

ECRI REPORT ON BULGARIA

(fourth monitoring cycle)

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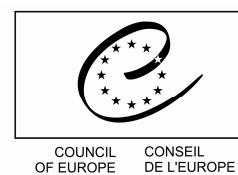


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FOREWORD

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

In the framework of its statutory activities, ECRI conducts country-by-country monitoring work, which analyses the situation in each of the member States regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country-by-country monitoring deals with all member States of the Council of Europe on an equal footing. The work is taking place in 5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, and those of the third round at the end of the year 2007. Work on the fourth round reports started in January 2008.

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

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

The fourth round country-by-country reports focus on implementation and evaluation. They examine the extent to which ECRI's main recommendations from previous reports have been followed and include an evaluation of policies adopted and measures taken. These reports also contain an analysis of new developments in the country in question.

Priority implementation is requested for a number of specific recommendations chosen from those made in the new report of the fourth round. No later than two years following the publication of this report, ECRI will implement a process of interim follow-up concerning these specific recommendations.

The following report was drawn up by ECRI under its own and full responsibility. It covers the situation as of 20 June 2008 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.

SUMMARY

Since the publication of ECRI's third report on Bulgaria on 27 January 2004, progress has been made in a number of fields covered by that report.

One instance of progress, as far as ECRI's work is concerned, is the passing of the Protection against Discrimination Act, which came into force in 2004. The Act prohibits discrimination on grounds, inter alia, of race, religion, ethnic or national origin and nationality. It covers, among other fields, education and employment, and provides for the establishment of the Commission for Protection against Discrimination and sets out the Commission's powers and duties. ECRI notes that the Protection against Discrimination Act is broadly in keeping with international and European standards in the area of protection against racial discrimination. It is worth noting, moreover, that the Bulgarian courts are applying the Act increasingly often, particularly in cases of discrimination against Roma. The Commission for Protection against Discrimination, which has been operational since November 2005, is empowered to receive complaints under the Protection against Discrimination Act and to impose fines if the Act is violated. It may also make recommendations to legal entities and government departments. Generally speaking, the Commission is doing good work and NGOs have expressed satisfaction with it. As a priority, the Commission intends to set up local offices so that people wishing to call on it for help can have access to it more readily.

Since the third report, a Centre for the School Integration of Children and Teenagers from Ethnic Minorities has been set up within the Ministry of Education to combat the de facto school segregation of Roma children. In 2005, Bulgaria joined the programme of the Decade of Roma Inclusion 2005-2015, and programmes were drawn up in that context in the education, employment, housing and health fields to solve the problems faced by that group. Roma mediators have been recruited in the fields of employment and health. A scheme has been introduced to train teachers, among other things, to work with Roma children in order to integrate them better into the school education system. In the field of health, the Bulgarian authorities have taken measures to establish an overview of the situation of Roma in this field. In 2006, a national programme was set up to promote literacy among Roma and provide training for them, and some 2,000 Roma took part in 2007. Since the third report, ECRI has noted that there has been progress with the integration of Turks into political life. Several Turks thus now occupy important government posts.

The adoption of a Legal Aid Act and the establishment of the National Legal Aid Office constitute progress that deserves noting in terms of access to justice, particularly for ethnic minorities. As for the media, a code of ethics has been drawn up by media professionals, prohibiting references to a person's race, colour, religion or ethnic origin unless this is important. Media professionals have also set up two bodies tasked to receive complaints about radio and television programmes. In 2005, the Bulgarian authorities adopted a national programme for the integration of refugees, in order to offer them language courses and educational assistance. With regard to law enforcement agencies, a code of ethics has been drawn up. Moreover, the Ministry of Interior Act, which came into force on 1 May 2006, regulates the use of firearms by police officers more tightly. These measures should provide additional safeguards against the excessive use of firearms, particularly against Roma.

ECRI welcomes these positive developments in Bulgaria. However, despite the progress achieved, some issues continue to give rise to concern.

A certain number of recommendations in ECRI's third report have not been implemented, or have been only partially implemented. The provisions of the Criminal Code concerning racist crimes are very rarely applied, and the authorities still need to pay greater attention to this to punish individuals and groups involved in offences of this kind. As for the enforcement of the Protection against Discrimination Act, the strengthening of measures taken to provide initial and in-service training in racial discrimination issues would help judges to apply the law more effectively. The Confessions Act could be brought further into line with Article 9 of the European Convention on Human Rights, as the Council of Europe Parliamentary Assembly noted in its Resolution 1390 (2004), adopted on 7 September 2004.

The schemes devised by the authorities to improve the situation of Roma in various fields (work, education, housing, health) still need to be more actively applied and be given more human and financial resources by the Government. For instance, it has been observed that measures in these areas are often taken in the context of PHARE projects and following initiatives by NGOs. A policy specifically designed to reduce the number of Roma children unnecessarily placed in establishments for children with disabilities or rehabilitation centres has yet to be introduced and the measures taken thus far should be continued. Additional steps should also be taken to better integrate Turks and Pomaks into society, particularly in the education and employment fields. As for Macedonians, it is still necessary to institute dialogue between their representatives and the Bulgarian authorities in order to solve the problems facing members of this group.

Steps should be taken to prosecute and punish those publishing racist press articles. The public still have to be made aware of the problems of racism and intolerance so that these phenomena can be combated. A long-term policy should be devised to combat manifestations of antisemitism in all fields, particularly by means of the necessary legal measures. In the field of the protection of asylum seekers and refugees, more reception centres need to be built, to prevent these persons from being placed in detention centres for foreigners who have received a deportation order. Further measures need to be taken to ensure that allegations of racist acts on the part of the police, particularly against Roma and visible minorities, are promptly investigated. The authorities should also ensure that all police officers found guilty of acts of this kind are punished. A system has yet to be set up to compile ethnic data in order to assess better the situation of ethnic minorities so that policies can be devised to find a lasting solution to the problems they face in various fields (education and employment).

In this report, ECRI recommends that the Bulgarian authorities take further action in a number of areas.

It recommends that Bulgaria ratify, as soon as possible, Protocol No.12 to the European Convention on Human Rights (the Convention), which ECRI considers to be of prime importance in combating racial discrimination at national level. ECRI strongly recommends that the Bulgarian authorities ensure that racist offences are duly punished in accordance with the Criminal Code. Furthermore, ECRI recommends that they continue to raise awareness of the need for this among the judiciary. Having taken note of information to the effect that the Protection against Discrimination Act is inconsistently applied, ECRI recommends that the Bulgarian authorities strengthen the initial and in-service training in racial discrimination issues and, in particular, in the provisions of the Act offered to judges, and that the same training be provided to prosecutors, and requests priority implementation of this recommendation in the next two years. ECRI also recommends that they offer the same possibility to lawyers. Furthermore, ECRI recommends that they ensure that the Commission for Protection

against Discrimination has sufficient human and financial resources to set up and run local offices, and requests priority implementation of this recommendation in the next two years. ECRI also recommends that the Bulgarian authorities make sure that Article 11 of the Convention, which concerns, among other things, freedom of association, is respected without any discrimination.

With regard to the measures taken to integrate Roma in the areas of education, employment, health and housing, ECRI recommends that the Bulgarian authorities take the initiative more often in cooperation with NGOs active in the field and ensure that sufficient resources are provided to implement these measures. In the education field, ECRI strongly recommends that the Bulgarian authorities continue and intensify the integration process of Roma children into mainstream schools in order to promote social diversity, and requests priority implementation of this recommendation in the next two years. As far as the media are concerned, ECRI recommends that the Bulgarian authorities provide the human and financial resources the Electronic Media Council needs to ensure that its members are more aware of issues concerning racism. It also recommends that they take steps to punish members of the media who incite to racial hatred. ECRI strongly recommends that the Bulgarian authorities also take such measures against politicians who make racist and/or xenophobic speeches and remarks. It also recommends that they wage campaigns to make the general public aware of the seriousness of racist crimes. It also recommends that they encourage victims to file complaints.

ECRI strongly recommends that the Bulgarian authorities take steps to combat all forms of antisemitism, as recommended in its General Policy Recommendation No.9 on the fight against antisemitism. It also recommends that they further strengthen protection for asylum seekers by means of the law on the subject, in consultation in particular with the United Nations High Commissioner for Refugees. In this report, ECRI puts forward a number of recommendations concerning law enforcement agencies and draws the Bulgarian authorities' attention to its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, particularly in respect of racial profiling, investigations into allegations of racial discrimination, the excessive use of force and the recruitment of members of ethnic minorities, such as Roma. ECRI also highlights the importance of collecting ethnic data and provides guidelines as to how to go about this.

FINDINGS AND RECOMMENDATIONS

I. Existence and Implementation of Legal Provisions

International legal instruments

1. In its third report, ECRI encouraged Bulgaria to ratify, as soon as possible, Protocol No. 12 to the European Convention on Human Rights, the Convention on Cybercrime and its Additional Protocol, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, and the Convention on the Participation of Foreigners in Public Life at Local Level.
2. ECRI notes that Bulgaria has no problem of principle concerning the ratification of Protocol No. 12 to the European Convention on Human Rights. The Bulgarian authorities consider however that, overall, the Protection against Discrimination Act¹ covers all the issues raised in the Protocol, and have no plans to ratify it in the immediate future. ECRI recalls that Protocol No. 12 is one of the most important international instruments for combating racial discrimination, and that its ratification would make it possible to combat this phenomenon more effectively at national level.
3. ECRI again recommends that Bulgaria ratify Protocol No. 12 to the European Convention on Human Rights as soon as possible.
4. Bulgaria ratified the Convention on Cybercrime on 7 April 2005 and has informed ECRI that it has no objection in principle to ratifying its Additional Protocol, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems. The Convention on the Participation of Foreigners in Public Life at Local Level has not yet been ratified.
5. Since the third report, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families has come into force, on 1 July 2003. The Bulgarian authorities informed ECRI that was not yet on the agenda, but that they were examining all the conventions in this field and awaiting a common stand on the matter on the part of the European Union.
6. ECRI recommends that Bulgaria ratify the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, the Convention on the Participation of Foreigners in Public Life at Local Level and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Constitution

7. Since ECRI's third report, the Bulgarian Constitution has been amended and the new amendments came into force on 1 January 2008. The Venice Commission issued an opinion² on these amendments, in which it considered that the term "citizen", which according to the Constitution refers to all individuals to whom the Constitution applies, should be replaced by the equivalent of "everyone" in order to dispel any ambiguity in this respect. The Commission indicated the articles concerned³, which include Article 6 (2) (right

¹ See "Anti-discrimination legislation" below for further information.

² See *Opinion No. 444/2007*, Commission for Democracy through Law (Venice Commission), CDL(2008)004, 31 March 2008.

³ *Ibid.*, para 57.

to equality) and Article 122 (1) (right to legal counsel). The Commission also took the view that it would be preferable not to include a definition of the term "citizenship", in the sense of "Bulgarian citizenship" (Article 25), in the chapter dealing with fundamental rights⁴ as this created the wrong impression that only citizens were entitled to those rights.⁵

8. The Venice Commission considered that the exclusion of foreigners from local elections (Article 42 (1)), even when they had been resident in the country for a long time, should be reconsidered.⁶ The Commission recommended that the Bulgarian authorities ensure that the Constitution expressly took into account the rights of minorities rather than relying on the general rule of non-discrimination alone. It recommended that they amend certain provisions concerning minorities⁷, softening the way in which they were worded in order to express a more open attitude towards minorities in the language of the Constitution as well.⁸ The Commission concluded, *inter alia*, that the rights of persons belonging to national minorities should be more clearly safeguarded at the level of the Constitution.⁹
9. The Bulgarian authorities have pointed out that Article 5 4) of the Constitution provides that "[i]nternational treaties which have been ratified in accordance with the constitutional procedure, promulgated and having come into force with respect to the Republic of Bulgaria, shall be part of the legislation of the State. They shall have primacy over any conflicting provision of the domestic legislation".
10. ECRI recommends that the Bulgarian authorities enshrine the protection of the rights of national and ethnic minorities more clearly in the Constitution by taking account, *inter alia*, of the recommendations of the Venice Commission on the occasion of any future revision.
11. In its third report, in connection with Article 11 (4)¹⁰ of the Constitution, which concerns restrictions on the establishment of political parties organised, *inter alia*, on ethnic, racial or religious lines, ECRI encouraged the Bulgarian authorities to ensure that the principle of freedom of association, as provided for in Article 11 of the European Convention on Human Rights, was respected without any discrimination.
12. Decision No. 4 of the Constitutional Court, dated 21 April 1992, provides that the Constitution of the Republic of Bulgaria recognizes at the same time the existence of religious, linguistic and ethnic differences, including the bearers of such differences.

⁴ Chapter 2 - Fundamental Rights and Obligations of Citizens.

⁵ See *Opinion No. 444/2007*, Commission for Democracy through Law (Venice Commission), CDL(2008)004, 31 March 2008, para 58.

⁶ *Ibid.*, para 61.

⁷ Article 1(3), which refers to no part of the people usurping the expression of the sovereignty of the people, Article 2, which prohibits the possibility of autonomous territorial formation, Article 3, under which Bulgarian is the official language of the Republic, and Article 26, which concerns the rights of foreigners and Bulgarians in general.

⁸ *Opinion No. 444/2007*, Commission for Democracy through Law (Venice Commission), CDL(2008)004, 31 March 2008, para 66.

⁹ *Ibid.*, para 91.

¹⁰ Article 11 4) of the Bulgarian Constitution provides that there shall be no political parties on ethnic, racial or religious lines, nor parties which seek the violent seizure of state power.

13. However, in the above-mentioned opinion, with regard to Article 11 (4) of the Constitution, the Venice Commission expressed concern that such provisions could be used to prevent minority linguistic, ethnic or religious groups from organising themselves at all.¹¹
14. In a judgment handed down by the European Court of Human Rights following an application lodged by the United Macedonian Organisation Ilinden¹² on the grounds that the Bulgarian courts had refused to register it, the Court stated that this refusal was disproportionate to the objectives pursued,¹³ and accordingly held that there had been a violation of Article 11 of the European Convention on Human Rights.¹⁴ ECRI notes in this regard that this group has still not been registered.
15. In the above-mentioned judgement, the Court also stated that, while in the context of Article 11 it had often referred to the essential role played by political parties in ensuring pluralism and democracy, associations formed for other purposes, including those seeking an ethnic identity, were also important to the proper functioning of democracy. It considered that pluralism was also built on the genuine recognition of, and respect for, diversity and the dynamics of, inter alia, cultural traditions, ethnic and cultural identities and religious beliefs.¹⁵
16. ECRI recommends that the Bulgarian authorities ensure that the principle of freedom of association, as provided for in Article 11 of the European Convention on Human Rights, is respected without any discrimination and that it is applied in accordance with the relevant case law of the European Court of Human Rights.

