



European network against racism

ENAR Shadow Report 2009-2010

ENAR SHADOW REPORT 2009/2010

Racism and Discrimination in Bulgaria

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Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism with the EU and its Member States. NGO reports are, by their nature, based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by the racism that is the subject of the research. It is this that gives NGO reports their added value, complementing academic and official reporting.

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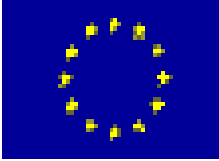
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I. Executive summary

This report contains a systematic review of facts and conclusions on the situation in Bulgaria with respect to the negative social phenomena of racism and discrimination. The main goal is to explore their impact on Bulgarian society.

A number of vulnerable groups suffer discrimination and racially motivated crimes, violence and harassment. These groups include migrants of all origins and types, but particularly immigrants of African, Middle Eastern and Asian origin, as well as indigenous minorities such as Roma, Turks, Jews, Pomaks etc.

The most flagrant manifestations of racism include violence in different forms – physical attacks, destruction or desecration of property, harassment, hate speech and exclusion. The manifestations of discrimination are processed in different sectors – employment, housing, education, healthcare, the work of the police forces, the access to services in the public and in the private sector and the media.

A significant portion of manifestations of racism are perpetrated not only by private individuals but also by a number of state authorities. This includes police violence, harassment and discrimination in access to public services, including the healthcare system.

The political situation changed in 2009. Parliamentary elections were held and the ruling coalition fell on account of the newly created party GERB. This right wing party won the elections having less than 50% of the total vote and managed to create a minority government. The stability of the government is supported by the far right party ATAKA and a right winged coalition – United Democratic Forces. It should be noted that even though the importance of the extremist party ATAKA rose dramatically, compared to the previous parliament, its influence in the decision making process is minimal. Due to this, the party is neither in a governing coalition, nor in the opposition. Thus, it neither makes decisions nor unleashes hate speech, as it did in the end of the mandate of the previous parliament.

The new governing structure indicates that they will keep the level of human rights at a European standard. This strive can be seen in the number of positive steps undertaken both at the legislative and judicial level.

A number of legislative amendments were undertaken mainly in the Criminal Code. The main change is that all kinds of racially motivated crimes are incriminated as such and the sanctions provided by the existing articles were increased.

The national courts made a number of positive decisions in the area of human rights and anti-discrimination. Probably, the most important one was a condemnatory decision made with respect to a proven racially motivated homicide attempt.

The Supreme Administrative Court has made a huge historical step in the area of migrant law, which will put the existing practice of indefinite detentions of migrants to an end.

In general the reviewed period showed a number of important positive developments that will be explored in detail in this report.

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III. Introduction

Parliamentary elections were held in the summer of 2009. The governing coalitional government made by the Bulgarian Socialist Party (BSP)¹, the National Movement for Stability and Prosperity (NMSP)² and the Movement for Rights and Freedoms (MRF)³ lost its dominating position in the political sphere. A new political party – Citizens for European Development of Bulgaria (CEDB)⁴ won the elections with 39.7% of the vote. The CEDB formed a minority government which is still governing the state. The party that has the balancing power between the government and the opposition (formed by the formal governing coalition) is by the extremist nationalist party ATAKA and in certain cases the Blue Coalition⁵.

As indicated in the 2008⁶ ENAR's Shadow report for Bulgaria, the area of ethnic minority rights and rights of immigrants was and remained in a difficult position during 2009 and 2010. The wave of organised nationalism in Bulgarian society made their position much harder. The main political force that exploits this remains the Bulgarian extremist nationalists party ATAKA. Still, even though ATAKA is close to the governing party, no visual concessions were made by CEDB with regards to the nationalist demands of ATAKA. Even more – in 2009 there were some changes introduced in the Criminal Code, which increased the sanctions for racially motivated crimes. Nevertheless, the Bulgarian Criminal Code does not treat racially motivated crimes as a serious and grave crime.

As in 2008, no practical steps were undertaken during 2009 on minority protection of ethnic minorities in Bulgaria. Despite of the legislation changes, the situation remained unchanged regarding the effectiveness of the judicial system when dealing with cases of discrimination. A typical feature of the authorities and institutions is their inability to deal with discrimination and racism. It is worth mentioning that cases of institutional discrimination continued to occur.

This report covers events that occurred in 2009 and the first semester of 2010.

¹ The political party's platforms can be viewed on their website – <http://www.bsp.bg>

² The political party's platforms can be viewed on their website – <http://www.ndsv.bg>

³ The political party's platforms can be viewed on their website – <http://www.dps.bg>

⁴ The political party's platforms can be viewed on their website - <http://www.gerb.bg/>

⁵ The political party's platforms can be viewed on their website - <http://www.sinite.org/>

⁶ See European Network Against Racism, Shadow Report 2008: Racism in Bulgaria (Brussels: ENAR, 2009) available online at

<http://cms.horus.be/files/99935/MediaArchive/national/Bulgaria%20-%20SR%202008.pdf>

accessed 10 September 2010

IV. Communities vulnerable to racism and discrimination

The communities identified in 2007⁷ and 2008⁸ continued to experience racism and discrimination in 2009 and 2010. No new vulnerable communities appeared in 2009 and 2010.

More than 15 ethnic communities live in Bulgaria. The biggest group are Bulgarians⁹, followed by Turks and Roma¹⁰.

Based on the official information, there are approximately 300,000 Roma in Bulgaria. Most of the experts however consider that the real number of the Roma people in Bulgaria is more than double of the official number – between 600,000 and 700,000. This difference is due to the large number of Roma who self-identify themselves as Bulgarians or Turks. Additional reason for inaccurate numbers is that many Roma do not live at addresses where they are officially registered, but have migrated to other towns or villages without officially changing their residence and are therefore hard to interview during the census. The Roma group, undisputedly is the most vulnerable group to racism. They suffer severe discrimination in almost every aspect of every day life.

