reforms after 1989. There was general satisfaction with the extent to which Muslims could enjoy their religious freedoms and minority rights.

57. The Penal Code (art. 164) establishes penalties of up to three years imprisonment for “whoever propagates hatred on religious grounds through speeches, publication, activities or in any other way,” as well as punishment (art. 165) for “acts committed against groups or individuals or their property in connection with their religious affiliation, including taking part in a crowd for the purpose of attacking groups, individuals or their property.”

58. Nonetheless, the independent expert was informed of incidents of violence and damage targeted at the Muslim minority and its places of worship, and concerns were expressed regarding the activities of nationalist political parties. Perceptions exist that some political leaders are engaged in efforts to inflame tension among the communities. Religious leaders mentioned a list of 110 incidents, catalogued over 10 years, ranging from broken windows to arson attacks and physical assaults; however, few prosecutions have

³⁷ A/HRC/WG.6/9/BGR/1, para. 169.

³⁸ The full case, including a transcript of the comments and the findings of the CPD can be found at Equinet, European Network of Equality Bodies, http://www.google.ch/#hl=en&q=constitute+less+of+a+problem+than+a+Gypsy+neighbourhood+in+the+District&sa=X&ei=AduVTt-rKs3Rsgb7s63-BQ&ved=0CBYQgwM&bav=on.2,or.r_gc.r_pw.,cf.osb&fp=bf0490233a83a99c&biw=1280&bih=908.

been brought. Those consulted felt that prejudice exists and may be increasing against ethnic Turks and Muslims in the wider society.

59. In May 2011, nationalist protestors and supporters of the Ataka party staged a rally outside the Banya Bashi Mosque in Central Sofia to protest against the Muslim community's use of loudspeakers for the call to prayers, and worshippers praying in public spaces outside the Mosque. Ataka leaders claimed that the protest was not anti-Muslim, however, slogans such as "Turks get out" were chanted. The rally turned violent and injuries were sustained by members of the Muslim community and some protesters. To date, a criminal investigation is at the pre-trial phase. Ataka has also led demands for the removal from national television of a 10-minute Turkish language news programme, and called for a referendum on the issue. Such actions are seen as blatantly anti-Turkish by that community.

60. Turkish Muslim leaders have sought permission to construct a second mosque in Sofia and applied for land for construction in order to resolve issues of lack of space; they reportedly have not received a response. Having eventually purchased land themselves, they reported that they were not granted a permit to construct a second mosque. They also requested land and permission to build an Islamic Education Centre to allow the formal study of Islam in Bulgaria, which was allegedly denied. While formal study of Islam is possible at the High Islamic Institute in Sofia, leaders noted that some people travel to Turkey or other Muslim countries to study, and subsequently fall under suspicion of "extremism." The Government stated that construction of a second mosque was suspended pending review of the status of the Studentski Grad district and that permission was not refused.

61. Some ethnic Turkish representatives expressed frustration that their children do not have the option to study in their mother tongue (i.e., Turkish as the language of instruction) and can only study Turkish as an elective. The Government highlighted that Turkish is taught as a selected subject for four hours a week up to Grade 8. Experts in Turkish are employed by regional Inspectorates in regions that have a high number of Turkish pupils.

62. Turkish Muslim representatives noted general satisfaction with their level of political representation and participation, particularly at the district level where they constitute a majority in some localities and there are several Turkish Mayors. The Movement for Rights and Freedoms is the largest party with a support base among ethnic Turks and has been part of a coalition government in previous administrations. There is currently one ethnic Turkish Minister (Culture). Nevertheless, some community and political representatives expressed concerns about central government oversight and inspection of Turkish-administered local authorities, stating that it appears excessive and inconsistent with the treatment of ethnic Bulgarian-administered authorities.

63. The independent expert met with Jehovah's Witnesses leaders who state that they number up to 4,000 in Bulgaria; they expressed general satisfaction with their religious freedoms. However, representatives also expressed concerns regarding incidents of violent attacks against worshipers, notably in Burgas in April 2011, when some 60 protesters, aligned with the VMRO nationalist political party, reportedly calling for Jehovah's Witnesses to be banned from Bulgaria, and staged a protest at the Kingdom Hall. Five worshipers were injured in attacks by protesters. Representatives noted that, while they receive excellent police protection during their public events in other locations, on this occasion, police arrived late and were slow to respond to the violence.