Confessions Act

17. In its third report, ECRI recommended that the Bulgarian authorities ensure that Article 9 of the European Convention on Human Rights, concerning freedom of religion, was respected in all circumstances, with due regard for the relevant case law of the European Convention on Human Rights.
18. A Directorate of Religious Affairs has been set up in order to advise the Sofia District Court when it considers applications for registration from religious groups, in accordance with the 2002 Confessions Act. The authorities have informed ECRI that the opinion of the Directorate of Religious Affairs is not binding on this court. They have also indicated that for the period 2003-2008, 98 religious denominations were registered. Generally speaking, it would seem that the procedure for registering denominations, which allows them to obtain the status of legal entities, works well. However, some problems connected with the registration of local branches of a denomination registered at national level have still to be resolved. The authorities informed ECRI in this connection that registration at local level is not compulsory and that it depends on the statutes of the religious community, as submitted to the Sofia District Court.

¹¹ *Opinion No. 444/2007*, Commission for Democracy and Rule (Venice Commission), CDL(2008)004, 31 March 2008, para 64.

¹² See *The United Macedonian Organisation Ilinden and others v. Bulgaria*, Application No. 59491/00, 19 January 2006.

¹³ *Ibid*, para 82.

¹⁴ For further information about the Court's judgments concerning this organisation, see also *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, Applications Nos. 29221/95 and 29225/95, ECHR 2001-IX, and *The United Macedonian Organisation Ilinden and Ivanov v. Bulgaria*, Application No. 44079/98, 20 October 2005.

¹⁵ See *United Macedonian Organisation Ilinden and others v. Bulgaria*, Application No. 59491/00, 19 January 2006, para 58.

They have stated that if the statutes provided for local branches, denominations have to register at local level. NGOs consider, however, that such registration is unnecessary.

19. Appeals contesting the constitutionality of Sections 7 and 10 (restrictions on freedom of religion and specific role of the Orthodox Church) of the Confessions Act have been lodged with the Constitutional Court. The authorities informed ECRI that the Court has ruled in connection with the Orthodox Church which was registered without being subject to the procedure required for other denominations, that the State has the right to make provision for a preferential system for acquiring legal personality, provided religious communities are treated equally. ECRI wishes, in this connection, to draw the authorities' attention to Resolution 1390 (2004)¹⁶, adopted by the Council of Europe's Parliamentary Assembly on 7 September 2004. While recognizing that the Confessions Act represents an important step forward by comparison with the Denominations Act of 1949 as it, inter alia, recognizes religious freedom as a fundamental right, declares that all religions are free and equal and lays down the separation of Church and the state, the Parliamentary Assembly made several recommendations concerning the Confessions Act, including on Sections 7 and 10, calling on the authorities to consider bringing the Act further into line with the European Convention on Human Rights. ECRI also recalls the case law of the Court concerning compliance with Article 9 of the European Convention on Human Rights.¹⁷
20. The authorities informed ECRI that fostering religious tolerance is not one of the activities of the Directorate of Religious Affairs under the Confessions Act. The Directorate informed ECRI, however, that it tries, among other things, to promote inter-faith dialogue. The authorities also informed ECRI that cases of religious intolerance had been observed in the media¹⁸, particularly at local level. However, according to civil society sources, it would seem that further steps could be taken to promote religious tolerance in society, given that there is some intolerance, towards Muslims in particular.¹⁹ The Bulgarian authorities have informed ECRI that on 11 August 2008, a National Council of Religious Communities in Bulgaria was created with the assistance of the Directorate of Religious Affairs. The objectives of this council include the preservation of inter-faith peace in Bulgaria and the elimination of possible manifestations of intolerance.
21. ECRI recommends that the Bulgarian authorities continue the process of amending the Confessions Act in order to ensure that Article 9 of the European Convention on Human Rights, concerning freedom of religion, and the relevant case law of the European Court of Human Rights are respected in all circumstances.

Criminal law

22. In its third report, ECRI recommended that the authorities insert a provision in the Criminal Code expressly stating that racist motivation for any ordinary offence constituted an aggravating circumstance. It also recalled that the authorities should give priority to the criminal prosecution of racist and xenophobic offences and compile accurate statistical data in this field.

¹⁶ See <http://assembly.coe.int/documents/adoptedtext/ta04/fres1390.htm>

¹⁷ See, inter alia, *Supreme Holy Council of the Muslim Community v. Bulgaria*, Application No. 39023/97, 16 December 2004.

¹⁸ For further information about the media, see "Racism in Public Discourse".

¹⁹ See "Vulnerable/Target Groups" for further information.

23. The authorities informed ECRI that there is no statutory provision making racist motivation for an offence an aggravating circumstance. They have indicated, however, that although the Criminal Code does not expressly provide for the racist motivation of a crime to be taken into consideration, the General Part provides that at sentencing, the court shall take into consideration, inter alia, the motives for the commission of the act.²⁰ They also stated that very few prosecutions were brought under the Criminal Code. The relevant provisions are Article 162 (prohibiting racial hatred), Article 163 (prohibiting racist violence), Article 164 (prohibiting incitement to religious hatred) and Article 165 (prohibiting attacks on religious grounds). The authorities informed ECRI that they do not receive complaints of racist acts. They also stated that there was no lack of awareness of issues connected with racist offences among the judiciary. NGOs have observed, however, that the authorities do not give all the necessary attention to prosecuting people who commit racist offences.
24. ECRI strongly recommends that the Bulgarian authorities ensure that racist offences are duly punished in accordance with the law. It also recommends that they continue to foster awareness among the judiciary in this regard and ensure that the law is applied when necessary.
25. ECRI again recommends that the Bulgarian authorities insert a provision in the Criminal Code expressly stating that racist motivation for any ordinary offence constitutes an aggravating circumstance.

Anti-discrimination legislation

26. In its third report, ECRI recommended implementing the Protection against Discrimination Act as swiftly as possible and closely monitoring its implementation. It strongly encouraged the authorities to inform the general public of the content and the scope of the Act and to provide training in the Act and its implementation for judges and legal advisers.
27. The Protection against Discrimination Act came into force on 1 January 2004. ECRI notes with approval that the Act is broadly in keeping with international standards in respect of racial discrimination. It prohibits any direct or indirect discrimination on grounds, inter alia, of race, national or ethnic origin, nationality and religion (Article 4 (1)). The Act covers the areas of employment (Chapter 2, Part I) and education (Chapter 2, Part II), along with other matters such as the right to be a member of a trade union. Chapter 3 provides for the establishment of a Commission for Protection against Discrimination empowered, among other things, to ensure the implementation of the Act.²¹ Chapter 4 sets out arrangements for proceedings before the Commission and the District Court, while Chapter 5 contains provisions concerning administrative measures that may be taken by the Commission for Protection against Discrimination.
28. Concerning the dissemination of the Act, there is provision in the Act for it to be brought to the attention of the public.²² The authorities have informed ECRI that the Commission for Protection against Discrimination has conducted an awareness-raising campaign in all 28 regional capitals and in some 40 municipalities. The Commission for Protection against Discrimination informed ECRI that it also launched information campaigns in the media, which explains why the number of complaints it has received has increased. The Commission has further informed ECRI that one of the main reasons for the increase in the number of complaints in 2007 compared to 2006 is the fact that the

²⁰ Article 54 1).

²¹ For further information about the Commission, see above.

²² See Article 22.

complainants are exempt from paying public charges when they do so. The Commission has stated that this benefits above all interested natural persons as most victims of discrimination and of unequal treatment are from a lower socioeconomic background and live far from its headquarters. Civil society organisations have observed, however, that the public is not sufficiently familiar with the Protection against Discrimination Act and that most of the cases brought before the courts under the Act are initiated by human rights organisations.

29. A certain amount of case law is beginning to develop in connection with the Protection against Discrimination Act. In 2005, for instance, a restaurant owner was instructed by a court in Blagoevgrad to stop barring Roma, and in 2006 an appeal court in Plovdiv held that a discotheque owner was guilty of discrimination for the same type of acts. Other cases of discrimination in respect of access to employment and to commercial establishments such as restaurants, cafeterias and hotels have been heard by the courts pursuant to the Act, often because of discrimination against Roma.²³ The authorities also informed ECRI that a company was convicted of discrimination in 2006 for sacking a Jehovah's Witness on religious grounds.
30. ECRI therefore notes with interest that the courts are applying the Protection against Discrimination Act increasingly frequently. Some judges have handed down decisions that show that they are fully familiar with the Act and the issues arising in connection with the application of anti-discrimination legislation. Civil society organisations have observed, however, that sometimes certain judges have insufficient knowledge of these issues, particularly when it comes to the sharing of the burden of proof. On this point, the authorities have informed ECRI that the National Institute of Justice offers judges a training module on Article 14 of the European Convention on Human Rights and the related Bulgarian legislation and case law. The authorities have also stated that at the end of 2007, within the framework of a PHARE²⁴ project, the National Institute of Justice published and circulated to all judicial authorities a practical guide entitled "Application of Fundamental Rights by the Courts". ECRI therefore encourages the authorities to strengthen these measures. It notes, however, that the issues of racism and discrimination and the Protection against Discrimination Act are new to many lawyers. Therefore training for lawyers is also needed.
31. ECRI recommends that the Bulgarian authorities continue to inform the general public about the content and scope of the Protection against Discrimination Act. It also recommends, in this respect, that they take measures specifically aimed at ethnic and religious minorities.
32. ECRI recommends that the Bulgarian authorities strengthen the initial and in-service training in racial discrimination issues and, in particular, in the provisions of the Act offered to judges, and that the same training be provided to prosecutors. ECRI also recommends that they offer the same possibility to lawyers.

²³ For further information about the situation of Roma, see "Discrimination in Various Fields" and "Vulnerable/Target Groups".

²⁴ A programme devised and financed by the European Union.

Anti-discrimination bodies and other institutions

- Commission for Protection against Discrimination

33. In its third report ECRI recommended that the Bulgarian authorities establish the Commission for Protection against Discrimination as swiftly as possible and provide it with the necessary financial and human resources so that it could carry out its work in the best possible conditions. It also encouraged them to set up local offices of the Commission in order to ensure that it was able to cover the whole territory of the country and was easily accessible for victims of discrimination wherever they were located.
34. The Commission for Protection against Discrimination²⁵ was set up in 2005 and became operational in November of that year. It comprises 77 people from different ethnic groups. NGOs have a favourable view of the Commission and consider that, by and large, it is a success. Under the Protection against Discrimination Act, the Commission is empowered, inter alia, to receive complaints, issue fines and make recommendations to legal entities and government departments. It also has the power to examine cases *proprio motu* and it may examine regulations and monitor the way in which its recommendations are implemented. The Commission can propose amendments to existing laws. The Commission has set up groups specialising in various issues, one of which is responsible for examining complaints of racial and ethnic discrimination and another for considering complaints of discrimination based, among other things, on national origin, citizenship and religion. Proceedings before the Commission are free and public, and it is possible to appeal against its decisions before the Supreme Administrative Court.
35. The Commission informed ECRI that, although victims may apply either to the Commission or to the courts, they prefer the former option as it is quicker. However, as the staff of the Commission comprises only 77 people, technical personnel included, ECRI is concerned that the Commission may be too small to meet the potential demand. The authorities have informed ECRI on this matter that the Commission's specialised administration has been increased by 27 tenured positions. Since it was set up, the Commission has handed down a number of decisions in areas of interest to ECRI, and it has indicated that ethnic discrimination was found to exist in 55% of the cases considered in 2005, while in 2007 the figure was 29%. The Commission informed ECRI that in 2006 it succeeded in having the Protection against Discrimination Act amended in order to enable it to open local offices, and that it considers it a priority to set up and run such offices. The authorities have informed ECRI that office premises have been purchased in Shumen.
36. A number of points worth considering in order to strengthen the Commission's work have been drawn to ECRI's attention. It would seem, for instance, that more training in discrimination issues for the members of the Commission is needed. Moreover, according to NGOs, the Commission comprises former members of parliament, which in their opinion, limits their independence with regard to the executive. Steps should also be taken to make it easier for victims to obtain access to this institution, which is outside the Sofia city centre. The Commission informed ECRI in this connection that the travel expenses of disadvantaged people are covered.

²⁵ See "Anti-discrimination legislation".

37. ECRI recommends that the Bulgarian authorities ensure that the Commission for Protection against Discrimination has the human and financial resources needed to set up and run local offices.

38. ECRI recommends that the Bulgarian authorities ensure that the Commission for Protection against Discrimination has sufficient financial resources to enable it, among other things, to further train its staff in racial discrimination issues.

- *National Council for Co-operation on Ethnic and Demographic Issues*

39. In its third report, ECRI recommended that the Bulgarian authorities strengthen the national machinery responsible for minority issues, either by setting up a new body or by reinforcing the National Council on Ethnic and Demographic Issues. It stressed the importance of ensuring the participation of representatives of minorities in a body responsible for issues concerning them and considered that such a body should have sufficient resources to perform its task properly.

40. The National Council for Co-operation on Ethnic and Demographic Issues has replaced the old National Council on Ethnic and Demographic Issues. The authorities stated that a Special Commission for the integration of Roma had been set up within this body to provide advice on the formulation and implementation of government policy on the equal integration of Roma into Bulgarian society. The authorities also announced that a Directorate of Ethnic and Demographic Affairs had been set up within the Council to devise, implement and monitor the Framework Programme for Equal Integration of Roma. The Council informed ECRI that it had, for example, taken steps to monitor the implementation of the national programme for improving the housing conditions of Roma²⁶. The Council stated that it had fulfilled this task by informing local authorities of the content of the programme. The Council said it had prepared reports on ethnic minorities and on combating discrimination, and that it had organised seminars in 2007 on combating racism and xenophobia. ECRI notes that Roma and other ethnic minorities are represented on the Council. It seems necessary, however, to strengthen the Council. Indeed, concerning the Council's work, civil society actors have observed that it has a purely advisory role and cannot take independent action.