Another comparatively large ethno-religious group that suffers discrimination are Bulgarian Muslims or Pomaks (also Torbeshi, Ahryani, Apovci, Babechani, Zhupani). Since the establishment of an independent Bulgarian State in 1878 the issue of the Pomak identity has been controversial. The popular belief, shared by many intellectuals, politicians and the dominant part of the population, is that Pomaks are not a separate ethnic group. The only difference between Pomaks and other Bulgarians is religion. For that last 50 years, much political, scientific and quasi-scientific effort has been made to “prove” that Pomaks cannot be separated from the Bulgarian national body. These efforts were especially determined under the Communist rule. One of the best examples for these efforts is the book “On the Past of the Bulgarian Mohammedans in the Rhodopes,” published in 1958 by the Bulgarian Academy of Sciences. The book reflected the cultural policy, which viewed Pomaks as “lesser” Bulgarians – and an inseparable part of the Bulgarian family-nation, but blemished with the wrong, religion, that being Islam.

⁷ See European Network Against Racism, Shadow Report 2007: Racism in Bulgaria (Brussels: ENAR, 2008) available online at

<http://cms.horus.be/files/99935/MediaArchive/national/Bulgaria%20-%20SR%202007.pdf>

accessed 10 September 2010

⁸ See European Network Against Racism, Shadow Report 2008: Racism in Bulgaria (Brussels: ENAR, 2009) available online at

<http://cms.horus.be/files/99935/MediaArchive/national/Bulgaria%20-%20SR%202008.pdf>

accessed 10 September 2010

⁹ 83.9% according to an official census, that was held in 2001; <http://www.nsi.bg/Census/Census.htm> , please note that we are using the data from 2001 as no census was held after that in Bulgaria. It is expected to have an official census in 2011.

¹⁰ Ibid

The academic discourse about the Pomaks as “brothers who have lost their way” has frequently transformed into violent campaigns of forced assimilation during which Pomaks were forced to abandon their religion, customs and even their names. As a result, even today, the Pomak community is still very divided and uncertain regarding their identity. As there is no official data, their real number can only be suggested. An indicator about their approximate number can be the census data¹¹, which shows that around 130,000 people belonging to the Bulgarian ethnic group are Muslims by religion. Some experts believe their real number is much higher. One publication quotes an unofficial estimate made by the Ministry of Interior that there were 270,000 Pomaks in Bulgaria in 1989, however there is no explanation about how the Ministry came up with the number in the first place.

The population of the other ethnic communities is, in general quite small. The only groups that number more than 10,000 people are the Russians, Armenians and Vlachs. All other minorities are less than 5,000¹² persons. Most of the people who are a part of the small minorities are integrated into Bulgarian society. In numerous cases they have abandoned their mother tongue for Bulgarian. Almost all of them, however, actively preserved their culture and traditions through organizations of various cultural societies and thorough the publication of newspapers, journals and books. As a rule, they are not politically organized, with one notable exception - Macedonians.

Another minority group are the Macedonians. Their numbers are highly disputed, ranging from the official 5,071 to 200,000, claimed by some Macedonian nationalists. Some experts estimate that there are between 15,000 and 25,000 people with Macedonian self-awareness in Bulgaria. Historically, the policy of the Bulgarian state regarding its citizens with Macedonian self-identity has been highly controversial. During the 1940s and 1950s, the Communist Party encouraged the inculcation of Macedonian self-awareness in the Pirin region. This policy was dramatically reversed in the 1950s. The official position of the Bulgarian state became the total denial of the existence of the Macedonian nation and language, not only in Bulgaria, but also in the neighbouring Yugoslav Republic of Macedonia. Some parts of the Bulgarian population still have difficulties overcoming this even today. The change of the Bulgarian policy regarding the Macedonia minority was reflected in the censuses where the number of Macedonians miraculously dropped from 187,789 in 1956 to 9,632 in 1965 to disappear altogether in later censuses.

Religious minorities in Bulgaria also suffer discrimination and harassment. Muslims are subject to hate speech and Islamophobia though perhaps not as severe as in Western Europe. Victims are not only Turks, but also immigrants, as well as Pomaks.

¹¹ Ibid

¹² Ibid

It should be noted that religious tolerance is not one of the characteristics of the Bulgarian society. Like in 2008, hate speech against different beliefs occurred in 2009 and 2010. The focus was again on so called sects: Krishna followers, the Jehovah's Witnesses, etc¹³.

The prejudices and mistreatment against people with different sexual orientation in Bulgarian society continue to exist. Similarly to the situation in 2008¹⁴, in 2009 numerous harassment cases were reported¹⁵. The situation deteriorated due to the low levels of activism in protecting the LGBT community against discrimination.

¹³ See European Network Against Racism, Shadow Report 2008: Racism in Bulgaria (Brussels: ENAR, 2008) available online at <http://cms.horus.be/files/99935/MediaArchive/national/Bulgaria%20-%20SR%202008.pdf>, accessed 10 September 2010

¹⁴ Ibid

¹⁵ DNEVNIK newspaper, '60 people were arrested for breach of public order during the gay-parade' (original in Bulgarian: "Около 60 задържани за нарушаване на обществения ред по време на гей парада"), available online at: http://www.dnevnik.bg/bulgaria/2008/06/28/519826_okolo_60_zadurjani_za_narushavane_na_obshtestvenii_a/ accessed on 10 September 2010

V. Manifestations of racism and religious discrimination

In 2009 and the first semester of 2010, racism and religious discrimination in most areas of everyday life remained a major issue for a relatively large percent of the Bulgarian population. Manifestations of racism and discrimination usually occur in areas like employment, housing, education, health, policing and ethnic profiling, racist violence and crimes, access to goods and services both in the public and in the private sectors and the media, including the internet.

Traditionally, the most discriminated group are Roma – practically, they suffer from discrimination in all of the mentioned areas. However, other groups also suffer from the same forms of discrimination – African and Asian ethnic minorities are discriminated against in some of the areas.

Usually, members of religious minorities do not explicitly indicate any such affiliations and therefore are not directly discriminated. Still, there are cases of religious discrimination. Cases of hate speech are also present, but are quite sporadic and impermanent.

We will examine specific manifestations of racism and religious discrimination in each of the described areas in the same order as mentioned above.

V.i Employment

Employment plays a significant role in the life of every member of society. This is the main (and usually the only) way to earn a livelihood. Therefore, discrimination in this area is of significant importance. Some of the minorities, represented in the Bulgarian society traditionally have a lot of children and their lack of income has a negative effect on the development of the young members of the relevant minority group. These statements are the outcome of research carried out among the Roma people. According to that study 26 % of the Roma people who live in ghettos have permanent or seasonal jobs. The average income, indicated by the inquired is 4 times lower than the average income for the state¹⁶.