64. Jehovah's Witnesses leaders have called for an investigation into the incident in Burgas and prosecution of perpetrators of violence and religious hatred. They expressed concern regarding the apparent rise in hostility, including acts of vandalism, disruption of worship, defamatory publicity against them in the media, and comments by some municipal

mayors describing them as a “sect” and a threat to Bulgarian values. The Mayor of Varna has reportedly opposed the building of a Kingdom Hall in media statements, although leaders noted that in more than ten other localities they had established premises for Jehovah’s Witnesses without problems.

65. Representatives of the Jewish community welcomed the generally positive experience of the Jewish people with respect to religious and cultural rights and relations with the authorities. Nevertheless, they echoed the concerns of other religious minorities regarding a growing intolerance of different religious and ethnic minorities evident among some sectors of society, manifested in attacks on places of worship, cemeteries and individuals. They noted that anti-Semitic literature and propaganda, including allegedly by a leader of the Ataka political party, goes unchallenged by the authorities.

V. Recognition and rights of Macedonian and Pomak communities

66. Article 54 of the Bulgarian Constitution states that “everyone shall have the right to avail himself of the national and universal human cultural values and to develop his own culture in accordance with his ethnic self-identification, which shall be recognized and guaranteed by the law.” However, the Government denies the existence of an ethnic Macedonian minority, and does not recognize the Pomaks (considered as Bulgarian-speaking Muslims by the Government) as a distinct minority – claiming that both groups are in fact ethnic Bulgarians. Representatives of those who self-identify as ethnic Macedonians and as Pomaks claim that their minority rights are consequently violated.

67. Ethnic Macedonians consider it of crucial importance that their ethnic identity and distinctiveness be officially recognized. Community representatives strongly dispute census findings reflecting very low and declining numbers of Macedonians,³⁹ and claim that the true population is many times higher. The Macedonian language is not recognized or taught in schools and Macedonians are not represented on the National Council for Cooperation on Ethnic and Integration Issues.

68. Representatives of Pomak communities, many of whom live in the Rhodope Mountains region, described the historic lack of recognition of Pomaks as a distinct ethnic and religious minority. The history of the Pomaks is disputed, and different groups who identify as Pomak may also identify as being of Turkish origin. Representatives described historic attempts to assimilate them into Bulgarian society through the requirement to change their Turkish-Arabic names to Bulgarian names, and forced conversion to the Christian Eastern Orthodox Church.

69. While noting that excesses of former Governments had ceased, community representatives described a continuing climate of suspicion against them manifested in acts of discrimination and harassment, restriction on enjoyment of cultural life, detention of Imams and raids of houses or religious premises by State security services on the grounds of alleged links to religious extremism, which they reject as unfounded.

70. Religious and community leaders in the city of Blagoevgrad showed the independent expert anti-Muslim and anti-Turkish graffiti and swastikas painted on the walls of the city mosque despite the fact that Muslims in the region do not identify as Turkish nor do they speak Turkish. The Mufti complained that the graffiti was consistently replaced each time it was removed by the community. Leaders expressed concerns over the positions

³⁹ In the 2011 census, 1,654 people officially declared themselves as ethnic Macedonians. The 2001 census recorded 5,071 Macedonians.

and statements of political parties, notably Ataka, that they consider to be fueling Islamophobic sentiments against them.

VI. Conclusions and recommendations

71. The Government must be commended for the numerous laws, policies and programmes that have the objective of promoting anti-discrimination and equality, and the rights of minorities, including the Roma. In meetings, including with the Minister of Foreign Affairs, the Minister of the Interior and the National Council of Cooperation on Ethnic and Integration Issues, the Government consistently highlighted its commitment to Roma inclusion with respect to education, employment, housing and health care. It shared numerous policy documents outlining its commitments.