41. ECRI recommends that the Bulgarian authorities clarify the responsibilities of the National Council for Co-operation on Ethnic and Demographic Issues by ensuring that it has the powers and responsibilities needed to make a greater impact, especially in areas affecting Roma.

II. Discrimination in Various Fields

Education

42. In its third report, ECRI urged the Bulgarian authorities to take steps without delay to give Roma children equal opportunities in the educational field. It stressed the prime importance of devising a short-, medium- and long-term policy in this area and setting aside sufficient funds and resources to implement it. It recommended that they take responsibility for integrating Roma children into the education system.

43. The authorities informed ECRI that the integration of Roma children in schools is continuing. In February 2005, Bulgaria joined the programme of the Decade of Roma Inclusion 2005-2015. In April 2005, the Bulgarian Council of Ministers

²⁶ For further information on the situation of Roma in the housing field, see "Discrimination in Various Fields" below.

adopted a National Action Plan setting out measures to implement the programme of the Decade, which must also apply the Framework Programme for Equal Integration of Roma in Bulgarian Society, adopted in 1999. The national action plan provides for measures concerning education.²⁷ The authorities have informed ECRI that they estimate that in the 2006-2007 school year, roughly 10% of pupils were Roma, but that they did not have accurate statistics. NGOs have done research that shows that many Roma children continue to encounter serious schooling problems, for example a high drop-out rate and an insufficient command of reading and writing. Moreover, most of these children continue to receive their schooling in schools that are, de facto, segregated because of various factors connected with their socio-economic situation. ECRI is concerned to note that these schools continue to have less in the way of human and financial resources than other schools, and that the education provided there is of poorer quality.²⁸ The lack of statistics on the situation of children belonging to minorities, in particular Roma pupils, in the field of education, hinders the implementation and assessment of the various programmes set up by the authorities, including the National Programme to Integrate More Children of School Age (February 2005) and the corresponding Action Plan (June 2005). Accordingly, although studies by a number of NGOs show that few Roma pupils finish primary or secondary school, that very few go to university and that they are over-represented in specialised establishments, the lack of a long-term policy for compiling statistics on their situation is preventing the authorities from gauging the full scale of the problem.

44. As mentioned above,²⁹ Chapter II of the Protection against Discrimination Act contains several provisions concerning the right to education. For instance, Section 29 (1) provides that the Ministry of Education and Science and the local self-governments must take measures to prevent racial segregation in educational institutions. In January 2005, the Centre for the School Integration of Children and Teenagers from Ethnic Minorities was set up in the Ministry of Education and Science in order to help municipalities and NGOs combat the various forms of de facto segregation that Roma pupils face. The authorities stated that the Centre devises, finances and supports projects to promote access for children from minority groups to quality education and improve their academic results. According to the authorities, the Centre works by raising funds in order to implement and support projects and by financing them itself. ECRI notes with interest that certain Roma NGOs appear satisfied with the progress the Centre has made.³⁰
45. The authorities have, often in conjunction with NGOs, implemented a number of measures to improve the integration of Roma children in schools. They have, for example proposed to send them to schools outside their neighbourhoods in order to remove them from an environment which only comprises Roma pupils. In addition, compulsory preparatory classes continue to improve the integration of Roma children, and the introduction of free textbooks and free school transport helps to improve schooling for pupils from this group. A long-term strategy for the school integration of Roma children has yet to be devised, however, and the authorities should take the initiative more often when it comes to school integration measures for these children, given that such measures often seem to be taken by NGOs. It appears that the impact of the numerous programmes and action plans (Action Plan for the implementation of the

²⁷ The other measures concern employment, housing and health, which will be considered below.

²⁸ See *Equal Access to Quality Education for Roma, Volume 2, Monitoring Reports, 2007*, Open Society Institute, EU Monitoring and Advocacy Program, Education Support Program, Roma Participation Program

²⁹ See "Existence and Implementation of Legal Provisions" above.

³⁰ *Press release from the Romani Baht Foundation*, Sofia, Michail Georgiev, Romani Baht, 24.04.2008.

Decade of Roma Inclusion, Strategy for the Educational Integration of Children and Pupils Belonging to Ethnic Minorities (2004), Action Plan for the Framework Programme for Equal Integration of Roma in Bulgarian Society (2006), National Programme for the Development of Primary, Secondary and Preparatory Education (2006-2015)), drawn up, among other things, to improve the schooling of Roma children has yet to be seen. These plans and programmes would also be more effective if they were better co-ordinated. Greater consideration should also be given to the link between the educational problems facing Roma on the one hand and the very high unemployment rate in the Roma community³¹ on the other hand.

46. The authorities informed ECRI that the National Council for Co-operation on Ethnic and Demographic Issues has carried out three projects in the framework of the PHARE programme to improve the education of Roma children. For instance, a scheme has been introduced to improve the training of teachers working in a multicultural environment. According to the authorities, the focus is on teachers' ability to work with Roma children and in mixed classes, the objective being to integrate Roma children in schools. ECRI notes, from information supplied by the authorities, that out of sixty primary school teachers who received such training in 2007, ten were Roma. The authorities acknowledge that the presence of Roma teachers is beneficial. They informed ECRI that the current PHARE programme provides for similar training for head teachers. According to the authorities, the National Centre for the In-Service Training of Teachers trains school teachers to work in a multicultural environment and 1,000 teachers received such training in 2006-2007. Despite the above-mentioned measures, the authorities themselves acknowledge that the school integration of Roma children is slow, and consider that municipal schools and municipal authorities should do more to shoulder their responsibilities in this area.
47. ECRI strongly recommends that the Bulgarian authorities continue and intensify the integration process of Roma children into mainstream schools in order to promote social diversity. It recommends that they co-ordinate and implement the various relevant programmes and action plans more effectively and ensure that they are funded from the State budget. ECRI recommends that the Bulgarian authorities pursue and step up co-operation with Roma NGOs in this connection.
48. ECRI recommends that the Bulgarian authorities, in accordance with Section 1, paragraph 1, of its General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education, undertake, in conjunction with civil society organisations, studies on the situation of Roma children in the school system, by compiling statistics on their attendance and completion rates, drop-out rates, results achieved and progress made.
49. ECRI encourages the Bulgarian authorities to continue training teachers to work in a multicultural environment. It recommends that, in accordance with its General Policy Recommendation No. 10, they provide educational staff with initial and ongoing training designed to foster awareness of issues pertaining to racism and racial discrimination and of the harmful consequences these have on the ability of children who are victims of these phenomena to succeed at school.³² ECRI also recommends that the Bulgarian authorities provide them with training in the Protection against Discrimination Act.

³¹ See "Employment" below for more detailed consideration of this issue.

³² See Section III, paragraphs 2 and 3.

50. ECRI recommends that the Bulgarian authorities continue to train and recruit Roma to posts in the educational field in order to facilitate the integration of pupils from this group and liaison between schools and Roma parents.
51. In its third report, ECRI reiterated the urgent need to put a stop to the practice of placing Roma children who are not mentally handicapped in special schools intended for children with mental disabilities, and to reintegrate those already placed in such schools in the ordinary school system.
52. ECRI is concerned to note that Roma children with no specific disability continue to be placed in special schools, whether because they have an insufficient knowledge of Bulgarian, or simply because these schools provide free meals and this attracts certain disadvantaged Roma parents. On this latter point, the authorities have informed ECRI that they have prioritized the conduct of an awareness-raising campaign among parents regarding the adverse effects that such a choice may have on children in the long term. However, ECRI has no further information on this campaign and on any measures taken to assess its impact on parents' decisions and to assist them in making other choices. Moreover, occasionally, teachers highlight the advantages of the schools without informing parents of the drawbacks. ECRI notes with concern that rehabilitation establishments also have a disproportionate number of Roma children, who are sometimes brought there by their parents because of socio-economic problems. The authorities have stated that a study carried out in these establishments by the Directorate General for the Supervision of the Rights of the Child revealed good practices, but also problems, including an excessive workload and a lack of standardised methods for assessing children's educational needs. ECRI does not, however, have any information about the steps taken to resolve these problems, and it seems that no specific research has yet been carried out into the situation of Roma children. The authorities have informed ECRI that twelve rehabilitation schools which were attended by a large number of pupils of Roma origin were closed down in 2006-2007. The integrated pedagogical evaluation teams within the regional education inspectorates conducted an up-to-date evaluation of the pupils who attended the closed-down schools, after which they were referred mostly to mainstream schooling. Of the closed-down rehabilitation schools, two are in Roma neighbourhoods which lack a mainstream school.
53. ECRI urges the Bulgarian authorities to take more steps to remove Roma children who are not handicapped from specialised establishments. ECRI urges the authorities to do the same for Roma children wrongly placed in rehabilitation establishments. ECRI furthermore recommends that all necessary steps be taken to avoid such unjustified placements in future.
54. ECRI recommends that the Bulgarian authorities raise Roma parents' awareness of the harmful long-term consequences of sending their children to special schools and rehabilitation establishments. It recommends that an impact assessment of any such awareness-raising measures be carried out and that steps be taken to address the problems that may lead some parents to make this choice.

Employment

55. In its third report, ECRI recommended that the authorities continue, and step up, their efforts to provide vocational training in order to increase the opportunities for members of the Roma community to find jobs.
56. ECRI also recommended that the authorities closely monitor the situation with regard to discrimination in employment and take steps to prevent and punish any acts of racial discrimination in this field.

57. The authorities have informed ECRI of a number of measures taken since the third report to integrate Roma into the job market. Several programmes and plans have been adopted, including, in 2006, the National Programme for Roma Literacy and Training. The authorities stated that in 2007 some 2,000 Roma took part in this programme. In addition, the national action plan setting out measures for the implementation of the programme of the Decade of Roma Inclusion 2005-2015 contains a section devoted to employment. Provision was made in 2008 for employment mediators, whose role is to ensure communication between Roma and the authorities. The authorities have specified that 45 mediators are to be appointed in the framework of pilot projects. They also reported that in 2007, fourteen meetings on employment in the Roma community were held in various parts of the country, and that 1,734 people were recruited in the building, tourism and service sectors. The authorities recognise the lack of qualifications as the biggest problem facing Roma in the employment field. They have assured ECRI that they would concentrate on vocational training for members of this community in 2008.
58. The Ministry of Labour and Social Policy launched an awareness campaign and a survey, in which 1,500 Roma took part, with a view to holding discussions on their needs and problems and the solutions they envisaged. A Roma Integration Council has been set up within the Ministry, and the authorities have informed ECRI that it meets at least every three months to examine the situation and the measures to be taken for Roma. Roma NGOs are represented at meetings of the Council. ECRI is interested to note that the Ministry of Labour and Social Policy is very satisfied with its contacts with Roma in general and, in particular, with Roma women, who display a keen interest and great commitment when they take part in the schemes introduced.
59. Although no statistics broken down according to ethnic origin are collected in the employment field, according to studies carried out by NGOs, the unemployment rate in the Roma community is 70 to 80%, with the situation of women and young people giving particular cause for concern.³³ The illiteracy rate among adult Roma is also very high.³⁴ Given that Roma are in a precarious situation with regard to employment, ECRI is concerned to note that an amendment to the Social Assistance Act has restricted the period for which an unemployed person may receive social assistance to 18 months. This measure affects Roma disproportionately because many of them are long-term unemployed. The authorities have informed ECRI that this amendment, which came into force in January 2007, does not apply to vulnerable groups, such as mothers and people with disabilities. Other people undergo an assessment, after which several solutions designed to integrate them into the labour market are proposed to them. ECRI is not aware of any widespread research on the effects of this amendment on members of the Roma community. However, it hopes that the consequences of this amendment for members of the Roma community will be closely monitored with a view to its being repealed if it proves to discriminate against them indirectly.

³³ See *Analytical Report on: The Roma Population in Bulgaria: The New Challenges (Summary)*, Maria Simeonova, Daniela Korudjieva, Lora Petrova, Friedrich Ebert Foundation – Sofia Regional Bureau, p. 4 and *"Romani women's employment in Bulgaria"*, *Fact Sheet 2006*, p.1, Open Society Institute, Network Women's Program.

³⁴ *Over 18% of adult Roma population illiterate in Bulgaria*, 15 March 2007, Social Rights Bulgaria, Networking Bulgaria NGOs Online, <http://www.socialnoprava.info/article1769.html>.

60. The above measures show that the authorities have to a certain extent become aware of the issues. However, civil society representatives have observed that the programmes described above need to be implemented more actively, in a co-ordinated manner and over a long period, with the necessary human and financial resources. Indeed, Roma remain largely excluded from the job market both because of their lack of qualifications and because of discrimination, particularly when it comes to recruitment. Both the authorities and the Roma community are aware of the inextricable link between improved access to quality education for Roma and their employment.³⁵ The Protection against Discrimination Act³⁶ contains several provisions prohibiting discrimination on grounds, among others, of race, national or ethnic origin, religion and nationality in respect of recruitment (Section 12, paragraphs 1 to 4) and training and promotion (Section 15). The Act also obliges the employer to take disciplinary measures in cases of harassment on the above-mentioned grounds (Section 16). The employer is required, in co-operation with the trade unions, to take effective steps to prevent all forms of discrimination in the workplace (Section 18). Moreover, under Section 19, an employer is liable for any discrimination perpetrated in the workplace by an employee (Section 19). It would seem, however, that the authorities have done little to raise awareness of this Act among employers and that more could be done in this regard as concerns ethnic and religious minorities³⁷ in general and Roma in particular.

61. ECRI strongly recommends that the Bulgarian authorities continue, and strengthen, the measures taken to integrate Roma into the labour market, paying particular attention to the situation of women, as advocated in its General Policy Recommendation No. 3 on combating racism and intolerance against Roma/Gypsies. It also recommends that they take measures geared towards young Roma, and collect data broken down by ethnic origin in order to better examine the situation of Roma in this field, to assess the progress made and devise other projects if necessary. ECRI recommends that the Bulgarian authorities implement the various programmes for the employment of Roma adopted since the third report more actively, and allocate the necessary human and financial resources to them.

62. The ECRI encourages the Bulgarian authorities to continue to work with the Roma community on their integration into the employment market. It recommends ensuring co-operation and close co-ordination with other governmental and civil society actors.

63. ECRI urges the Bulgarian authorities to monitor the consequences of the above-mentioned amendment to the Social Assistance Act to ensure that it does not discriminate indirectly against Roma. It recommends that they consider repealing the amendment should it prove to discriminate indirectly against Roma.