As indicated in previous Shadow Reports for Bulgaria¹⁷, the most discriminated minority group in Bulgaria is the Roma. Practically all Roma people suffer from

¹⁶ Dnes.bg, 'Only 26 % of the Roma people in ghettos work' (original title in Bulgarian: 'Само 26 % от ромите в гетата работят'), <http://www.dnes.bg/obshchestvo/2010/07/16/samo-26-ot-romite-v-getata-rabotiat.94667>, accessed on 10 September 2010

¹⁷ See European Network Against Racism, Shadow Report 2007: Racism in Bulgaria (Brussels: ENAR, 2008) available online at <http://cms.horus.be/files/99935/MediaArchive/national/Bulgaria%20-%20SR%202007.pdf>, accessed 28 May 2009 and European Network Against Racism, Shadow Report 2008: Racism in Bulgaria (Brussels: ENAR, 2009) available online at <http://cms.horus.be/files/99935/MediaArchive/national/Bulgaria%20-%20SR%202008.pdf> accessed 10 September 2010

severe discrimination in their access to the labour market. In some cases, this is due to the lack of education or training and in other cases – due to prejudice. The situation with Roma people, working for governmental institutions has not changed since 2007 and 2008¹⁸ - very few Roma work for governmental institutions of any kind.

Case: An example of these conclusions is a case of a Roma lady that applied for a police investigators position at the Police Department of the city of Mezdra. Based on the evidence, she has gone through the first two stages of the selection process and made it to the final interview. According to her testimony, the interviewing officers made it clear that “as she is a gypsy, she cannot work in the police”¹⁹. The case has been reported to the Commission for Protection against Discrimination²⁰.

Apart from the Roma minority, other groups that suffer discrimination in the area of employment are people that originate from Asia – mostly China, but also from Taiwan and others. Most of them have a language barrier and are impeded from finding a decent job. Those who do work are usually hired by people of the same origin that have managed to start their own business.

Other groups like the Bulgarian-speaking Muslims have access to the labour market, but, as indicated in previous Shadow reports for Bulgaria, the access is not on equal conditions as the Bulgarians and Turks. Usually, they are given unskilled or manual jobs, even if they have some higher qualification. Still, those jobs are often well paid. The situation of the Turkish minority is similar, but not as severe. It should be noted that little research on that issue has been carried out through the years and the given data is mainly from NGO sources and own data, collected by the members of the Bulgarian National Coordination.

Members of other minorities such as the Jewish, Armenian and Russian communities usually have access to the labour market and if they suffer from discrimination, it would be sporadic and inconstant acts.

The situation is quite different with LGBT and members of the Macedonian minority group. They are traditionally not accepted (at all) and their self-identification as such would severely threaten their positions. Therefore, they usually avoid identifying as such due to severe fear of discrimination at the work place.

¹⁸ Ibid

¹⁹ Dnes.bg, ‘A Roma lady applies for an investigators position and representatives of the Ministry of Interior mock her’ (Original title in Bulgarian: ‘Ромка кандидатства за дознател, а от МВР и се подиграват’), <http://www.dnes.bg/obshtestvo/2008/11/30/romka-kandidatstva-za-doznatel-ot-mvr-i-se-podigravat.61798.9>, last accessed on 10 September 2010

²⁰ The Commission for Protection against Discrimination is often presented as an abbreviation – the CPD.

The CPD investigated a number of signals and complaints which led to quite a few cases in 2009²¹ related to direct discrimination in the area of employment. There are employers who implement specific requirements for candidates. Some of the requirements include specific health conditions (not disabled or seriously ill), age limits (applications of candidates who are above a certain age limit are not reviewed at all), gender (females are practically denied access to certain positions) and ethnicity (there are cases of an employer who requested all candidates to fill in Declarations that they are of Bulgarian origin and are not related in any way to the Roma minority). The CPD has issued a lot of decisions in this period, but it should be noted that the financial sanctions imposed by this body are not unbearable and many employers do not cease their discriminating practices.

V.ii Housing

Housing is an essential matter to any human being. The right to own or rent a property is a basic human right that should not be breached under any circumstances. Still, one of the minority groups in Bulgaria – the Roma minority traditionally suffers from discrimination in that area. It should be noted that the situation prior to 2006 was much worse²². Still, Roma people are discriminated against in various ways regarding their housing rights.

As indicated in previous Shadow reports²³, the Roma communities generally live in segregated formal and mostly informal settlements. Usually these settlements are located quite far from the main residential areas. The discrimination in most of the cases prevents Roma from integrating into society and dramatically exacerbates their marginalisation. The nature of the housing and the areas inhabited by Roma communities is often used in order to justify the failure of the authorities to assist the Roma people in various areas. It should be also noted that Romani residents of segregated housing settlements usually cannot afford legal protection that residents of formal housing enjoy. This practically leads to frequent police raids, forced evictions and often quite arbitrary destruction of their properties. It should be also noted that residents of such housing are often not offered or are directly denied access to public services including electricity, heating, paved roads and other types of infrastructure which is vital for every-day-life.

²¹ The annual report of the CPD can be found at: http://kzd-nondiscrimination.com/start/images/stories/pdf/annual_report_2009%20new.pdf accessed on 10 September 2010

²² See European Network Against Racism, Shadow Report 2007: Racism in Bulgaria (Brussels: ENAR, 2008) available online at <http://cms.horus.be/files/99935/MediaArchive/national/Bulgaria%20-%20SR%202007.pdf>, accessed 10 september 2010

²³ Ibid

It is a constant practice of many local authorities in Bulgaria to deny any support to poor Roma families which under the same circumstances is given to non-Roma families. The authorities show harsh resistance when discussing or trying to adopt a proper regularization of ghetto areas, including city plans and providing of regular communal services. It is a frequent practice to move Roma families from one ghetto to another one in an attempt to “clear” a certain area of a particular city. Such practice usually does not permanently solve the problem, as the single act of providing another place to settle is not enough. Such action should be accompanied by measures in the area of employment and education, so that the new premises will not turn into the same ghetto. This, however, is often done to appease and to win popularity among the inhabitants of the area and not to solve the problem. There have been numerous reports that in certain cases these movings have been undertaken in order to use the “cleared” land and plots for the development of private building projects.

