

**NGO information to the United Nations Human Rights Committee**

**For consideration when compiling the List of Issues on the Fifth Periodic Report of Bulgaria  
under the International Covenant on Civil and Political Rights**

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Submitted by:

**EUROPEAN ROMA RIGHTS CENTRE**

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**OHCHR REGISTRY**

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Recipients : *HR Committee*  
*NP (Encl)*  
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## **1. Introduction**

- 1.1** This submission outlines a list of main issues of concern with regard to Bulgaria's compliance with the provisions on International Covenant of on Civil and Political Rights (ICCPR or the Covenant) with a special focus on Roma. The purpose of the submission is to assist the Human Rights Committee with its consideration of Bulgaria's Fifth Periodic Report (the Government Report) in the initial stage of the compilation of the list of issues by the Country Report Task Force.
- 1.2** This submission is presented by the European Roma Rights Centre (ERRC). The ERRC is an international public interest law organisation, based in Budapest, Hungary, which combats anti-Romani racism and provides legal representation in cases of human rights abuse of Roma. The ERRC has consultative status with the Council of Europe as well as with the Economic and Social Council of the United Nations. Since it was founded in 1996, the ERRC has worked extensively in Bulgaria. Additional information about the organisation is available at: <http://www.errc.org>.
- 1.3** Bulgaria ratified the ICCPR on 21 September 1970 and the Optional Protocol to the Covenant on 26 March 1992. Roma form Bulgaria's largest minority and third largest ethnic group (after Bulgarians and Turks). According to the 2001 census, there were 370,908 Roma in Bulgaria, equivalent to 4.7% of the country's total population,<sup>1</sup> making Bulgaria the European country with the highest percentage of Roma. According to unofficial estimates from experts, however, the Roma population is around 8-10% based on the data from sociological polls, labour offices and social assistance services. The estimates of Bulgaria's Ministry of Interior vary between 600,000 and 750,000.<sup>2</sup>
- 1.4** This submission will highlight the following issues pertaining to the substance of the ICCPR:
- right to equal treatment and right to an effective remedy as guaranteed by Article 2 and Article 26;
  - right to life and prohibition of arbitrary deprivation of life as guaranteed by Article 6;
  - right to be free from torture and other cruel, inhuman or degrading treatment or punishment as guaranteed by Article 7; and
  - in addition, this submission will highlight the issues of discrimination in education and housing. Though not specifically covered by the ICCPR, they are nonetheless critically connected to it through the anti-discrimination provisions and the obligations to provide equal treatment.

## **2. Articles 2 and 26: Right to equal treatment and right to an effective remedy**

- 2.1** The Romani population in Bulgaria faces multiple and wide-spread discrimination. Although party to almost every international treaty guaranteeing the right to equality, Bulgaria still has a long way to go before it achieves any concrete results in this area, particularly in the case of Roma.
- 2.2** To comply with the requirements of European Union anti-discrimination legislation, the Commission for Protection against Discrimination (CPD) was set up in 2005 and became operational in November of the same year. Its mandate is to examine complaints from individuals about violations of their fundamental right to equality, guaranteed by the Constitution, European Union law and a number of international human rights treaties. On 30 April 2010 the Bulgarian Council of Ministers introduced a draft bill to Parliament to amend the Protection against Discrimination Act (PDA). The bill envisages reducing the size of the CPD from nine to five commissioners, citing the need to "reduce the number of members of regulatory bodies and the length of their term of office."<sup>3</sup> The bill was subsequently amended

<sup>1</sup> Bulgaria's total population in 2001 was 7,928,901. See <http://www.nsi.bg/Census/Ethnos.htm>.

<sup>2</sup> [http://europeandicis.undp.org/uploads/public/File/rbec\\_web/vgr/chapter1.1pdf](http://europeandicis.undp.org/uploads/public/File/rbec_web/vgr/chapter1.1pdf)

<sup>3</sup> [http://www.equineteurope.org/767945\\_3.html](http://www.equineteurope.org/767945_3.html)

account “the degree of public danger of the offense and offender, the incentives to commit and offence and other mitigating and aggravating circumstances.”<sup>17</sup> The situation will remain the same, absent specific and explicit direction in the Criminal Code to treat racist motive as an aggravating circumstance.

**3.4** A study published in 2007 provided evidence that Roma are more often stopped and searched by police than ethnic Bulgarians and are more often treated disrespectfully and unprofessionally on such occasions.<sup>18</sup> Racial profiling constitutes a specific form of inhuman and degrading treatment as confirmed by a decision of UN Human Rights Committee.<sup>19</sup> This situation will not change absent real responsibility of law-enforcement authorities for their actions. It is quite obvious that the problem of racial profiling should be addressed using complex set of measures, including setting strict prohibition on profiling, sensitization of law enforcement authorities to the problem and training them accordingly.

**3.5** *Suggested questions for the Government:*

- Does the Bulgarian Government plan to amend the Criminal Code of Bulgaria to explicitly provide for the criminalisation of the acts of torture and other forms of inhuman and degrading treatment as defined under the ICCPR?
- What does the Bulgarian Government intend to do to make the necessary amendments to the Bulgarian National Police Act in order to ensure that the use of firearms by police is appropriate to the circumstances and to limit it to the situations in which it is considered to be absolutely necessary to use it (as required by the European Court of Human Rights)? Does the Bulgarian Government envisage specific trainings for police authorities for this purpose?
- What concrete measures will the Bulgarian Government take to address racial profiling by law enforcement authorities?

#### **4. Article 26: Discrimination against Roma in access to education, employment and housing**

**4.1** Many Romani children encounter serious schooling problems, such as a high drop-out rate and insufficient reading and writing skills, which partly result from discrimination.<sup>20</sup> Children continue to receive their schooling in a de facto segregated environment, where there is less in the way of human and financial resources than other schools and education provided is of poorer quality.<sup>21</sup> In 2008 the government made a financial commitment for school desegregation in its Operational Programme Human Resources Development, co-funded by EU Structural Funds and a government budget for the period 2007–2013. Yet this does not match the level of support needed or that provided in the past by private donors: in 2008, four school desegregation projects received financial support from this programme, totaling only 167,000 EUR.

**4.2** The situation is worsened by the fact that there are no statistics on the situation of children belonging to minorities, in particular of Romani pupils, in the field of education. This void hinders the implementation and assessment of the various programmes set up by the Bulgarian Government. Furthermore, another serious concern is that Romani children with no specific disability continue to be placed in special schools for those with mental disabilities, whether because they have an insufficient knowledge of Bulgarian or simply because the schools provides free meals and this attracts certain disadvantaged Romani parents. Various

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<sup>17</sup> See article 54(1) of the Criminal Code of Bulgaria

<sup>18</sup> Open Society Justice Initiative, “I Can Stop and Search whoever I want”, Police Stops of Ethnic Minorities in Bulgaria, Hungary and Spain, 2007.

<sup>19</sup> *Rosalind Williams v Spain*, UN Human Rights Committee, 30 July 2009, available at: [http://www.soros.org/initiatives/justice/focus/equality\\_citizenship/news/williams\\_20090910](http://www.soros.org/initiatives/justice/focus/equality_citizenship/news/williams_20090910)

<sup>20</sup> ECRI Report on Bulgaria, 19

<sup>21</sup> Equal Access to Quality Education for Roma, Volume 2, Monitoring Reports, 2007, OSI, EU Monitoring and Advocacy Program, Education Support Program, Roma Participation Program.