64. ECRI strongly recommends that the Bulgarian authorities wage campaigns to make employers aware of the Protection against Discrimination Act in order to provide them with information about the rights of members of ethnic and religious minorities in the employment sector and employers' responsibilities in this regard.

³⁵ For a discussion of the situation of Roma in education, see above.

³⁶ See, "Existence and Implementation of Legal Provisions".

³⁷ For further information about the situation of other ethnic and religious minorities, see "Vulnerable/Target Groups".

Housing

65. In the area of housing, the authorities have adopted a National Programme (2005 -2015) to Improve the Housing Conditions of Roma. They have informed ECRI that it is planned to improve the situation of Roma in two main stages, first by legalising housing built largely without planning permission in recent decades and then by bringing it up to standard. The authorities have stated that they began taking measures in the framework of this programme in 2007. Work has begun in 38 municipalities and the authorities have informed ECRI that in 2008 they hope to work on those municipalities in which no action has yet been taken. It is thus planned to build over 200 dwellings in four municipalities. The authorities have stated that they are largely relying on local authorities to implement these projects. They have informed ECRI that they are working with Roma NGOs on the subject. According to information provided by Roma representatives, however, it seems that there is a need for closer co-operation.
66. ECRI is concerned that most Roma continue to live in de facto segregated housing, often in the big cities, for example Sofia and Plovdiv. Such amenities and services as water, electricity and heating are either non-existent or insufficient to meet the needs of those living there. As mentioned above, most of this housing was built without planning permission and/or without the involvement of the competent authorities, and therefore without any town planning. It is therefore not readily accessible to such public services as ambulances, the fire brigade and rubbish collectors. This exacerbates the isolation of the inhabitants and aggravates other problems, particularly health problems³⁸. Civil society actors observe that the housing is overcrowded, and that this leads to situations where projects to provide amenities are not implemented. They have also noted that there is some tension between the majority population and Roma over the building of new housing. The authorities have informed ECRI in this connection that they have proposed that, in places where it is planned to improve the housing conditions of Roma, measures should also be taken for the benefit of other vulnerable groups.
67. In October 2006 the European Committee of Social Rights issued a decision concerning the right of Roma to housing.³⁹ The Committee concluded that the situation in respect of the inadequate housing of Roma families and the lack of proper amenities constituted a violation of Article 16 of the Revised European Social Charter (right of the family to social, legal and economic protection), taken together with Article E (non-discrimination). The Committee stated that the lack of legal security of tenure and the failure to comply with the conditions concerning the eviction of Roma families from dwellings unlawfully occupied by them constituted a violation of these articles. ECRI hopes that this decision will be taken into consideration when the above-mentioned measures are applied, to ensure that all the problems referred to in it are solved.
68. ECRI recommends that the Bulgarian authorities continue with, and step up, the measures taken to address the housing problems facing Roma and to provide the human and financial resources needed for this purpose. It encourages them to continue to work in co-operation with NGOs and Roma civil society. It recommends that they strengthen such co-operation, particularly in respect of the regularisation of Roma housing and the building of new housing.

³⁸ For more detailed consideration of this issue, see below.

³⁹ *European Roma Rights Centre v Bulgaria, Complaint No. 31/2005, Decision on the merits*, 18 October 2006.

Health

69. A health strategy has been adopted for members of ethnic minorities who are in a vulnerable situation. The authorities have informed ECRI that the first part of this strategy is complete, and the second, which will cover a period of three years, is being implemented. Three schemes are being carried out as part of the strategy: 1) the appointment of health mediators of Roma origin at local level; 2) the training of medical personnel specifically to treat Roma, and 3) medical examination campaigns in Roma communities. The authorities have stated that the role of Roma health mediators, who have been in place since 2007, is to liaise between the Roma community, municipalities and doctors as well as to provide health education to members of the community. According to the authorities, their activities will be reviewed around 2010 before more mediators were recruited. They have also informed ECRI that campaigns were waged in 2007 in five regions to screen for cases of tuberculosis and lung cancer among Roma. According to information from the Bulgarian authorities, lung disease is more common among Roma because of the sectors in which they are employed.⁴⁰ At the time of drafting of this report, the results of this campaign were being analysed to take stock of the health situation among Roma. It is planned, in the context of the PHARE programme, to send out mobile units to carry out medical examinations, including in the Roma community. The authorities have also stated that the Ministry of Health organises and finances the conduct of other general and specialist check-ups of the Roma population and that within the framework of the Health Strategy for Disadvantaged Persons from Ethnic Minorities, 20,549 check-ups were conducted over the last year.
70. Roma continue to encounter numerous health problems stemming from various socio-economic factors, such as poverty, the poor housing conditions in which many of them live⁴¹ and their generally low standard of education.⁴² According to information provided by the Bulgarian authorities, 68% of Roma households have a chronically sick member and 55% said they had difficulty in obtaining access to a doctor because of their remoteness.⁴³ These problems again highlight the link between the disadvantages Roma suffer in various fields (housing, education, employment) and the need for co-ordinated action in these fields. Although the authorities have stated that the Ministry of Labour and Social Policy and the Ministry of Education and Science would be involved in the implementation of the Health Strategy for Members of Ethnic Minorities in a Vulnerable Situation,⁴⁴ ECRI has no information about the manner in which this will be carried out.
71. The programmes implemented by the Bulgarian authorities are a start towards improving the health of Roma. It would seem, however, that the programmes should more frequently be carried out as part of government policy to resolve problems in the long term rather than in the context of PHARE programmes. With regard to prevention, it would be necessary to develop information campaigns on vaccination, targeting particularly this group. In addition, ECRI is concerned to note that the health situation of Roma is exacerbated by the fact that many of them have no health insurance (46% according to figures provided by the authorities⁴⁵). This is mainly because a large number of them have been

⁴⁰ <http://www.ncedi.government.bg/en/HealthStrategyENG.htm> .

⁴¹ See "Housing" above.

⁴² See "Education" above.

⁴³ <http://www.ncedi.government.bg/en/HealthStrategyENG.htm>.

⁴⁴ *Ibid.*

⁴⁵ <http://www.ncedi.government.bg/en/HealthStrategyENG.htm>.

unemployed for years and are not, or are no longer, registered as jobless. Consequently, they no longer receive unemployment benefits and are not covered by the Health Insurance Act, which provides for State medical cover only for those receiving unemployment benefits.⁴⁶ The authorities stated that there is a fund of 5 million leva (about €2,500,000) for providing health care for the most disadvantaged. However, those concerned must expressly apply to benefit from it, and it seems that no steps have been taken to inform the Roma community of the existence of the fund, which moreover appears largely insufficient to meet needs. The above-mentioned amendment to the Social Assistance Act⁴⁷ is liable to exacerbate the situation of Roma. Indeed, it seems that if people who were receiving assistance do not find work during the year for which they no longer receive assistance, they will not have access to State health insurance either.

72. ECRI is concerned about reports from several sources to the effect that Roma are discriminated against in the health field. Instances of pregnant Roma women being placed in separate wards in certain maternity hospitals have been noted and it would seem that sanitary conditions in these wards are of a lower standard than in the others and that the medical personnel pay less attention to these patients. There are reports of ambulances refusing to go to Roma areas, or delaying going there. ECRI does not have any information about the steps taken to review this problem. Such studies would make it possible to establish the scale of the problem and to take appropriate measures to address it, particularly by raising awareness of racism and racial discrimination issues and enforcing the legislation on the subject.
73. ECRI encourages the Bulgarian authorities to continue with the measures taken to improve the health of Roma. It urges them to ensure that these measures are part of a long-term government policy, in co-operation with the bodies concerned. It recommends that they allocate the necessary human and financial resources to them. ECRI recommends that the Bulgarian authorities continue to make use of Roma mediators and recruit more.
74. ECRI recommends that the Bulgarian authorities wage information campaigns among Roma communities throughout the country to ensure that they have equal access to health care, including preventive care.
75. ECRI urges the Bulgarian authorities to carry out investigations into allegations of discrimination against Roma and segregation in the area of health care and to take the necessary measures, including legal measures, to combat this phenomenon. It also recommends that they conduct campaigns to make medical personnel aware of the fight against racial discrimination.

Access to justice

76. In its third report ECRI recommended that the authorities keep a close watch on the situation as regards the rights of detainees and accused persons, both Roma and other, to access to counsel.
77. One important development in the legal field is the adoption of the Legal Aid Act, which came into force in January 2006. It is designed to ensure greater fairness in judicial proceedings, guarantee quality legal aid and ensure that everyone, regardless of social status, has access to counsel. The authorities have stated that the Act makes it possible to provide legal aid in criminal, civil and administrative cases. A list of official defence counsels has been drawn up

⁴⁶ See "Employment" above.

⁴⁷ *Ibid.*

and the National Legal Aid Office has been set up to manage the legal aid budget, among other things. It would seem, however, that there are still problems in ensuring, for instance, that Roma are able to contact a lawyer when they are taken into police custody.⁴⁸ On this point, ECRI notes information provided by the authorities according to which the National Legal Aid Office, jointly with the Ministry of Justice, are parties to an Agreement on Co-operation with the Open Society Institute-Sofia Foundation for the development of a pilot project entitled "Provision of Legal Aid by On-Duty Assigned-Counsel Lawyers upon Police Detention." The authorities have also informed ECRI that the National Legal Aid Office is, inter alia, drafting directions to the Bar Councils and the precinct police departments in this field and that it provides periodically, through the Bar Councils, an up-to-date list of the on-duty assigned-counsel lawyers at the precinct police. Detained persons are thus guaranteed a possibility of access to legal aid through a choice of an assigned counsel. The authorities have assured ECRI that lawyers and policemen will be trained in the implementation of the project and that one of the principal objectives of the project is to raise citizens' awareness regarding their right to free legal aid upon police detention for 24 hours. However, ECRI has been informed that the system of assigned counsel does not work well and that only between 10 to 15 lawyers are specialised in discrimination issues in Bulgaria.

78. ECRI recommends that the Bulgarian authorities continue to improve access to justice for everyone, including members of ethnic minorities by, inter alia, ensuring that the latter are informed about the existence of the National Legal Aid Office and have full access to its services. It also recommends that an awareness-raising campaign be carried out to inform NGOs and ethnic minority groups of the above measures.

III. Vulnerable/Target Groups

Roma

79. In its third report, ECRI considered that there was an urgent need for the authorities to adopt specific measures to combat all forms of direct and indirect discrimination against members of the Roma community.

80. According to the latest population census, which was carried out in 2001, there are 370,305 Roma in Bulgaria. However, Roma NGOs estimate that there are between 800,000 and one million Roma in the country. Their situation in the education, employment, housing and health fields is examined in another section of this report⁴⁹, which mentions the discrimination they suffer in these areas. However, Roma face discrimination in other areas, such as access to public places.⁵⁰ There is still a degree of intolerance and persistent prejudices against Roma and these are apparent in everyday life. Moreover, public and private media sometimes project a negative image of Roma. Programmes thus often disseminate prejudices against them.⁵¹ It would also seem that reports and articles still mention the ethnic origin of a criminal presumed to be Roma in cases where this is unnecessary. Sources indicate that Roma are not represented in the media and that there is little reflection of their views. NGOs consider that the media contribute to creating a climate of intolerance and prejudice against Roma. Moreover, ECRI regrets that on the political front, an

⁴⁸ For further information about the police, see "Conduct of Law Enforcement Officials".

⁴⁹ See "Discrimination in Various Fields".

⁵⁰ For further information, see "Anti-discrimination legislation".

⁵¹ For further information about the media, see "Racism in Public Discourse".

extreme right-wing political group makes speeches against Roma, among others, on its private television channel, and rarely incurs penalties.⁵²

81. Roma participate little in the political process in Bulgaria. To date, there is only one Roma member in the Bulgarian Parliament and only a few Roma experts in Ministries and institutions. Roma seem to be represented slightly more at local level, as several local councillors are Roma. There seems to be little Roma participation in elections. On this point, a poll carried out in 2006 showed that the majority of the population seemed to be opposed to greater participation of this group in politics: 63.4% of people of Bulgarian extraction were against members of ethnic minorities standing for the post of mayor.⁵³ It appears, therefore, that measures are needed to foster awareness of the right of Roma, among others, to participate in politics in Bulgaria.
82. Civil society actors have indicated that Roma are represented little, if at all, in such bodies as the police and the judiciary⁵⁴. With regard to the justice sector, it has been stated that very few Roma hold judicial positions. They consider that their participation would be important in order to facilitate Roma's social reintegration.
83. ECRI recommends that the Bulgarian authorities wage awareness campaigns, in co-operation with NGOs and the media, to promote tolerance and respect towards Roma.
84. ECRI recommends that the Bulgarian authorities promote the participation of Roma in the media sector, inter alia, by taking steps to train and recruit journalists from this group.
85. ECRI recommends that the Bulgarian authorities take steps to increase the participation of Roma in the political process, by encouraging civic education schemes and endeavouring to strengthen the capacity of civil society organisations working on the ground in this field. It also recommends that they wage awareness campaigns on this issue, targeting both Roma and the rest of the population.

Turks

86. In its third report, ECRI encouraged the Bulgarian authorities to continue their efforts to improve the situation of members of the Turkish community in Bulgaria, particularly in respect of the protection of their economic, social and cultural rights.
87. ECRI is pleased to note that Turks have become better integrated in politics since the third report. For example, several Turks hold high-level government posts (at ministerial level), and many mayors are from this group. Turks also participate substantially in the electoral process.
88. A few problems persist, however, particularly in the education field. Turks have a lower standard of education than people of Bulgarian extraction. In the field of employment, because of the sectors in which they work, they suffer more often from certain diseases.⁵⁵ The Turks have a higher unemployment rate than

⁵² For further information, see "Racism in Public Discourse".

⁵³ See *The "Bulgarian ethnic model" - reality or ideology?*, Bernd Rechel, Europe-Asia Studies, p. 1208.

⁵⁴ For further information, see "Conduct of Law Enforcement Officials".

⁵⁵ <http://www.ncedi.government.bg/en/HealthStrategyENG.htm>, pp.2-3

people of Bulgarian extraction: it is estimated at about 36%.⁵⁶ There is also more poverty among Turks than among people of Bulgarian extraction.⁵⁷ With regard to employment, the authorities have informed ECRI of a number of programmes adopted since the third report, including the 2004-2010 Employment Strategy, the National Plan for Social Inclusion (2006-2008) and the Operational Programme for Human Development. ECRI therefore hopes that the situation of the Turks will be taken into account when these programmes are implemented.