Still, in a recent case, the Sofia municipality made a proposal to move the inhabitants of two ghettos in Sofia – “Batalova vodenitsa” and the Vietnamese dormitories of “Krasna polyana”²⁴ to the premises of a former military barracks in the surroundings of Sofia. As already mentioned, such a measure should be undertaken along with other acts, including in the area of employment and education.

The project is still being discussed and according to the Sofia municipality plan, the first families should be re-located by the end of the 2010. This will only occur if sufficient funding is provided in order to reconstruct the premises of the barracks²⁵.

V.iii Education

In 2009 and the first semester of 2010, there were numerous manifestations of discrimination in the field of education. Still, in order to fully understand the dimensions and the meaning of every single manifestation of discrimination in this area, one should first understand the background and the context of this area.

Most of the ethnic minority groups in Bulgaria suffer from discrimination in the area of education, but the biggest effect is felt by the Roma.

²⁴ The Vietnamese dormitories are a complex that was built during the communism for working forces coming from Vietnam. In the last 20 years, however, the Vietnamese have moved to more appealing properties and the dormitories were left to a Roma group to settle down in the complex. Currently, more than 3,000 Roma people live in this complex.

²⁵ Dnes.bg, ‘The Roma people from “Krasna Polyana” are moving to barracks near Sofia’ (Original title in Bulgarian: ‘Ромите от Красна Поляна се отиват в казарми край София’) <http://www.dnes.bg/obshtestvo/2010/06/24/romite-ot-krasna-polyana-otivat-v-kazarmi-krai-sofiia.93306.4> last accessed on 10 September 2010

Practically, this type of discrimination is due to territorial segregation. Usually, the schools that are located in close proximity to the areas inhabited by minorities are either not good or, in most of the cases inexistent. The reasons for this situation are numerous. One of them could be linked with the prejudice of the authorities; another one is the total lack of regional policy regarding education in the whole state. The government has begun to (which has practically become a policy) close schools located in small villages which are defined as “ineffective from an economical point of view”. This problem affects Roma people, but also Turks, Muslims and in many cases – Bulgarians. The latter however, having proper access to the labour market can afford to move. The other groups often simply do not have a choice as this is not presented as an affordable option. The territorial segregation can also be seen in bigger cities. Often ‘special schools’²⁶ are situated in areas inhabited by Roma people and the quality of education and training is rarely satisfactory.

The number of segregated ‘Roma’ schools in Bulgaria is believed to be more than 550. This fact, combined with the fact that even if Roma children study in ‘normal’ schools, they are still discriminated against by teachers leads to a situation, in which both the Roma students and their parents lose motivation to integrate or even participate in schools. This leads to the scary statistics that were shown in the last Shadow Report for Bulgaria²⁷ - between 6,000 and 7,000 Roma children fall out of the educational system every year before even making it up to the ninth grade. As a result only 0,3% of the Roma population have graduated higher education. Please note that this is approximately 443 persons²⁸.

In 2009²⁹, we have witnessed another type of manifestation of discrimination in the area of education. The CPD has investigated numerous cases relating to the discrimination of disabled children in nearly all of the elementary and high schools. The material base of the Bulgarian schools is relatively old³⁰ and provisions for disabled people to access these buildings have not been put in place. This practical problem leads to many disabled students dropping out of school who are usually quite capable. The CPD has issued many decisions against schools in Bulgaria and has prescribed some additional building activities which would ease (or in many cases - allow) the access of disabled students to the premises of the schools. Several of the schools have fulfilled the obligatory prescriptions of the CPD by building additional ramps and elevators. By doing

²⁶ Usually these types of schools are sole meant to teach Roma children. The schools are not provided with any financing, in order to improve the school and its premises. The teachers usually are not interested in their work and make no effort to actually teach in a proper manner.

²⁷ See European Network Against Racism, Shadow Report 2007: Racism in Bulgaria (Brussels: ENAR, 2008) available online at <http://cms.horus.be/files/99935/MediaArchive/national/Bulgaria%20-%20SR%202007.pdf>, accessed 10 September 2010

²⁸ Please note that this is a statistical research that has been carried out in 2008. No other similar researches have been carried out in 2009 or by June 2010.

²⁹ Note that these manifestations of discrimination have been present in the last years but the problem became public in 2009.

³⁰ Most of the schools were built in the period between 1950 and 1970. No new schools have been built in the last 20 years.

this many students who had previously fallen out returned to the educational system. Many of the schools have, however not managed to fulfil the prescriptions mainly due to the lack of financing for the building works.

V.iv Health

The health care system in Bulgaria traditionally hosts a large number of manifestations of discrimination. The discrimination in this area acquires many different manifestations and concerns many different groups of people.

Ethnic discrimination is mainly felt by the Roma community in Bulgaria. Their situation is worse than any other minority groups. The main issue is the result of multiple and often self inflicted health risks that are associated with poverty and living conditions that most of the Roma live in. The definite unfriendly and frankly disinterested attitude of the Bulgarian health care personnel regarding patients with limited financial means is an additional burden for the Roma.

When discussing the manifestations of racism and discrimination in health care, one major topic should be mentioned. Measures to prevent and treat epidemic disease are virtually non-existent. This is not a new problem³¹ – it has existed for many years but still affects the every-day-life of the Roma community. The authorities rarely undertake any actions or projects regarding the prevention of major epidemic diseases. As a result of this tendency, it is often the case to have epidemics in Roma populated areas. The subsequent treatment of the infected areas is rarely timely or satisfactory. In the last year we witnessed numerous cases of Measles, Jaundice and Hepatitis A in different Roma communities.

Examples of NGO Good Practice

It should be noted that in the beginning of 2010, a mass prevention campaign was undertaken in one of the major Roma communities in Bulgaria³². In this campaign all of the Roma people were inoculated so that the Measles epidemic was practically prevented³³. It should be noted that this is a positive development. Hopefully, this will not be a sporadic event, but a steady practice and will become a state policy.

³¹ European Network Against Racism, Shadow Report 2008: Racism in Bulgaria (Brussels: ENAR, 2009) available online at

<http://cms.horus.be/files/99935/MediaArchive/national/Bulgaria%20-%20SR%202008.pdf>

accessed 10 September 2010

³² The Stolipinovo mahala area in the city of Plovdiv.