72. However, in key areas such as education, employment, health care and housing, the Roma remain at the very bottom of the socio-economic ladder. They experience discrimination and exclusion in all walks of life, which leaves them highly marginalized and in persistent poverty. Current Government initiatives and financial commitments have little more than superficial impact and fail to address the entrenched discrimination, exclusion, and poverty faced by many Roma. There is minimal evidence of a strong Government commitment to Roma equality and ensuring such equality does not seem to be a high priority.

73. The Government must match the EU- and NGO-inspired policies on Roma integration with Government-led implementation, concrete actions on the ground and the financial resources necessary to improve the living conditions of the Roma. To date, implementation remains largely absent or inadequate. Many policies seem to be largely rhetorical undertakings aimed at external audiences. Notwithstanding the evident effects of the current financial crisis on the wider Bulgarian economy, the message sent is discouraging.

74. The small, inconsistent pilot-project-based approach that has characterized Government activities to date will never reach the transformative tipping point necessary to confront the vast socio-economic challenges faced by the Roma. A new, holistic and incisive approach to Roma integration, designed and implemented in full consultation with Roma organizations, is required to break the vicious circle of social exclusion and poverty. Furthermore, Roma themselves must make efforts to engage fully with Government initiatives, not as passive recipients, but as pro-active stakeholders in immediate and longer-term Roma integration strategies. It is essential that Roma have a role in decision-making and are fully consulted in decisions that affect them.

75. Discussions with Ministries concerned revealed a shallow commitment with little strategic vision or focused attention, evidence-based programming, benchmarking, monitoring or evaluation. There was clear resistance to the use of ethnicity-based disaggregated data and the notion of using special measures to address long-standing inequalities faced by disadvantaged communities. The Government is urged to systematically collect data disaggregated along ethnic, religious as well as gender lines that would assist efforts to fully identify the challenges faced by the Roma and help shape necessary policy and programme responses tailored to specific population groups.

76. The level of racial prejudice against Roma was evident in numerous interactions, including with Government officials. Journalists and NGOs also noted the overwhelmingly negative media coverage and discriminatory stereotyping of the Roma by the media and in some political discourse. Comments, including from some

high-level Government officials, strongly indicated that their view of Roma communities is that they are predominately a problematic and criminal element in society. As a priority, the Government should robustly enforce its anti-discrimination and equality laws and ensure appropriate penalties are applied for acts of discrimination.

77. The efforts of many committed people working at the local-authorities level should be supported. Mayors, local councillors and experts, including those from minority communities, need greater support, financial resources and commitment from the national Government. In some instances, national legislation should be reviewed and amended to facilitate their efforts to promote and protect the rights of minorities at the local level. Furthermore, where local authorities fail to meet their obligations or to implement national legislation or policies, particularly with regard to minority rights, anti-discrimination and Roma integration, they should face effective sanctions.

78. The independent expert expressed concern that shortly after her visit, in September 2011, anti-Roma demonstrations took place in many major cities, including Sofia. Nearly 300 people were arrested after the two nights of rallies that unfortunately involved what has been perceived as ethnic hatred. Some media reported attempted pogroms on Roma quarters by far-right groups, and all-out violence prevented only by mobilization of the riot police. The police should remain highly vigilant in order to ensure the security of Roma neighbourhoods in light of recent events.

Equal access to quality education

79. The Government's obligation to guarantee equal access to quality education for Roma children remains overwhelmingly unfulfilled. Evidence suggests that Roma children attending mixed schools achieve significantly better educational outcomes. However, the vast majority of Roma children remain in sub-standard de facto segregated schools in Roma neighbourhoods. While current law and policy is that students are free to attend any school preferred by their parents, this option is largely illusory for Roma children who are locked in segregated residential areas, not serviced by municipal transportation systems and whose parents fear racist treatment of their children in distant majority schools.

80. The Ministry of Education's Centre for Educational Integration of Children and Students of Ethnic Minorities serves as the primary funnel for international funding. Some emphasis has been placed on pre-school education and some funds have gone to municipalities to refurbish physically decrepit segregated Roma neighbourhood schools. While the Constitution, the National Education Act and a strong Protection against Discrimination Act all make discrimination in education unlawful, no court has ordered the Government to comply with its obligation to desegregate schools.