89. As already mentioned⁵⁸, the authorities have adopted a Strategy for the School Integration of Children and Teenagers from Ethnic Minorities. The Bulgarian authorities have reported, in this connection, that Turkish is taught as a mother tongue from year 1 to year 8. Turkish language experts are employed by the regional education inspectorates in regions where a large number of children study Turkish. It would seem, however, that only 20,000 to 30,000 Turkish children receive their education in their mother tongue, and some issues still have to be resolved, particularly that of deciding whether the language should be taught as an optional or compulsory course. Turkish representatives have said that their language should not be taught as a foreign language to Turkish pupils.

90. ECRI recommends that the Bulgarian authorities take steps to improve Turks' standard of education, including as regards learning their mother tongue, and to enhance the access of members of this group to employment. It recommends that they carry out research to find out why this group is disadvantaged in these fields and to combat any forms of discrimination encountered. ECRI recommends that the Bulgarian authorities focus in particular on the regions where the Turks are in the majority.

91. ECRI is concerned to note that an extreme right-wing party has been launching virulent verbal attacks on, among others, Turks as an ethnic and religious group, and that it has helped to create a climate of intolerance towards them.⁵⁹ For instance, the party often presents Turks as a threat to the country. ECRI notes with approval that in March 2008 the party's leader was convicted by the Sofia Court on the grounds that he had created a hostile and threatening environment for Turks. The court ordered this party to refrain from making remarks of this kind.⁶⁰ According to certain polls, the party's popularity is waning⁶¹.

92. It would appear that in 2006 the Bulgarian Parliament adopted a declaration condemning the growing threats to religious tolerance and ethnic peace. It does not, however, seem that the authorities have taken any firmer stance in preventing the party concerned from verbally attacking Turks, among others, or

⁵⁶ *Integration Opportunities for Roma in Bulgaria through Vocational Education and Training, Exchange of Good Practices in the Sphere of Employment*, Ivan Ivanov, Workshop by the Ministry of Labour and Social Capacity, Sofia, 10-11 May 2007, p. 4, *Report on Racism and Xenophobia in Member States of the EU, European Fundamental Rights Agency, FRA 2007*, p. 45

⁵⁷ *National Deliberative Poll, Policies Toward the Roma in Bulgaria, Briefing Material*, p. 7

⁵⁸ See "Discrimination in Various Fields".

⁵⁹ For further information, see "Criminal law" and "Racism in Public Discourse".

⁶⁰ *Bulgarian Nationalist Leader Sentenced for Harassment of Ethnic Turks*, Sofia News Agency, 9/4/2008. For further information about the line taken by the courts in cases of this kind, see "Existence and Implementation of Legal Provisions".

⁶¹ *Bulgaria: Far Right Goes Out of Fashion*, Claudia Ciobanu, Inter Press Service News Agency, 6 March 2008.

in applying the provisions of the Criminal Code concerning incitement to racial or religious hatred to it.⁶²

93. There are reports of attacks on mosques (graffiti on the walls, broken windows) in certain towns, and ECRI is concerned to note that those responsible are seldom prosecuted.
94. ECRI calls on politicians to take firm public action against racist speeches in politics, notably against Turks, and to combat all verbal or physical manifestations of racial or religious intolerance towards Turks by, among others, enforcing the relevant legislation.

Macedonians

95. In its third report, ECRI recommended that the Bulgarian authorities closely monitor allegations of discrimination and acts of intolerance against Macedonians and, if necessary, take steps to punish such acts. It also urged them to establish a dialogue with the representatives of the Macedonians to find a solution to tension that exists between this group and the authorities, but also between this group and the majority population, so as to enable them to live together and respect one another in the interests of all concerned.
96. ECRI is concerned by reports of hostility towards Macedonians in the media and by the fact that few measures have been taken to respond to complaints by Macedonians in this respect or to bring the media to account. ECRI also notes that Macedonians have again expressed the desire to see the Bulgarian Government afford this group greater recognition as a national minority.
97. ECRI recommends that the Bulgarian authorities establish a dialogue with the Macedonian representatives in order to find a solution to the issues affecting members of this group. It also recommends that they take steps to bring the media to account as concerns information disseminated about Macedonians and ensure that the legislation is enforced when necessary.

Pomaks

98. In its third report, ECRI recommended that the Bulgarian authorities closely monitor allegations of discrimination and acts of intolerance against persons of Pomak origin and, if necessary, take steps to punish such acts. It also recommended that they combat the stereotypes and prejudices that still existed against persons of Pomak origin and take steps to make the majority population aware of this problem.
99. ECRI notes that members of the Pomak community have been elected to positions of responsibility at the local level. However, Pomaks continue to encounter problems in the field of education with a generally lower level of education. As for employment, it appears that Pomaks tend to work in sectors that are generally very poorly paid, such as the building industry and harvesting, partly because of their lower level of education. Poverty is therefore more widespread among Pomaks. They are hardly represented, if at all, in economic, social or political life, and this is one of the factors that limit their ability to improve their situation.
100. The Pomaks consider that the fact that their separate identity as Muslim Bulgarians is not recognised constitutes discrimination. It would seem that there is still prejudice against them and that those who identify themselves as

⁶² See "Racism in Public Discourse" and "Existence and Implementation of Legal Provisions" for further information.

Pomaks appear to be discriminated against by certain officials. It also appears that no specific measures have been adopted to solve the problems facing Pomaks.

101. ECRI recommends that the Bulgarian authorities carry out research into the situation of the Pomaks in various fields and take the necessary measures to solve the problems they face, particularly in the areas of education and employment. It reiterates its recommendation that they combat prejudice against Pomaks and make the majority population aware of the problem. ECRI also recommends that the Bulgarian authorities engage in dialogue with representatives of the Pomaks in order to address the issues concerning members of this group.

IV. Racism in Public Discourse

Media

102. In its third report, ECRI recommended that the Bulgarian authorities alert media professionals and their organisations to the dangers of racism and intolerance. If racist articles had been published, it strongly encouraged the Bulgarian authorities to make every effort to prosecute and punish those responsible.
103. The Radio and Television Act contains provisions prohibiting programmes that incite ethnic, racial, national or religious intolerance.⁶³ The Act also provides that national radio and television must produce programmes for people whose mother tongue is not Bulgarian. The Electronic Media Council is, among other things, responsible for monitoring the application of the Act and inflicting penalties if it is not observed.
104. ECRI is interested to note that in 2004, media professionals adopted a code of ethics, which provides, inter alia, that the race, colour, religion and ethnic origin of an individual must not be mentioned unless this is relevant. In addition, a National Council of Ethics has been set up by associations of journalists to establish a self-regulatory framework for implementing the code. This was done later in the wake of the establishment, in 2006, of two bodies responsible for receiving complaints about radio and television programmes. Furthermore, since 2004, an annual national competition has been organised for journalistic excellence in respect of ethnic and religious tolerance.
105. While noting with interest the progress made since the publication of the third report, ECRI is concerned about information from representatives of ethnic and religious minorities, mentioned elsewhere in this report⁶⁴, concerning manifestations of intolerance and incitement to racial, ethnic or religious hatred in the press and on television. Some ethnic minority representatives informed ECRI that they had complained to the Electronic Media Council, but that no steps had been taken to punish those responsible in accordance with the law. The Electronic Media Council has informed ECRI that it had received few complaints in this connection between 2005 and 2007. It said that about 10 to 15% of the complaints received were lodged on religious or ethnic grounds, and that it inflicted few penalties in response to complaints generally. ECRI notes, however, that it would be useful to provide members of the Council with training in racism issues in general and incitement to racial hatred in particular so that they are better able to understand these phenomena. It would seem, moreover, that there are no members of ethnic minorities on the Council.

⁶³ See Articles 10 (1), paragraphs 5 and 6, and Article 17 (2).

⁶⁴ See "Vulnerable/Target Groups" and "Antisemitism".

106. ECRI encourages the Bulgarian authorities to make the media aware, without undermining their editorial independence, of the need to ensure that the information they provide does not help to breed a climate of hostility towards members of ethnic and religious minorities. It also recommends that the authorities support any initiatives taken by the media in this field and supply them with the resources necessary to provide initial and in-service training in human rights in general and racism issues in particular. ECRI reiterates its recommendation that the Bulgarian authorities make every effort to prosecute and punish members of the media who incite racial hatred.
107. ECRI recommends that the Bulgarian authorities provide the Electronic Media Council with the human and financial resources it needs to ensure that its members are made more aware of issues pertaining to racism and incitement to racial hatred, particularly through appropriate training.

Political discourse

108. As stated elsewhere in this report⁶⁵, there have been instances of racist and xenophobic political speeches and comments, pronounced mainly by members of an extreme right-wing party and its leader. The latter has twice been sentenced for racist remarks in response to complaints by members of civil society. Six further complaints are currently before the courts. As stated above,⁶⁶ a strong message from the authorities would be necessary to counter the harmful impact of this party and of any other political personality who indulges in the same kind of rhetoric, by ensuring that the prosecuting authorities make sure that the legislation on incitement to hatred is enforced.⁶⁷ The political party's television channel regularly broadcasts a programme attacking ethnic minorities and foreigners. To date, however, no action has been taken against this channel, even though representatives of ethnic minorities have lodged complaints against it.⁶⁸
109. ECRI strongly recommends that the Bulgarian authorities ensure that the legislation on incitement to racial hatred is applied to all politicians making racist and/or xenophobic speeches or remarks.
110. ECRI wishes to draw the Bulgarian authorities' attention to the principles set out in the Charter of European Parties for a Non-Racist Society and in its Declaration on the use of racist, antisemitic and xenophobic elements in political discourse, which can serve as references for a responsible attitude to political discourse on the part of political parties.

V. Racist Violence

111. The Bulgarian authorities have informed ECRI that they have not received any complaints of racist acts. They explained that a register of complaints listing the names of people involved in acts of hooliganism was kept and that these acts were not prosecutable offences. The authorities informed ECRI that none of the acts of hooliganism that have been punished was considered to have been perpetrated on racist grounds. ECRI is concerned, however, to note that there are reports of racist attacks, in particular on visible minorities, such as Roma and Black people, but that when complaints are filed little action is taken. These attacks are sometimes perpetrated by groups of skinheads and take place, for instance, in public places or on the occasion of football matches. In

⁶⁵ *Ibid.*

⁶⁶ See "Turks".

⁶⁷ For further information, see "Criminal law" above.

⁶⁸ See "Vulnerable/Target Groups" and "Antisemitism".

this regard, in November 2007 the Bulgarian Football Association held a national conference to express its firm opposition to this phenomenon. At this conference, several players, in particular players of African extraction, described their experiences of racism.

112. ECRI wishes to draw the Bulgarian authorities' attention to the importance of giving prompt consideration to all complaints of offences of a racist nature and investigating them so that the perpetrators are prosecuted if they have broken the law. ECRI recalls that in one of its judgements⁶⁹, the European Court of Human Rights stated, *inter alia*, that when investigating violent incidents State authorities have the additional duty to take all reasonable steps to unmask any racist motive and to establish whether or not ethnic hatred or prejudice may have played a role in the events. ECRI notes reports to the effect that the fact that people who commit racist offences are rarely prosecuted breeds a feeling of insecurity and a lack of confidence in the determination and ability of the authorities to combat such acts.
113. ECRI recommends that the Bulgarian authorities wage campaigns to encourage victims of racist violence to lodge complaints. It recommends that they conduct campaigns to foster awareness of the seriousness of racist crimes and of the fact that the perpetrators will be duly punished. It recommends that they take account of the case law of the European Court of Human Rights in this area.

VI. Climate of Opinion

114. In its third report, ECRI recommended that the Bulgarian authorities carefully monitor manifestations of racism and intolerance on the part of the general public against members of minority groups and that they increase public awareness of the problems of racism and intolerance so as to lower the level of intolerance among the population.
115. According to research published by the Commission for Protection against Discrimination⁷⁰ in December 2007, 68% of those questioned recognised that ethnic discrimination existed and said they considered it normal. In addition, over half the Roma questioned said they had been victims of discrimination, and 62% reported that they were regularly in situations in which their rights were violated. Furthermore, the research demonstrated that 39% of the Turks surveyed said they had been discriminated against. ECRI is concerned about reports that people of African or Caribbean origin suffer from overt racism in their daily lives, amongst others, in the street and on public transport. It therefore seems that steps still have to be taken to make the public aware of the ravages of racism and discrimination and to combat intolerance.
116. ECRI again recommends that the Bulgarian authorities take steps to combat racism and intolerance, by organising awareness campaigns on these issues and highlighting the contribution minority groups make to Bulgarian society. It recommends that the authorities encourage and actively support all measures taken to this end by civil society and ensure that all sectors of society concerned, including representatives of ethnic and religious minorities, NGOs and such bodies as the Commission for Protection against Discrimination, are fully involved in these initiatives.

⁶⁹ *Case of Angelova and Iliev v. Bulgaria*, Application n°55523/00, 26 July 2007, § 115.

⁷⁰ For further information about the Commission, see "Existence and Implementation of Legal Provisions".

VII. Antisemitism

117. In its third report, ECRI urged the Bulgarian authorities to carefully monitor manifestations of antisemitism, which, according to some sources, appeared to be on the increase. It recommended that they take all the requisite measures to put a stop to antisemitic acts and to punish their perpetrators.
118. As concerns the situation of the Jewish community, ECRI notes that it considers itself to be well integrated into Bulgarian society. A Committee has been set up by the Council of Ministers to examine problems relating to the return of property belonging to Jewish people. Most of the private property has been returned, and in small municipalities a large proportion has been handed over to its rightful owners. With regard to education, the authorities reported that lessons on the Holocaust have been introduced in Bulgarian schools.
119. However, ECRI is concerned to note that the extreme right-wing party mentioned elsewhere in this report⁷¹ is disseminating on its private television channel, antisemitic messages and that, although this has been reported to the Electronic Media Council⁷², no action seems to have been taken against the party. Instances of antisemitism on the Internet, whether on isolated occasions on forums in response to specific events such as the announcement of a request for the return of property, or more repeatedly, have been observed. Although some steps have been taken, particularly in order to close down a website containing, among other things, the names and contact details of Jewish people in Bulgaria, it would seem that a policy to combat this phenomenon has yet to be drawn up. In addition, ECRI notes with concern reports that the legislation is not applied to people who publish antisemitic books.
120. ECRI strongly recommends that, as advocated in its General Policy Recommendation No. 9 on the fight against antisemitism, the Bulgarian authorities give high priority to combating antisemitism and take all the necessary measures to counter all its manifestations, whatever their origin.