³³ Dnes.bg, "Roma people in the city of Plovdiv are inoculated due to Measles" (Original title in Bulgarian: 'Ваксинират ромите в Пловдив заради Морбили') <http://www.dnes.bg/health/2010/01/20/vaksinirat-romite-v-plovdiv-zaradi-morbili.84494> accessed on 10 September 2010

The manifestations of discrimination in the area of health care do not only relate to the prevention of epidemics. Members of the Roma community suffer from numerous types of discrimination. The worst and most dangerous ones relate to the denial of emergency medical care. It is a practice for ambulances to simply refuse to answer calls from Roma segregated areas. If they do respond to the calls, they usually arrive too late.

This scenario was realized in May 2010, when the Ambulance arrived 45 minutes late only to find out that a 28-years old Roma woman had already passed away³⁴. This led to tension and based on the testimony of the Emergency team, the family of the deceased attacked them. The case is currently under investigation. Such cases are not rare and sporadic acts of discrimination. Unfortunately, this practice has led to many deaths that could have been avoided.

The health care sector involves multiple manifestations of discrimination based on age. In 2009 there was a development that followed up a 2008 case³⁵. Back in 2008, a famous professor – Roumen Georgiev had a stroke in the street. He was found alive by his students who immediately called the Emergency. The call centre of the Ambulance, however made a decision that the case was not important and informed the calling students that they do not intend to send a team as the professor was quite old and there is nothing that could be done. The man was taken by a TAXI to the nearest Hospital. This took more than an hour and he consequently passed away before reaching the hospital. The CPD investigated the case and found that discrimination had occurred. The director of the Ambulance was fined for allowing such an attitude of his employees. The total sanction in this case equalled BGN 400, or approx €210³⁶.

V.v Policing and ethnic profiling

The use of police force combined with racial profiling is not a new phenomenon in Bulgarian society³⁷. This permanent tendency has led to serious consequences and many incidents in the last few years. There have been quite a few incidents of unjustified use of police force over the past number of years³⁸.

The racial profiling of “suspects” is a major issue of the Bulgarian police forces. Officers of the law often make “routine checks” on Roma people, based on their

³⁴ Dnes.bg “Roma people attacked an Ambulance team in Goce Delchev” (Original title in Bulgarian: “Роми нападаха екип на Спешна помощ в Гоце Делчев”) <http://www.dnes.bg/stranata/2010/05/12/romi-napadnaha-ekip-na-speshna-pomosht-v-goce-delchev.90897> accessed on 10 September 2010

³⁵ Dnevnik newspaper, “A fine of 400 BGN for a patient that passed away due to refused Ambulance” (Original title in Bulgarian: “400 лева глоба за починал след отказана спешна помощ”) http://www.dnevnik.bg/bulgaria/2009/12/21/834067_400_lv_globa_za_pochinal_sled_otkazana_speshna_pomosht/ accessed on 10 September 2010

³⁶ 1 € = 1.9558 BGN

³⁷ See previous Shadow Reports for Bulgaria for 2006, 2007 and 2008

³⁸ Ibid

ethnic background³⁹. There are also cases in which police officers simply accept that because of the ethnicity and the lack of practical knowledge of the human rights of Roma people, they can search and arrest them without proper (or any) reasoning.

It should be noted that the situation is actually getting better. In 2008 there was a major development in this area. In 2008, 22% of Turkish minority were stopped for a “routine check” by the police but only 2% of them believed that their ethnic background was the reason for the check. This trend continued in 2009.

As previously pointed out⁴⁰, this positive development is mainly due to the relatively new programme of the police academy. Police officers now receive training in courses such as “Human Rights and the work of Police”, “Protection from Discrimination” and “Relevant decisions of the EU HRC regarding the work of the Police”.

Despite this positive development, we should note that the manifestations of racism in policing are not in the past. Members of the Roma minority continue to suffer severe racial profiling when stopped or detained by the police officers. Hopefully, these recent positive developments will continue and the quality of police work will improve. It will be, however, vital to adopt an effective control system, so that these good results can be preserved.

V.vi Racist violence and crime

There were many different manifestations of racist violence in 2009 and in the first semester of 2010. The Bulgarian society traditionally is not especially tolerant – different individuals are not accepted for different reasons. It is a fact, however, that in many cases, the intolerance takes different shapes, some of which include violence. It often includes racially motivated crimes of all natures.

Research, carried out in the first half of 2010 came to the conclusion that more and more young people (students in high schools) commit racially motivated crimes⁴¹. The reasons for this tendency are different, but the conclusion of the research is that the financial background of both the perpetrator and the victim

³⁹ See “I Can Stop and Search Whoever I Want”, Police Stops of Ethnic Minorities in Bulgaria, Hungary, and Spain, Open Society Justice Initiative, 2007 – please note that no recent statistical researches on this topic have been announced.

⁴⁰ See European Network Against Racism, Shadow Report 2007: Racism in Bulgaria (Brussels: ENAR, 2008) available online at <http://cms.horus.be/files/99935/MediaArchive/national/Bulgaria%20-%20SR%202007.pdf>, accessed 10 september 2010

⁴¹ Dnes. Bg The violence among the young people is due to discrimination (Original title in Bulgarian: ‘Насилието сред младите – породено от дискриминация’) <http://www.dnes.bg/obshtestvo/2010/05/14/nasilieto-sred-mladite-porodeno-ot-diskriminacia.90980> accessed on 10 September 2010

plays a major role in these conflicts⁴². Children, coming from 'Bulgarian' families with a relatively good financial background often tend to harass children coming from a different background – both ethnical and financial⁴³.

This tendency was seen in an actual case from November 2009. A 14-year old Bulgarian student attacked and stabbed with a knife a school mate of Romani origin⁴⁴. The child who was stabbed underwent a number of operations and has subsequently made a fully recovery. The reasons for the attack are still not revealed, but this is a major task for the investigators. What is now believed to be a main motivating reason was the ethnic background of the victim.

Another attack was carried out in 2010. A big concert was organized in the centre of Sofia. Many Bulgarian stars were playing which attracted a large audience. The audience comprised of many different groups, some of which created tension. After the concert, a group of skin heads attacked a group of Roma people right in front of the President Hall⁴⁵. As the location of the incident is of major importance, there are multiple police units in the surrounding areas. Thus, many police forces and medical teams were on the site within minutes. This was probably the only reason why serious injuries were avoided.