81. The Government should undertake research and collect data on the extent of segregation of Roma with regard to education, and use that data to set measurable targets to evaluate its programmatic initiatives against actual results. The initiatives undertaken to transport children daily to attend mixed schools outside Roma ghettos and to provide school meals and support services have been implemented largely by a small number of poorly resourced Roma NGOs. The lion's share of their funding comes from international sources together with a small percentage of Government contributions. NGOs bear much of the burden of implementing the desegregation policies endorsed by the Government, but which it fails to fully lead or fund in practice.

82. The Government must play a greater leadership role in school desegregation and intensify State-supported desegregation efforts. Existing policies and programmes should be consistently and systematically implemented, and the results monitored against clearly established targets for desegregation. Binding legislation should be developed to ensure public and municipal authorities take action to meet targets for Roma desegregation. Appropriate penalties should be imposed for non-compliance and local-level resistance to Roma integration. Outreach to Roma communities and wider society should be an important element of a desegregation strategy so as to build trust, confidence and understanding on the part of all communities.

Employment

83. Discrimination experienced by Roma seeking work in both the private and public sector is a reality and must be vigorously and publicly addressed. High levels of unemployment, poor access to labour markets and low levels of skills and training represent significant contributing factors to the cycle of social exclusion and poverty experienced by many Roma. The majority of Roma who are employed, work in low-skilled, low-wage and low-status jobs.

84. The Government should robustly enforce its anti-discrimination and equality laws with respect to discrimination in employment. Prosecutions should be brought and appropriately harsh penalties imposed against private-sector employers or service providers found to be discriminating against Roma or other minorities on the basis of their ethnicity, religion or other grounds, as set out in law.

85. Low employment opportunities and expectations reduce incentives for Roma to achieve strong educational outcomes, and impact on their access to services and health insurance, for example. Furthermore, the Government's employment policies with regard to the Roma are predominantly geared towards initiatives in low-status sectors. Employment initiatives should include activities to train and prepare Roma for recruitment into professional and skilled sectors.

86. The Government should lead by example by ensuring that public-sector offices, the civil service and State institutions, including the police and judiciary, fully reflect the diversity in society, including the Roma. Robust anti-discrimination measures should be complemented with time-bound and monitored affirmative action programmes to assist disadvantaged or excluded groups to overcome historic disadvantage and gain public-sector employment, including through consideration of such measures as training and recruitment initiatives in Roma communities, and recruitment quotas for Roma.

Housing

87. The lives of many Roma are blighted by living conditions that frequently fall below standards that are adequate for individuals, families and communities. Communities remain de facto segregated and largely neglected, including in terms of efforts to improve infrastructure and the provision of services, water and sanitation, and the general attention on the part of municipal authorities to the issues and concerns of the population. Poor housing conditions, lack of service provision and segregation impact considerably on the life experiences and opportunities available to the Roma, as well as on their health and ability to integrate successfully into society.

88. Some communities live in a situation of legal limbo with regard to housing. Despite the fact that they have existed for decades and are home to many thousands, some Roma communities have no prospect of resolving their illegal status; they are left outside of Municipal Master Plans and face the prospect of eviction. The

Government remains intransigent to proposals to review the (il)legal status of Roma settlements. Review of the (il)legal status of Roma settlements and the initiation of a process of legalization would constitute an important first step towards improving housing and living conditions and should be considered. The moratorium on adverse possession of public land, which has been extended twice, should be terminated so as to allow Roma to legalize the houses built on public land and to become owners of dwellings that they have inhabited for decades.⁴⁰ This would allow settlements to fall within the Municipal Master Plans and policy frameworks for infrastructure improvement and housing renewal.

89. Programmes should be initiated to engage, train and supply the necessary materials to unemployed and inactive Roma so as to enable them to undertake renovation and renewal projects within their own communities in line with the building code regulations. This would provide Roma with valuable skills and employment opportunities, while also improving the built environment within Roma communities towards meeting criteria for legalization.