VIII. Reception and Status of Non-Citizens

Asylum seekers and refugees

121. In its third report, ECRI encouraged the Bulgarian authorities to continue their efforts to improve the situation of asylum seekers and refugees in Bulgaria, particularly with regard to reception facilities, legal aid and social assistance for asylum seekers. In particular, it invited the authorities to pay for legal aid for asylum seekers throughout the asylum application procedure and to continue, and step up, their efforts to provide training in human rights and respect for differences for all officials who came into contact with asylum seekers and refugees.
122. ECRI notes with approval that a national programme for the integration of refugees was adopted in 2005 in order, among other things, to provide them with language courses and help them with schooling, health insurance and vocational training. The programme was implemented by the Refugees Agency with advice from the United Nations High Commissioner for Refugees (UNHCR). The Refugees Agency provides Bulgarian language courses on its premises. ECRI is pleased to learn of the implementation of the 2008 programme which envisages the refunding of travel expenses for refugees to

⁷¹ See "Vulnerable/Target Groups" and "Racism in Public Discourse".

⁷² For further information about the role and work of the Council, see "Racism in Public Discourse".

enable them to attend the language courses. This is an important step, given that attendance is a prerequisite for entitlement to the other benefits offered. However, it might be easier to resolve certain problems, particularly in the area of housing, which is not covered, if more funds were allocated to this programme. Measures to make the Bulgarian population aware of the problems facing refugees are also needed in order to ensure that people are more welcoming and to combat all forms of discrimination, particularly in the area of housing. This is a problem encountered by refugees, in particular those from Africa.

123. In 2007 Bulgaria registered some 900 asylum claims. There are two centres which receive asylum seekers, in Sofia and Banja, and they are run by the Refugees Agency. There are also some asylum seekers in Busmantsi, in a detention centre for people who have been issued with an expulsion order. A third centre is being built on the border with Greece and Turkey. It is meant to receive 300 people. NGOs have access to these centres for the purposes of providing asylum seekers with legal aid, and an area has been set aside in the Refugees Agency for the Red Cross to receive them. However, problems remain as regards access to the asylum application procedure. Some asylum seekers are transferred to detention centres rather than to reception facilities. Civil society members have also observed that some asylum seekers may stay in detention centres for months before being transferred to the Refugees Agency's reception centres. On this issue, the authorities have informed ECRI that there are cases of persons detained at the border who are sent to the Aliens Temporary Placement Facility which is under the Migration Directorate of the Ministry of Interior. The authorities have assured ECRI that they are doing everything possible to ensure that those who have declared that they seek protection are transferred from that facility within the shortest time to the Registration and Reception Centre of the State Agency for Refugees in Sofia. The authorities have indicated that the problem is in the limited capacity of the Reception Centre. ECRI thus hopes that measures will be taken to remedy this situation. There is also a problem with access to interpreting services, particularly outside Sofia and in the case of languages less widely spoken in the country. NGOs would like interviews with asylum seekers to be recorded so that it is easier to ensure that the procedure is fair. As for training, they informed ECRI that officials at the Refugees Agency have received training in racism. The Agency has adopted a code of ethics. ECRI notes, however, that there are allegations of verbal and physical attacks on asylum seekers and refugees by police officers⁷³, particularly in the Busmantsi detention centre.
124. A new Law on Asylum and Refugees, transposing all the European directives on the subject, was passed in 2007. This law contains new provisions permitting, for instance, family reunion for people who have received subsidiary protection. Some problems remain, however, particularly with regard to the right of the spouse of a person who has been granted the status of refugee or humanitarian status to join his or her partner in Bulgaria. Therefore, this law should provide more protection for asylum seekers and refugees, and the authorities should do it in consultation, inter alia, with the UNHCR. On this point, ECRI notes the authorities' view according to which thus far, there have been no recorded cases of problems with persons wishing to bring their spouses to Bulgaria after obtaining refugee or humanitarian status, although the process sometimes takes longer than the persons concerned, which may entail certain costs. The authorities consider that this by no means infringes on the right to family reunion.

⁷³ For further information about the police, see "Conduct of Law Enforcement Officials".

125. ECRI encourages the Bulgarian authorities to continue to implement the national programme for the integration of refugees and recommends that they provide it with more resources. It also recommends that they make the population aware of the situation of refugees and take steps to combat any discrimination against them.
126. ECRI encourages the Bulgarian authorities to continue to expand the capacity for taking in asylum seekers and refugees. It recommends that they ensure that the detention of asylum seekers is a last resort and make provision for other means of supervising them where possible.
127. ECRI recommends that the Bulgarian authorities provide all civil servants who come into contact with asylum seekers and refugees with initial and in-service training in racism and racial discrimination issues. It also recommends that they provide interpreting throughout the asylum application procedure. It recommends that they continue to work with the UNHCR on the Law on Asylum and Refugees.
128. ECRI strongly recommends that the Bulgarian authorities investigate all allegations of attacks on asylum seekers and refugees in detention centres and take the measures called for.

Immigrants

129. There seem to be no exact figures for the number of immigrants in Bulgaria but, according to research by civil society actors, they come, inter alia, from China, North Africa, the Middle East and sub-Saharan Africa. The authorities have yet to introduce policies for assessing their situation and helping them to integrate into Bulgarian society. It would appear that immigrants are discriminated against, particularly in respect of access to employment and in daily life. The scale of the problem is difficult to establish, however, as no data on the subject are compiled.⁷⁴
130. The Aliens Act covers the procedure for the deportation of foreigners who have committed an offence or are irregularly present in the country. A regulation adopted by the Ministry of the Interior in 2004 lays down procedural and other arrangements concerning detention centres for these persons. Civil society representatives have reported that, although the average length of detention of foreigners subject to a deportation order varies from three to six months, some have been held in the Busmantsi centre for over two years. Civil society actors have indicated that the courts often overturn decisions to place foreigners, who are subject to a detention order, in detention centres for extended periods. ECRI notes that the European Court of Human Rights has handed down two judgments concerning the deportation of foreigners from Bulgaria.⁷⁵
131. NGOs have informed ECRI that they have access to people in detention centres and can talk to them. As indicated above, there have been reports of violence, particularly in the Busmantsi centre. NGOs have noted that few complaints are lodged, and take the view that the victims seem to consider that nothing would be done if they complained.

⁷⁴ For further information on the collection of ethnic data, see "Monitoring Racism and Racial Discrimination".

⁷⁵ *Musa and others v. Bulgaria*, Application No.61259/00, 11 January 2007 and *C.G. and others v. Bulgaria*, Application No.1365/07, 24 April 2008

132. ECRI recommends that the Bulgarian authorities pay special attention to the situation of immigrants in Bulgaria, in order to ensure, inter alia, that they are integrated into Bulgarian society and to combat any discrimination against them and intolerance towards them.
133. ECRI recommends that the Bulgarian authorities ensure that the placement of persons who are subject to a detention order in detention centres complies with the law, and does not exceed the period provided for by law. It also recommends that they take urgent measures to investigate any allegations of violence against foreigners in these centres and punish those responsible.

IX. Conduct of Law Enforcement Officials

134. In its third report, ECRI recommended that the Bulgarian authorities set up, without delay, an independent body to investigate allegations of unlawful acts committed by members of the law enforcement agencies. It also recommended that they continue, and step up, their efforts to provide human rights training for police officers and all parties involved in the criminal justice system, including prosecutors and judges. It strongly encouraged the Bulgarian authorities to focus on raising awareness of the issues of racism and discrimination and on the need to combat racism and discrimination perpetrated, inter alia, by the police.
135. Since the third report, a code of ethics and instructions concerning police activities in a multicultural environment have been drawn up. ECRI notes with approval that an internal disciplinary body has been set up, among other things to investigate allegations of misconduct on the part of the police and to inflict disciplinary sanctions if necessary. The authorities informed ECRI that 16 cases of misconduct on the part of 21 officers were considered justified and that 10 of these were passed on to the prosecuting authorities. ECRI has no information about the outcome of these cases, however. The authorities informed ECRI that no officer has been convicted of racial discrimination. NGOs have observed, in this connection, that attacks on Roma⁷⁶ in police stations have declined, but that there are problems with investigations. They consider that the authorities are not always objective when it comes to Roma. According to information obtained by ECRI, the fact that military courts hear cases concerning staff of the Ministry of the Interior creates a risk of partiality. On this matter, ECRI wishes to remind the Bulgarian authorities of their duty with regard to investigations concerning any illegal acts induced by hatred, committed by law enforcement agents, as enunciated by the European Court of Human Rights.⁷⁷
136. A study has shown that Roma are more often stopped and searched by the police than ethnic Bulgarians and are more often treated disrespectfully and unprofessionally on such occasions.⁷⁸ The study also noted that members of the Roma community had little confidence in the police, went to them less often to have a crime investigated or to report a crisis situation, and that they rarely

⁷⁶ For further information about the situation of the Roma minority, see "Vulnerable/Target Groups" and "Discrimination in Various Fields".

⁷⁷ *Natchova and Others v. Bulgaria*, Applications nos 43577/98 and 43579/98, 26 February 2004, § § 157 - 162, and *Natchova and Others v. Bulgaria*, Applications nos 43577/98 and 43579/98, 6 July 2005, § § 160-61 and 164.

⁷⁸ "I Can Stop and Search Whoever I Want", *Police Stops of Ethnic Minorities in Bulgaria, Hungary, and Spain*, Open Society Justice Initiative, 2007.

lodged complaints.⁷⁹ As indicated elsewhere in this report,⁸⁰ ECRI has received reports that the police have a negative attitude towards some foreigners. For example, it seems that Black people are disproportionately subjected to police identity checks.

137. The authorities informed ECRI that initial and in-service training for police officers includes courses on the above-mentioned code of ethics. ECRI is interested to note that on 17 and 18 April 2008, training was provided for 40 police officers in Lyaskovetz, and that a Roma NGO took part in the training course, which focused on effective communication with the Roma community.⁸¹ The authorities have informed ECRI that police training covers, inter alia, "The Concept of Human Rights and Police Work", "The Role of Police in Human Rights Protection", "Judgments of the European Court of Human Rights: Relevance to Police Work" and "Protection against Discrimination". According to the authorities, special attention is paid to the judgments of the European Court of Human Rights in cases against Bulgaria in connection with police actions. The authorities have also stated that specific aspects of human rights are covered in other subjects as well, such as "Refugee Law," "Police Law", "Schengen Border Control" and "Migration Control." Whilst taking into account the above measures, ECRI hopes that they will be continued and that the principles learnt therein will form part of the manner in which the police function continuously.
138. ECRI strongly recommends that the Bulgarian authorities clearly define and prohibit racial profiling by law and strengthen police training in this issue and in the use of the reasonable suspicion standard, as recommended in Section I of its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing.
139. ECRI recommends that the Bulgarian authorities ensure, in accordance with its General Policy Recommendation No. 11, effective investigations into allegations of racial discrimination or racially-motivated misconduct by the police and ensure as necessary that the perpetrators of these acts are adequately punished. It also recommends, as concerns relations between the police and members of minority groups in general and Roma in particular, that they take the measures proposed in Section IV of the recommendation.
140. In its third report, ECRI strongly recommended that the Bulgarian authorities take steps to restrict the use of firearms by law enforcement agencies to cases where their use was really necessary. In particular, it urged the Bulgarian authorities to amend the law to this end and ensure that international standards were conformed to in this field. ECRI urged them to take steps to put a stop to all ill-treatment by members of the police. It also recommended ensuring that allegations of ill-treatment were subject to a prompt, impartial investigation leading, where appropriate, to effective punishment of those responsible.
141. The Ministry of Interior Act, which came into force on 1 May 2006, has introduced greater security in respect of the use of firearms by the police. Furthermore, the above-mentioned police code of ethics contains provisions concerning the conditions under which the police may use firearms. For instance, any officer who has used a firearm, even involuntarily, must inform his or her superiors, who are empowered to take disciplinary measures on this matter. If a firearm has injured or killed someone, the police officer in question is taken to court. The authorities have also informed ECRI that Bulgarian

⁷⁹ *Ibid.*, p. 77.

⁸⁰ See "Reception and Status of Non-Citizens".

⁸¹ <http://amalipe.com/en/?nav=news&id=52>

legislation regulates the use of firearms as a last resort in the provisions of Articles 12 and 1 a) of the Criminal Code and Article 74 of the Ministry of Interior Act where cases in which arms may be used are expressly stated. However, civil society actors note that Roma victims of police violence are afraid of lodging complaints, and they have mentioned cases of police raids on Roma districts where the police apparently used excessive force. It would seem that few measures were taken against the police officers involved.

142. ECRI reiterates its recommendation that the Bulgarian authorities take urgent measures to ensure that all allegations of excessive use of force on the part of the police, particularly against members of ethnic minorities, are promptly investigated. It urges them to ensure that the perpetrators are punished as necessary, using General Policy Recommendation No.11 as a guide.

143. In its third report, ECRI reiterates its recommendation that more proactive measures be taken to encourage recruitment of members of the Roma community to the police and other branches of the criminal justice system.

144. The authorities informed ECRI that 136 Roma work in the Ministry of the Interior, which has drawn up an action plan to increase the number of members of this community within the Ministry and the police. The action plan was drawn up as part of the Framework Programme for Equal Integration of Roma in Bulgarian Society.⁸² However, more could be done in this field, for instance through information campaigns and training schemes specifically targeting Roma.

145. ECRI recommends that the Bulgarian authorities take steps to encourage the recruitment of members of minorities in general, and Roma in particular, to the police. It also recommends that they ensure that they enjoy opportunities for progression in their careers, as called for in its General Policy Recommendation No. 11.

X. Monitoring Racism and Racial Discrimination

146. In its third report, ECRI encouraged the Bulgarian authorities to consider ways of establishing a coherent, comprehensive data collection system in order to assess the situation of the various minority groups living in Bulgaria and the scale of manifestations of racism and racial discrimination.

147. As mentioned elsewhere in this report,⁸³ no system for collecting ethnic data has yet been set up. It would seem that Bulgarian law authorises the collection of such data with the consent of those concerned. As also indicated above, the collection of data broken down, inter alia, by ethnic origin, nationality and religion would make it possible to better assess the situation of ethnic and religious minorities in Bulgaria and introduce policies to combat all discrimination against them in, for instance, employment and education.