The past 18 months did not go without any incidents in the sports sector. There were again⁴⁶ racial insults and xenophobic remarks to visiting teams and foreign players. Such was the case with the visiting team of Beograd, Serbia – Tsrvena Zvezda⁴⁷. They had a friendly match with the team of Levski Sofia and the fans of the latter made numerous offensive remarks and insults to most of the guest players. This act is quite surprising as the Serbian team was composed mainly of Serbians which are quite close to Bulgarians. Still, there was hate speech and a number of xenophobic insults were made. Tsrvena Zvezda decided not to file a complaint to UEFA so the incident will be left unsanctioned. Despite this, a lot of work should be done by both the sports club and the fans club so that this incident does not become a norm.

⁴² Ibid

⁴³ Ibid

⁴⁴ Dnes.bg A bulgarian child stabbed a Roma child in front of a school in the city of Samokov (Original title in Bulgarian: 'Българче прободe ромче пред училище в Самоков') <http://www.dnes.bg/crime/2009/11/18/bylgarche-probode-romche-pred-uchilishte-v-samokov.80978.11> accessed on 10 September 2010

⁴⁵ Dnes.bg "Skin heads attacked a group of Roma people in front of the President Hall (Original title in Bulgarian: 'Скинари нападнаха роми пред президентството')" <http://www.dnes.bg/crime/2010/06/10/skinari-napadnaha-romi-pred-prezidentstvoto.92482> accessed on 10 September 2010

⁴⁶ See European Network Against Racism, Shadow Report 2007: Racism in Bulgaria (Brussels: ENAR, 2008) available online at <http://cms.horus.be/files/99935/MediaArchive/national/Bulgaria%20-%20SR%202007.pdf>, accessed 10 september 2010

⁴⁷ Ring.bg "Tsrvena Zvezda blame Levski in xenophobia" (Original title in Bulgarian: 'Тсрвена Звезда обвини Левски в ксенофобия') <http://ring.bg/levski/tsrvena-zvezda-obvini-levski-v-ksenofobiya.html> accessed on 10 September 2010

A positive development should be noted in the sports area. The mentioned team Levski Sofia had a fan club that previously made many xenophobic and racist insults to many African football players. This however has dramatically changed after the team acquired a new striker – Gara Dembele who is a French player of Mali origin. The player quickly turned out to be the new hero of the team. Due to this, the racist insults ceased. Hopefully, this will be kept as a good practice and that no incidents will occur in the future.

In 2009 there was a development of another 2008 case. Back in 2008 a football player of Nigerian origin named Muyiwa Kolowole, was attack by a group of skin heads on his way home after a training session. The attack was carried out based on the ethnical background of the victim. The attackers were young Bulgarian boys with no previous criminal background. One of them – Alexander K. Ginchev used a knife and made 5 serious wounds and multiple lighter ones. After the incident, the victim spent 2 days in coma, went through a number of operations and procedures which consequently brought him back to life. However he no longer has a football career.

Examples of NGO Good Practice

The above mentioned case cannot be described without mentioning the good practice of a Bulgarian NGO. 'Civil Justice 21' was the NGO that helped Muya Kolowole in every step of his recovery. They provided medical assistance and legal assistance in the subsequent court proceedings. The efforts of the NGO led to some results. The highest court in Bulgaria sentenced the attacker to 5 years of imprisonment. This is a victory as no racially motivated crime has ever been reviewed and ruled in such a way by a Bulgarian court.

V.vii Access to goods and services in the public and private sector

As previously mentioned⁴⁸, different groups of people are traditionally discriminated against in access to services in both the public and in the private sector. It should be noted that the manifestations of discrimination in this area are on a much lower scale, compared to previous years. Numerous litigation successes against discrimination of all minority groups can be defined as the main reason for this positive development. The national courts and the CPD issued many decisions in this respect. This practically leads to a situation in which the violations of the anti-discrimination legislation are not as massive, drastic and shocking compared to previous years. It should be mentioned though, that there are still multiple cases of discrimination especially regarding the Roma and disabled persons. There are also cases of discrimination based on age, and nationality.

⁴⁸ See ENAR Shadow reports for 2006, 2007 and 2008

In 2009 and the first semester of 2010 we witnessed multiple cases of discrimination in the access to goods and services of Roma people. A typical example is a case in which a Roma family was in a café. After they were served, they were approached by a waiter who demanded them to pay and leave immediately. When they asked about this sudden change of attitude, he informed them that this café did not accept guests who speak Romani and that these were the direct instructions by the owner of the restaurant. As a result, the insulted Roma filed a complaint with the CPD⁴⁹ which ultimately imposed a financial sanction on the owner of the café.

Another similar case took place in the city of Perushtica⁵⁰. Two Roma women tried to enter a restaurant but were informed at the entrance that the services of the place were only offered to “pure Bulgarian people” and as one of the ladies seemed a little too dark to be “pure Bulgarian” access was denied⁵¹. The owner of the restaurant politely explained which restaurants and cafés would ultimately agree to serve Roma people. The CPD is currently investigating the case.

Another example of discrimination in the area of services and goods occurred in relation to the Electricity service in the segregated Roma areas. The electrical meters are located high above the ground – more than 10 meters high. In this way, the customers are practically prevented from checking and double-checking the indications of the meters. There have been many proved cases in which employees of the Electrical companies overstated the indications in Roma segregated areas, which leads to surprisingly high bills.

As previously indicated⁵² many private clinics and medical centres offer medical services which are of a dramatically higher quality compared to the public health care clinics. That is the reason why most Bulgarians prefer consulting and carrying out medical procedures at private medical centres. These institutions systematically charge much higher prices to non-Bulgarian citizens. The CPD investigated for the first time such a case in 2008 regarding the famous privately owned hospital Tokuda. The situation remained unchanged throughout 2009 and 2010. Multiple cases were brought in front of the national courts and the CPD due to severe violations of the anti-discrimination legislation, based on nationality.