Muslim and other religious minorities

90. Muslim and other religious minorities, including representatives of the Jewish minority and Jehovah's Witnesses emphasized their generally positive experiences with regard to religious freedoms, cultural rights, relations with other communities, national and local authorities and the police. Nevertheless the Government is urged to ensure on-going dialogue with representatives of religious minorities that would help to ensure and maintain positive relations. This is particularly important since evidence suggests an increase in incidents of violence, intimidation, vandalism of places of worship and religious sites and hate speech.

91. The independent expert is concerned about testimony received regarding attacks on mosques and religious buildings; attempts to manipulate public sentiment against minority religious and ethnic groups for political gain; the inhospitable climate for the free expression of minority ethnic identities; and poor enforcement of anti-discrimination and hate speech legislation. The inflammatory actions and comments of some nationalist politicians and political parties, including the organization of protests outside places of worship in 2011, have led to violence against members of religious minorities and are a particular cause for concern.

92. The Independent Expert commends the Government and civil society leaders who immediately condemned the attack on the mosque in Sofia and the Kingdom Hall in Burgas in 2011. However, despite the identification and arrest of individuals who participated in violent attacks, few prosecutions have resulted and only small fines applied to those convicted. Consequently the message that is understood is that such actions are acceptable and tolerated in Bulgarian society. Political leaders and parties that associate themselves with hate-motivated speech or acts of violence should have no place in Government and their culpable members must be promptly prosecuted.

Recognition and rights of Macedonians and Pomaks

93. In accordance with its Constitutional provisions to respect the right to ethnic self-identification, the Government should ensure and protect this right, as well as the rights to freedom of expression and freedom of association of members of the Macedonian and Pomak minorities.

⁴⁰ One such case, as well as the legal situation in general, is described in the admissibility decision of the ECHR in the case of *Yordanova and Others v. Bulgaria*, application no. 25446/06.

94. Policies relating to the recognition and rights of minority groups must be assessed in relation to the State's obligations under international human rights law. Article 27 of the International Covenant on Civil and Political Rights states that "in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language." The question of the existence of minorities is addressed by the Human Rights Committee in its general comment No. 23 (1994) on the rights of minorities. Article 5.2 states that "the existence of an ethnic, religious or linguistic minority in a given State party does not depend upon a decision by that State party but requires to be established by objective criteria."

95. With regard to identification with a particular racial or ethnic group, the Committee on the Elimination of Racial Discrimination has established in its general recommendation No. 8 (1990) on article 1 of the Convention that "such identification shall, if no justification exists to the contrary, be based upon self-identification by the individual concerned." The right of individuals to freely identify as belonging to an ethnic, religious or linguistic group is therefore established in international law. Domestic law should recognize such rights and ensure that no individual or group suffers from any disadvantage or discriminatory treatment on the basis of their freely chosen identity as belonging (or not) to an ethnic, religious, linguistic or any other group.

96. Bulgaria should comply fully with the judgements of the European Court of Human Rights (ECHR) relating to persons belonging to such communities and implement its rulings without further delay. Associations should be allowed to register and function without impediment, use their chosen names and express their ethnic identities freely. Associations that have been denied in the past should promptly be given official registration.

Linguistic minorities

97. The Government's position not to allow the use of mother tongue languages as the language of instruction in schools, particularly in regions where minorities are a majority or constitute a large percentage of the population, is a concern for minorities, including the Roma, Turkish Muslims and Macedonians. Bilingual education commencing in the early years of schooling would enable children to become proficient in their mother tongue as well as in Bulgarian. Furthermore, it would enable them to maintain their ethnic and linguistic identity and help minority pupils to achieve positive educational outcomes. The Government is urged to consider introducing bilingual education and to ratify the European Charter for Regional and Minority Languages.

National Human Rights Institutions

98. The independent expert commends the establishment of the Commission for Protection against Discrimination and the Ombudsman. The resources available to these essential institutions, that play an important role in the protection and promotion of the rights of minorities, should be increased and their capacities strengthened to enable them to fulfil their potential to promote equality and minority rights. Both institutions should endeavour to strengthen the representation of Roma within their institutional structures and establish strong channels of communication with Roma organizations and communities.