148. ECRI recommends that the Bulgarian authorities consider ways of establishing a coherent, comprehensive data collection system in order to monitor the situation of minorities by means of information broken down according, for instance, to ethnic origin, language, religion and nationality. Data should be collected in different public policy areas and the authorities should ensure full respect for the principles of confidentiality, informed consent and voluntary self-identification of people as belonging to a particular group. In addition, the system for collecting data on racism and racial discrimination should take into

⁸² See "Discrimination in Various Fields" for further information about this programme.

⁸³ See "Discrimination in Various Fields".

consideration the gender dimension, particularly from the viewpoint of possible double or multiple discrimination.

XI. Education and Awareness-Raising

149. Section 29 (2) of the Protection against Discrimination Act obliges heads of educational institutions to take effective steps to prevent all forms of discrimination, whoever the perpetrator. Section 31 provides that when a head teacher has received a complaint, from a pupil, of harassment by a staff member or another child, the head teacher must immediately launch an investigation, take steps to put a stop to the harassment and apply disciplinary sanctions. The authorities informed ECRI that, in 2006, Ministry of Education experts prepared draft texts to be incorporated in the rules of the various schools in accordance with the Protection against Discrimination Act.⁸⁴ This was done in autumn 2006. ECRI does not, however, have any information about the application of these rules.
150. ECRI notes reports that Roma children suffer discrimination and racism at school. It has been observed that these phenomena are factors, among others, that cause pupils and their parents to lose the motivation to integrate and participate in school. Surveys by various institutions have shown that prejudice and intolerance towards ethnic minorities, particularly Roma, still exist in schools. The authorities declared that state education ensures that children acquire values and that it is based, among other things, on human rights. Furthermore, Section 35 (3) of the Protection against Discrimination Act provides that teachers, trainers and authors of school textbooks and handbooks must provide information and use teaching/training methods that make it possible to dispel stereotypes concerning members of, inter alia, racial, ethnic and religious groups. ECRI has no information, however, about the steps taken to ensure that, as advocated in its General Policy Recommendation No. 10, human rights education is an integral part of the school curriculum at all levels and across all disciplines, from nursery school onwards.
151. ECRI recommends that the Bulgarian authorities take steps to combat racism and discrimination at school, as recommended in Section II of its General Policy Recommendation No. 10.

⁸⁴ See "Anti-discrimination legislation".

INTERIM FOLLOW-UP RECOMMENDATIONS

The three specific recommendations for which ECRI requests priority implementation from the Bulgarian authorities are the following:

- ECRI recommends that the Bulgarian authorities strengthen the initial and in-service training in racial discrimination issues and, in particular, in the provisions of the Protection against Discrimination Act offered to judges, and that the same training be provided to prosecutors.
- ECRI recommends that the Bulgarian authorities ensure that the Commission for Protection against Discrimination has the human and financial resources needed to set up and run local offices.
- ECRI strongly recommends that the Bulgarian authorities continue and intensify the integration process of Roma children into mainstream schools in order to promote social diversity.

A process of interim follow-up for these recommendations will be conducted by ECRI no later than two years following the publication of this report.

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APPENDIX

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Bulgaria

ECRI wishes to point out that the analysis contained in its report on Bulgaria, is dated 20 June 2008, and that any subsequent development is not taken into account.

In accordance with ECRI's country-by-country procedure, ECRI's draft report on Bulgaria was subject to a confidential dialogue with the authorities of Bulgaria. A number of their comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the authorities of Bulgaria requested that the following viewpoints on their part be reproduced as an appendix to ECRI's report.

“Observations on the ECRI Fourth Report on Bulgaria

The Bulgarian authorities note positively that, including subsequent to the confidential dialogue, the present ECRI report provides a more realistic view with regard to various aspects of the human rights situation in Bulgaria (particularly in comparison with its previous Third Report).

In this context it is regrettable that some of the comments submitted on the Draft Fourth Report within the dialogue process have not been given due consideration by ECRI, as they would have further improved the quality of this report. Consequently, the Bulgarian authorities present the following observations aimed at addressing constructively remaining inaccuracies contained in the ECRI Fourth Report on Bulgaria.

Second paragraph of the Executive Summary:

- second sentence (and any subsequent similar sentences further in the report): It should be reiterated that there had **never been a policy of school "segregation"** – *de jure or de facto* - of Roma children in the national education system. The fact that in some neighbourhoods in certain towns particular schools were attended predominantly by pupils of Roma origin was an unintended consequence of the former administrative division of the school system. According to the rules valid for all children irrespective of their ethnic origin, admittance to any public school was linked administratively to the domicile of the family. In neighbourhoods where the population was predominantly of Roma origin, this system produced schools, attended predominantly by pupils of Roma origin. The system was abolished years ago and the authorities have taken special measures to rectify the situation. Therefore, the term "segregation" (incl. "de facto") with respect to Roma children is inaccurate.

- last sentence (and any subsequent similar sentences further in the report): Representatives of the Turkish community are members of the ruling parliamentary coalition in Bulgaria since 2001. They occupy ministerial posts, posts of governors and vice-governors of regions and are also widely represented in municipal councils.

Third paragraph of the Executive Summary:

- last sentence (and any subsequent similar sentences further in the report): The use of firearms by police officers is strictly regulated in Bulgaria. Firearms are used exceptionally, as a last resort. However, the incidence of use of firearms in such circumstances is irrespective of the ethnic background of the persons against whom firearms may be used.

Fourth paragraph of the Executive Summary:

- third sentence (and any subsequent similar sentences further in the report): The provisions of the Criminal Code are "rarely applied" due to the fact that there are only very isolated instances of such crimes in Bulgarian society. This fact is supported by the compiled statistical data on criminal offences, which includes any racially motivated offences.

- last sentence (and subsequent similar sentences further in the report): The implementation of the Confessions Act has demonstrated that its provisions are fully in line with Article 9 of the European Convention on Human Rights.

Fifth paragraph of the Executive Summary:

- third sentence (and any subsequent similar sentences further in the report): A policy specifically designed to prevent Roma children being placed unnecessarily in establishments for children with disabilities has been introduced several years ago and is being successfully implemented ever since. Obviously, this policy will be continued.

- last sentence (and subsequent similar sentences further in the report): Bulgarian citizens, who identify themselves as Macedonians, enjoy fully and effectively all the rights and freedoms guaranteed to all Bulgarian citizens. These individuals do not face any problems which could be seen as specific only to them.

Sixth paragraph of the Executive Summary:

- second sentence (and any subsequent similar sentences further in the report): Comprehensive legislative, policy and practical measures have been taken for many years to prevent and combat any manifestations of intolerance and discrimination in all fields, including anti-Semitism.

Observations regarding issues raised and recommendations contained in the last three paragraphs of the Executive Summary are provided below with respect to the relevant parts of the Fourth Report.

With respect to paragraphs 3 & 6 of the Report (and in connection with the seventh paragraph of the Executive Summary): It will be recalled that it is a fundamental principle of public international law that the accession or non-accession to any particular international legal instrument is a sovereign choice of each State. Furthermore, the Constitution and the relevant legislation in Bulgaria guarantee full protection against discrimination to every person within its jurisdiction, irrespective of her/his nationality and/or ethnic affiliation, in accordance with internationally accepted standards.

With respect to paragraphs 7 - 10 of the Report: While noting that the contents of reports of other bodies should not normally be reproduced in ECRI country reports, and recalling further that opinions of the Venice Commission are of a non-binding nature, the authorities in Bulgaria would draw attention to the relevant comments provided in response to the abovementioned opinion of the Venice Commission:

- The term "citizen" was employed in the Constitution of 1991 to emphasize that all individuals possess inherent dignity and rights, which are not granted and may not be taken away by the State; that the new Bulgarian State may not treat persons under its jurisdiction as "subjects" (as, unfortunately, was often in practice the case in pre-1989 authoritarian times). Consequently, the use of the term "citizen" was never intended to attempt to limit the scope of the international legal obligations assumed voluntarily by Bulgaria under the relevant

international legal instruments. It may be recalled in this context, that Bulgaria is a party to all major United Nations conventions in the field of human rights and has been fulfilling its obligations fully and in good faith. Furthermore, pursuant to the provision of Article 5(4) of the Constitution of 1991, these legal instruments are part of domestic law. Consequently, the will of the legislator was perfectly obvious - that everyone within the jurisdiction of the Bulgarian State shall be secured the rights and freedoms as guaranteed by these conventions. Had this not been the case, as a minimum, the international legal instruments providing for the equal treatment of everyone, including foreigners, would not have been included in the domestic law.

- The non-inclusion of non-citizens who are not EU citizens in local elections is not in violation of any existing legal rule.

- The general principle of equal treatment/non-discrimination of all persons, including those belonging to minorities, is legally guaranteed and scrupulously observed in Bulgaria in all spheres. This has been the essential characteristic of Bulgaria's successful model of ethnic relations, based on the values of pluralist democracy and civil society. This model has withstood to pressure and has proved its value and sustainability "both in ordinary times and in times of "emergency". It is therefore of crucial importance to preserve and develop this model in accordance with its main principles.

- The Constitution of the Republic of Bulgaria expressly recognises the existence of religious, language and ethnic differences, respectively of bearers of such differences in Bulgaria. In its Decision No. 4 of 1992 the Constitutional Court recalled and reiterated this constitutional fact.

With respect to paragraphs **11 - 13** of the Report: The Constitutional Court of the Republic of Bulgaria has clearly defined the scope of Article 11(4) of the Constitution. The Court stated that Article 11(4) prohibits the existence of political parties, the membership of which is expressly limited by its articles of association to persons belonging to a particular racial, ethnic or religious group, irrespective of whether it is in a majority or in a minority. This provision does not contain limitations on - and consequently may not be used to prevent - any minority religious, ethnic or religious groups from "organising themselves at all". On the contrary, there are both political parties, the membership of which includes overwhelmingly persons, belonging to particular ethnic groups, and associations formed by persons, all of whom belong to a particular ethnic group. One of these parties is a partner in the current coalition government, and it was also one of the two parties that formed the previous government of Bulgaria. Therefore the provision of Article 11(4) could not be seen as being not in conformity with Article 11 of the ECHR or other relevant international legal obligations assumed by Bulgaria.

With respect to paragraphs **14 -16** of the Report: The principle of freedom of association is fully guaranteed by the Constitution and relevant legislation in Bulgaria to every person without discrimination in full conformity with our international legal obligations.

In this context it should be reiterated that the possible registration of any political party depends entirely on the initiative of the interested persons

in conformity with the existing Bulgarian legislation. Consequently, there would be no obstacles for the registration of the said group as a political party if all the formal requirements of the Political Parties Act in force are met. These requirements are clear and applicable to everyone without exception and/or discrimination.

It should be further recalled that Bulgaria has fully executed the judgment of the ECtHR on this case and that no obligation for the Bulgarian authorities to automatically (re)register UMO Ilindnen-PIRIN as a political party derives from the ECtHR judgment, nor does it contain any instruction for registration in case of a new application before the national court.

With respect to paragraphs 19 & 21 of the Report: It should be recalled that in Bulgaria the Constitution and the legislation in place explicitly prohibit discrimination on the grounds of religion or belief, and the State provides assistance aimed at promoting tolerance and respect among followers of different religions, as well as between believers and non-believers.

With regard to the appeal contesting the constitutionality of Sections 7 and 10 of the Act it would be recalled that it was justifiably dismissed by the Constitutional Court of the Republic of Bulgaria. In particular, the Constitutional Court observed that any existing difference is solely with respect to the conditions for acquisition of legal personality and does not affect either the free choice of religion or the right to practise such religion in a community.

In this context it should be emphasized that the Confessions Act is fully consistent with the international standards in the field of human rights. It is applied in full conformity with the relevant international legal obligations of the Republic of Bulgaria, including the International Covenant on Civil and Political Rights and the European Convention for Human Rights - i.e. in line also with the recommendations contained in Resolution 1390 of the Parliamentary Assembly.

With respect to paragraphs 22 – 25 of the Report: It would be recalled again that offences against national and racial equality are expressly criminalised in Chapter Three, Section I of the Special Part of the Criminal Code (CC). The principal characteristic of these offences, which are regulated in Article 162 and Article 163 of the CC, are the **racist or nationalist motives** of the perpetrators. The penal sanctions provided for offences against national and racial equality demonstrate that the legislator treats these offences as presenting a high degree of social danger.

The CC does not expressly provide for a racist motivation in respect of all types of offences, yet the provisions of the General Part of the CC expressly state that in determining the penal sanction, the court takes into consideration, *inter alia*, **the motives** for the commission of the act (Article 54 (1) of the CC), including possible racist motives. Besides, in case of so-called "ideal cumulation", an offence against national and racial equality may have been perpetrated simultaneously with another offence provided for in the Special Part of the CC. The principles of determination of the penal sanction are also essential, where the court takes into account, along with the mitigating and aggravating circumstances, also

the motives for commission of the crime. Where it is established that the motivation for the commission of a particular offence is racist, this in all cases is considered as an aggravating circumstance.

Consequently, the existing legal framework is sufficient with regard to considering the racist motivation as an aggravating circumstance in respect of any offence.

With respect to paragraphs 31 & 32 of the Report: As evident also from the preceding paragraphs, everything necessary is being done by the authorities both to inform the public, including persons belonging to any ethnic and religious minority groups, about the content and scope of the Protection Against Discrimination Act.

Likewise, appropriate training in racial discrimination issues is being provided. The subject of human rights is present in all full-time curricula of the National Institute of Justice (NIJ) for initial and continuing training of magistrates. They include a training module concerning Article 14 of the ECHR (prohibition of discrimination) and the related Bulgarian legislation and case law. At the end of 2007 the NIJ published and circulated to all judicial authorities a practical guide entitled "Application of Fundamental Rights by the Courts", which is also freely accessible on the Internet site of the NIJ.

In addition, the NIJ took part in the compilation of a collection of "Case Law Regarding the Application of the Act on the Protection of Discrimination," prepared on the initiative of the Commission for Protection against Discrimination including for distribution among all magistrates.

With respect to paragraph 36, third sentence, of the Report: Unfortunately, this "opinion" may be indicative of the quality of such contributions more generally. It will, however, be recalled that the separation of powers in the Republic of Bulgaria is a fundamental constitutional principle. Therefore, the presence of former members of Parliament, who are recognised experts in issues relating to discrimination, among the members of the CPD, could in no way "limit" its independence with regard to the executive.