⁴⁹ For more information about the case, please see the CPD annual report

⁵⁰ This is a relevantly small city with a population of approx 5100 people, located not far from the city of Plovdiv

⁵¹ Dnes.bg “Roma people suffer discrimination – they are not allowed to enter a cafe’ (Original title in Bulgarian: ‘Роми се жалват от дискриминация – не ги пускат в кафе’) <http://www.dnes.bg/stranata/2010/05/10/romi-se-jalvat-ot-diskriminacia-ne-gi-puskat-v-kafe.90710> accessed on 10 September 2010

⁵² See European Network Against Racism, Shadow Report 2007: Racism in Bulgaria (Brussels: ENAR, 2008) available online at <http://cms.horus.be/files/99935/MediaArchive/national/Bulgaria%20-%20SR%202007.pdf>, accessed 10 september 2010

V.viii Media, including the internet

When talking about manifestations of racism and discrimination in the media, it should be mentioned that things did not change significantly since 2008⁵³. Multiple violations of the Radio and Television Act occurred. According to the statistics, 25% of the manifestations of racism and discrimination were committed either by the media or in the internet⁵⁴. Therefore, it is essential that this area is thoroughly examined.

Hate speech continued to exist in the national media. Many “modern” politicians use the wave, created by racism and xenophobia for private gain. The leader of the political party ATAKA – Mr. Volen Siderov has used this since the creation of the party in 2005. Nowadays his racist rhetoric has toned down but he still provokes a huge wave of tension regarding the Turkish ethnic minority.

Another politician – Mr. Boyan Rasate who leads the Bulgarian National Union⁵⁵ has taken part in a daily TV programme on one of the national networks and stated explicitly that accepting refugees from third world states would not be good for Bulgaria and anyone who would support such an idea is an “enemy of the nation”. The hate speech in this case was obvious and the CPD has begun investigating the case⁵⁶.

It is not uncommon for Bulgarian media to expressly state the ethnic background of criminals from the Roma minority. This creates tension with regards to the Roma minority and was found to be offensive to all members of this minority group. The perpetrators of crimes have to take responsibility and their acts should not provoke unfavourable consequences for other people. This is a basic idea that is not accepted by most of the media in Bulgaria.

The internet hosts quite a lot of manifestations and examples of discrimination. Internet forums are often used as a means to provoke tension and manifest hate speech. It is also used to promote discriminatory ideas and practices. In 2009 a Ku-Klux Klan meeting was carried out in the city of Asenovgrad⁵⁷. The event was organized online and multiple neo-Nazi sites were used to promote the event. The organization was exposed by the National Agency for Homeland Security.

⁵³ Ibid

⁵⁴ Dnevnik newspaper, “25 % of the manifestations of discrimination is in the media” (Original title in Bulgarian: ‘Всяка четвърта проява на дискриминация е в медиите’) http://www.dnevnik.bg/bulgaria/2009/02/10/673176_vsiaka_chetvurta_proiava_na_diskriminaciia_e_v_medii_te/ accessed on 10 September 2010

⁵⁵ A political party that is not represented in the National Assembly but is quite popular mainly among young people.

⁵⁶ Dnevnik newspaper, The CPD investigates Boyan Rasate (Original title in Bulgarian: ‘Комисията по дискриминация проверява Боян Расате’) http://www.dnevnik.bg/bulgaria/2010/05/09/897977_komisiata_po_diskriminaciia_proveriava_boian_rasate/ accessed on 10 September 2010

⁵⁷ Wordpress.com “A racist meeting was carried out in Assenovgrad (Original title in Bulgarian: ‘Расистко събираще се е състояло в Асеновград’) <http://stalik.wordpress.com/2009/09/30/rasistko-sborishte-se-e-systoialo-v-asenovgrad/> accessed on 10 September 2010

However, this was only done after the event had taken place. The investigation uncovered many of the organizers but this did not lead to any criminal sanctions⁵⁸.

It should be mentioned that the situation in this area is currently much better compared to the last 10 years. Still a lot of work needs to be done in order to completely remove such practices.

⁵⁸ Even though promoting Nazi ideas is incriminated and leads to criminal sanctions

VI. Political and legal context

Parliamentary elections were held in the summer of 2009 in Bulgaria. They were won by a new party that was not represented in the Parliament in the previous mandate. GERB is a party consolidated around the former mayor of the capital city – Sofia and a former secretary in chief of the Ministry of interior - Mr. Boyko Borisov. He is the informal leader of the party and is currently the Prime Minister of the State. He formed a minority government, having the support of his party, which has currently 117 seats⁵⁹ in the Parliament. It should be noted that this party enjoys the support of a major part of the population. The elections were carried out under a combined proportionality/single winner vote system. Under the single winner system 31 members were elected (from every voting region) to parliament, 26 of the elected were representatives of GERB. The rest of them – 5 members of the parliament were from the Movement for Rights and Freedoms. This would practically mean that his government is supported and kept by the multiple minor political parties, which were in the position of opposition during the mandate of the previous Parliament.

One of these parties is the far-right party ATAKA, that was created shortly before the last parliamentary elections, held in 2005 had a relevantly good result at the elections. In the end of the mandate of the previous Parliament, ATAKA had 11 seats⁶⁰ and now – the party has 21⁶¹. This means that the support of the nationalist party has not changed since the last elections. It should be noted that ATAKA was prepared to make a coalitional government with GERB and consequently receive the right to appoint a number of members to the cabinet. Numerous hints were made by the leaders of the party shortly after the elections were over and the results were clear. However, such development a did not occur. Since the elections the behaviour of the leader of the party – Volen Siderov changed and became more moderate and balanced, compared to the mandate of the previous parliament and government. This could be pointed out as a positive development of the only parliamentary represented far right party.

The already mentioned Movement for rights and Freedoms is a party that has been established in order to implement the basic human rights in the area of anti-discrimination. Most of the members are of Roma and Turkish origin. During the years many scandals have accompanied the development of the organization. There are many rumours about cases of corruption in the party, but nothing has been proved thorough the years. Still, the main opposing party to the Movement

⁵⁹ The Bulgarian Parliament has 240 seats

⁶⁰ In the beginning of the mandate, the party had 21 seats, but by the end of it – due to multiple major scandals, the positions of the party were quite shakened. For more information see Shadow Report for Bulgaria for 2008

⁶¹ More information can be seen on the official cite of the Bulgarian Parliament – www.parliament.bg accessed on 10 September 2010

for Rights and Freedoms is the ATAKA. It could be said that most of the platforms of the right winged party are practically anti-MRF. After the last elections the MRF has 37 seats in the Parliament, which makes it the third biggest parliamentary represented party. However, it should be noted that the results of the MRF are not as good as in 2005 elections, as the party had 41 seats in the previous parliament.