With respect to paragraphs 37 & 38 of the Report: The authorities are providing all the necessary resources in order to ensure the effective functioning of the Commission for Protection against Discrimination and are committed to continue to do so in the future. This is sufficiently evident also from the preceding paragraphs of the report itself.

With respect to paragraph 41 of the Report: The responsibilities of the National Council for Co-operation on Ethnic and Demographic Issues, ensuring wide powers in all relevant areas, are clearly established in its Statute, approved by the Council of Ministers of the Republic of Bulgaria.

With respect to paragraph 43 of the Report: As already stated above with respect to the Second paragraph of the Executive Summary, there had **never been a policy of school "segregation"** – *de jure or de facto* - of Roma children in the national education system. Therefore, the term

"segregation" (incl. "de facto") with respect to Roma children is inaccurate.

With regard to the seventh sentence of the paragraph, the suggestion that less financial and human resources are allocated for schools attended predominantly by pupils of Roma origin clearly does not correspond to the facts. In Bulgaria there is a uniform standard of maintenance per pupil, consequently the amount of the state subsidy that the schools receive depends exclusively on the numbers of pupils enrolled.

With respect to paragraph 45 of the Report:

- fifth sentence: the idea that the impact of the – indeed "numerous" – programmes and action plans implemented by the Government "has not been seen" clearly contradicts the facts. All the available data indicates that there has been substantial progress in this respect.

- last sentence: the fact that there is a direct connection between the unemployment rate among the Roma community and certain educational problems facing the Roma is very well known to the authorities. As already indicated in the observations on the ECRI Third Report on Bulgaria, the problems encountered by many members of the Roma communities in Central and Eastern Europe, including Bulgaria, are mainly socio-economic in nature. The authorities in Bulgaria are aware of the magnitude of these problems and have identified its root causes.

On the basis of careful analysis of the various aspects of the situation of the Roma community in Bulgaria since its transition to a market economy, the Bulgarian authorities have elaborated and are implementing a series of measures aimed at addressing the problems of the members of the Roma community in a comprehensive manner. This includes employment and education.

With respect to paragraphs 47 - 50 of the Report: The authorities have already been implementing all the measures (also recommended by ECRI) for many years.

With respect to paragraphs 51 - 53 of the Report: As already stated above in our observations (with respect to the Fifth paragraph of the Executive Summary), a policy specifically designed to prevent Roma children being placed unnecessarily in establishments for children with disabilities has been introduced several years ago and is being successfully implemented ever since. Obviously, this policy will be continued.

With respect to paragraphs 61 – 64, 68 and 73 - 75 of the Report: The authorities have already been implementing the measures (also recommended by ECRI), most of them for many years.

It should however be observed that there is no segregation in the area of health care in Bulgaria. The Constitution and relevant legislation expressly prohibit discrimination on any grounds.

It will be further recalled that it was clarified in the relevant extensive observations on the ECRI Third Report (2004), that the Bulgarian Government has for many years been consistently implementing concrete measures to effectively address the socio-economic problems of the Roma

community, including equal access to education, employment, health care, improvement of housing conditions etc. This should also be evident from the relevant facts contained in the ECRI Fourth Report.

With respect to paragraphs 76 - 78 of the Report: For the purpose of popularising access to legal aid among a broader range of persons - socially disadvantaged persons, persons belonging to ethnic minority groups etc., the National Legal Aid Office (NLAO) has published a brochure containing information on the status and functions of the Office, the criteria, procedure and terms for provision of free legal aid, and the types of cases on which legal aid is available. The brochure has been circulated to the Social Assistance Directorates under the Agency for Social Assistance so as to familiarise the officials of these structures with the activity of the NLAO and their obligations under the Legal Aid Act, as well as to inform the socially disadvantaged persons of the possibilities for access to legal aid. The brochure will also be distributed to the specialised institutions providing social services so as to familiarise the persons placed in such institutions with the possibilities for access to legal aid. The NLAO is also popularising access to legal aid through publication of information items in the press, as well as through oral advice on site at the office.

The public nature of the National Legal Aid Register, which is kept by the NLAO, enables all persons, who are eligible for the provision of legal aid, to choose and appoint an assigned counsel on their own.

Through joint seminars, meetings and information materials provided to all specialised state bodies, the State Agency for Refugees, the State Agency for Child Protection, the Commission for Protection against Discrimination and non-governmental organisations of the minorities, the Bulgarian Helsinki Committee etc., the NLAO ensures a possibility for access to legal aid to each person who meets the eligibility requirements under the LAA to be provided with such aid.

Furthermore, the facts contained in paragraph 77 itself obviously indicate that the "information" - from unidentified sources - suggesting that the system "does not work well", is incorrect. Likewise, it is completely unclear how these unidentified sources have decided that only 10-15 lawyers "specialized in discrimination issues" exist among the thousands legal practitioners in Bulgaria.

With respect to paragraphs 79 - 85 of the Report: In Bulgaria the law expressly requires from the state media (BNR and BNT) to promote mutual understanding and tolerance among the people with their programmes and not to allow any broadcasts which could incite intolerance among the citizens or hatred on the ground of race, sex, religion or national origin. Media, which violate these legal obligations, are sanctioned in accordance with the law.

It will be further recalled that there are no legal restrictions in Bulgaria regarding the access of persons belonging to any ethnic, religious or linguistic minority groups to the media, All necessary measures have been taken to ensure access to the media and encourage the promotion of tolerance and cultural pluralism in the media and the promotion of cultural diversity has been established as a basic principle of national policy in the field of culture.

Likewise, in the Republic of Bulgaria the right of all citizens, irrespective of their ethnic affiliation, religion and language, to partake in the decision-making processes and mechanisms is fully guaranteed. Concretely, participation in political life is constitutionally guaranteed to all Bulgarian citizens, irrespective of their ethnic affiliation. Therefore, the level of participation depends solely on the will of the interested individuals.

As for employment to such bodies as the police and the judiciary, recruitment is based solely on relevant qualifications and not on ethnic affiliation. Any discrimination, including on grounds of ethnicity, is expressly prohibited.

Any person, who believes that he/she has been the victim of discrimination, including with respect to employment, may seek to defend her/his rights in accordance with the law – through the courts, the Commission for Protection against Discrimination or the intervention of the Ombudsman.

With respect to paragraph 88 of the Report: It would be recalled that in Bulgaria equal access to education is constitutionally guaranteed to all persons, irrespective of their ethnic affiliation. Regarding employment, as mentioned, recruitment is based solely on relevant qualifications and any discrimination, including on grounds of ethnicity, is expressly prohibited. (See also preceding comment).

With respect to paragraphs 92 & 94 of the Report: As mentioned, the provisions of the Criminal Code concerning incitement to racial or religious hatred are strictly applied.

With respect to paragraphs 95 - 97 of the Report: Ethnic identity in Bulgaria is a matter of free personal choice. Furthermore, Article 6 (2) of the Constitution of Bulgaria stipulates that “There shall be no privileges or restrictions of rights on the grounds of race, nationality, ethnic self-identity, sex, origin, religion, education, opinion, political affiliation, personal or social status or property status”.

The existence of Bulgarian citizens, who identify themselves as Macedonians, has been duly reflected in the official results of the 2001 national census – a total of 5,071 individuals as at 1 March 2001. This obvious fact does not require any further special act of acknowledgement by the Bulgarian state.

As confirmed by the Constitutional Court of Bulgaria (ref.: Judgements № 4 of 21 April 1992; № 2 of 8 February 1998) the Constitution of the Republic of Bulgaria expressly recognises the existence of ethnic, religious and linguistic diversity in the country. However, Bulgarian law does not utilize the term “national minority”, neither does a definition of this term exist in international law. Consequently, while the Bulgarian state recognises the existence of ethnic, religious and linguistic diversity in the country, including persons who identify themselves as Macedonians, it could not afford “greater recognition” to anyone specifically as a “national” minority.

It should also be reiterated that those 5,071 individuals enjoy fully and effectively all the rights and freedoms guaranteed to all Bulgarian citizens.

With respect to paragraphs 98 - 101 of the Report: There are Bulgarian-speaking Muslims in Bulgaria (referred to as "Pomaks" in the Report). During the national census of 2001, conducted in conformity with the highest international standards, where every individual could declare her/his ethnic self-identity according with their own free choice, 49,764 individuals identified themselves as Muslim Bulgarians – "българи – мохамедани". This fact was duly reflected in the official results of the 2001 national census. Consequently, the "separate identity" of these persons is clearly recognised.

There have been no reports indicating the existence of discrimination against the Bulgarian-speaking Muslims. Furthermore, the existing provisions in Bulgaria's legislation, expressly prohibiting discrimination on the basis of religion, are rigorously enforced.

(See also relevant comments with respect to paragraphs 79 to 97 of the Report above.)

With respect to paragraphs 105 - 107 of the Report: The importance of forming positive attitudes towards fellow-citizens belonging to any ethnic group, and of addressing any prejudices in this regard, is well recognized in Bulgarian society. As mentioned above, particularly with respect to paragraphs 79 - 85, all necessary measures have been taken to encourage the promotion of tolerance and cultural pluralism in the media. It should also be noted that members of the Electronic Media Council are generally well aware of all issues pertaining to racism and incitement to racial hatred.

With respect to paragraphs 108 & 109 of the Report: It will be emphasized that in Bulgaria the legislation on incitement to racial hatred is applied strictly to every person under its jurisdiction and that the TV channel in question has been sanctioned.

With respect to paragraphs 111 - 113 of the Report: The Bulgarian authorities closely monitor **all** alleged acts of a racist nature against **any person** under their jurisdiction, without discrimination, and punish any such acts.

With respect to paragraphs 115 - 116 of the Report: It will be recalled that the Bulgarian authorities consistently combat stereotypes and prejudices, if and when such are manifested against persons belonging to **any** ethnic, religious or linguistic minority. The Bulgarian authorities closely monitor **all** alleged manifestations of racism and intolerance against **any person** under their jurisdiction, without discrimination, and, if necessary, resolutely take steps to punish such acts.

With respect to paragraph 120 of the Report: As already mentioned in the observations on the ECRI Third Report on Bulgaria, manifestations of anti-Semitism are practically non-existent in Bulgaria. However, the Bulgarian authorities consistently give high priority to preventing and combating anti-Semitism and have taken all necessary measures to counter any such manifestation, whatever its possible origin.

With respect to paragraphs 125 - 127 of the Report: The authorities have already been implementing these measures (also recommended by ECRI).

With respect to paragraph 128 of the Report: The Bulgarian authorities note that the State Agency for Refugees does not have on record any case of assault on applicants for refugee status or refugees at the "detention centres." In principle, these centres are under the jurisdiction of the Ministry of Interior and access to them is controlled with regard to outsiders.

With respect to paragraphs 132 & 133 of the Report: As already mentioned, the Bulgarian authorities combat **all** acts of discrimination and intolerance, including any such possible acts directed against immigrants. The competent authorities in Bulgaria have not received reports indicating specifically the existence of manifestations of racism and intolerance on the part of the public towards immigrants, refugees or asylum seekers. The authorities are obviously aware of the existence of certain stereotypes and prejudices, which could sometimes lead to acts of discrimination. However, these are isolated acts. The competent authorities are by no means passive in the face of such acts and **do** combat and punish them.

With respect to paragraphs 135 - 138 of the Report: In addition to the many measures described in the report, a Human Rights and Police Ethics Discussion Club is established, in which faculty and trainees will participate on a voluntary basis. The idea of this club is to provide a venue for examination and analysis of particular judgments of the European Court of Human Rights so as to maintain a closer contact with representatives of non-governmental organisations active in the sphere of human rights.

With respect to paragraphs 139 & 142 of the Report: The Bulgarian authorities reiterate that in **all** cases involving supposed violations of the law by the police forces, inquiries are conducted and where these violations have been proved, the perpetrators and where necessary - their immediate superiors, are sanctioned. Thus, as previously noted also by ECRI, there are numerous cases of police officers having been dismissed from the police after they had been proven guilty of such violations. Moreover, when the facts of an inquiry indicate that a crime has possibly been committed all the collected materials are submitted to the Prosecutor's office for further action. This is the mandatory procedure, which is followed without exception, irrespective of the ethnic self-identification of the victims of the alleged violations. In addition, the necessary practical measures are also taken by the Ministry of the Interior in order to eliminate the root causes of such violations and prevent their recurrence in the future. For instance, a special registration system for complaints of alleged ill treatment by police officers has been introduced and is closely monitored.

The competent authorities in Bulgaria are prepared to take appropriate action if concrete facts are presented to them, which would demonstrate that persons belonging to any minority groups are deliberately singled out for ill-treatment by the police.

With respect to paragraph 145 of the Report: In appointments of personnel within the Ministry of Interior system, there are no privileges based on gender, ethnic identity or religion. This approach conforms to Article 6 (2) of the Constitution of the Republic of Bulgaria, according to which no privileges whatsoever are admissible on the basis of race, nationality, ethnic identity, sex, origin, religion, education, convictions, political affiliation, personal and social status, or property status. Therefore, upon appointment of personnel in the Ministry of Interior system, no privileges may be introduced with regard to gender, ethnic identity or religion.

According to Article 168 of the Ministry of Interior Act, entry into civil service at the Ministry of Interior and the professional development of personnel is based on the principles of transparency, public openness, clear and precise criteria and procedural rules for appointment, competition, prohibition of discrimination, and equal opportunities.

When national competitive examinations are to be held, the Ministry of Interior applies an active communication policy, through which the public is informed of the vacant positions and the eligibility conditions which applicants for them must meet. This policy of transparency and objectivity makes it possible for every Bulgarian citizen to apply for work at the Ministry of Interior, regardless of her/his ethnic affiliation.

With respect to paragraph 148 of the Report: It would be recalled again that all the essential information (gender, property status, level of education, employment, etc., etc.) with respect to all persons residing in the territory of Bulgaria, including those individuals, who freely identified themselves as belonging to a minority group, was collected during the national census of 2001. Furthermore, this information is being utilised in the decision-making process by the authorities in Bulgaria. On the basis of this information the Government elaborated different programmes in the field of employment, education, training, social services etc., which are currently being implemented. Some of these programmes contain special measures aimed at addressing the specific needs of persons belonging to particular minority groups.”