The Roma minority is usually poorly represented in the governing structures of the state. This was a reality even at the time of the previous government, when one of the members of the governing coalition was the political party "Roma". Therefore, it is not surprising that no dramatic change occurred. Another political party that represents the Roma minority is the party "DROM". It is a part of the right winged coalition United Democratic Forces. This coalition used to be the biggest and strongest political force in the 1990s, but the 2005 elections were a complete disaster for the coalition. Currently, they hold 15 seats in the parliament, which makes them the second smallest parliamentary represented party. None of the DROM candidates could make it to the National Assembly, due to different reasons, one of which is that the candidates are rarely placed near the top of the coalition's candidate lists.

Another new political party entered the parliament after the 2009 parliamentary elections. The party "Order, Legality and Justice" was created shortly before the elections and managed to get enough votes for 10 seats in the parliament. However, not long after the beginning of the mandate of the parliament one of their members of the parliament decided to leave the party and its parliamentary group. As the minimal number for a parliamentary party is 10, the separation of this one Member of Parliament led to the formal disbandment of the parliamentary group as such. This fact however has not impeded the rest of the members of the parliament to act as a group. They also made a number of mutual declarations, one of which was a condemnation of discrimination, racism and anti-Semitism in all of their forms and manifestations.

Apart from the elections, 2009 offered a number of legislative amendments that concern cases of discrimination and racially motivated crimes. The Criminal Code criminalized racially motivated crimes since 1968. Nevertheless, it should be mentioned that no cases were successfully prosecuted under these laws until 2009 when the attackers of Muywa Kolowole were sentenced to imprisonment. The first implementation of these texts was made in the reviewed period – this was the first case ever in which the national courts implemented these texts from the Criminal Code. Amendments to these particular texts were made and the sanctions were increased. This shows the commitment of the legislator to change the existing practice of multiple cases of racially motivated crimes left without consequences.

A big campaign of ENAR in Bulgaria should be mentioned. A special declaration was prepared by ENAR-Bulgaria and was officially sent by ENAR to the main

state authorities in the country – the President, the Prime Minister, the Minister of Interior etc. The declaration strictly condemned all forms of violence against people trying to freely express their support to immigrants. This political campaign received wide coverage in most of the national media⁶². The declaration came after a big incident in which a group of skinheads attacked young activists who were on their way to a public demonstration against the illegal treatment of immigrants in reception centres (by their nature, these are detention centres). The attack was carried out on the public transport in Sofia. The case provoked a huge reaction by many NGOs and the declaration of ENAR came at the right moment and was aimed at the right people.

VI.i Anti discrimination

As previously reported⁶³ Bulgaria is one of the few European countries which adopted anti discrimination legislation, which not only satisfies the standards of the EU Directives but also exceeds them. The anti discrimination Act that has been adopted in 2004 has implemented the provisions of the Race Equality Directive and thus covers all forms of discrimination and provides a non-exhaustive list of criteria for identifying discrimination⁶⁴.

Still, if the legislation is at a highly satisfying level its practical implementation is not at the corresponding level. Victims of discrimination can decide how to safeguard their rights – they can either file a complaint or a signal⁶⁵ to the Commission for Protection from Discrimination or try a civil suit before the national courts. The decisions of the Commission for Protection from discrimination can be appealed before the Supreme Administrative Court of Bulgaria, which practically and legally means that every decision has the sanction of a court.

The first option for victims of discrimination is to file a complaint to the national equality body – the CPD. The work of the Commission is relatively quicker and more efficient compared to the national courts. An important disadvantage of the practice of the CPD is that it is still not homogeneous. We must, however note that the CPD is on the right track. The statistics come to show that the complaints

⁶² EuroChicago.com “ENAR recommends to the Bulgarian authorities to undertake various measures against racism and discrimination” (Original title in Bulgarian: ‘От Европа препоръчват на българските власти да предприемат мерки срещу расизма’) <http://www.eurochicago.com/2010/ot-evropa-preporatchvat-balgarskite-vlasti-da-predpriemat-merki-sreshtu-rasizma/> accessed on 10 September 2010

⁶³ See European Network Against Racism, Shadow Report 2007: Racism in Bulgaria (Brussels: ENAR, 2008) available online at <http://cms.horus.be/files/99935/MediaArchive/national/Bulgaria%20-%20SR%202007.pdf>, accessed 10 september 2010

⁶⁴ A full version of the statute can be seen here: <http://lex.bg/bg/laws/ldoc/2135472223> accessed on 10 September 2010

⁶⁵ The difference between a signal and a complaint is whether the person filing it is a victim or not – a complaint can be filed only by the victim of discrimination, while a signal can be filed by any witness or by anyone who wishes to do so.

and signals filed to the CPD in 2009 have increased by more than 40% compared to 2008⁶⁶. Unlike the dramatic increase in the complaints filed to the CPD, the increase of the issued decisions is smaller – less than 10%, compared to 2008. These figures show, that the effectiveness of the CPD has improved, compared to previous years. The body is now building its capacity by issuing a number of highly important decisions, some of which were already mentioned in the previous sections of this report. As a conclusion, we can state that the body has built a public image of a body that works quickly, efficiently and justly. This is truly rare for Bulgarian institutions and should be treated as a real success.

The other option for sanctioning acts of discrimination is a legal pursuit in the national court system. The jurisprudence of the national courts continued its positive development in 2009. Multiple court decisions were issued with regards to cases of discrimination on different grounds. There were cases of discrimination on grounds of age, sexual orientation, ethnic origin, gender, religion, political party memberships, social status, nationality, personal status and others. There were some really impressive judicial acts that could be described as just and reasonable. However, there were also strange decisions that departed from the usual jurisprudence. In general, the jurisprudence shows that the courts are developing in the right direction, but most of the decisions are still very diverse and non-homogeneous, many of which have deficiencies and errors. However, the main problem with the court system is the length of time it takes for a decision to be issued. It sometimes takes years for the courts to issue a decision and if one of the parties should decide to appeal, the process could take up to 4 or 5 years. This, of course means that the applicant (the victim) should be prepared to set aside a great deal of time and money in order to receive justice. It should be borne in mind that should the verdict be a positive one for the victim, the discriminator should reimburse all of the costs, incurred by the victim, but this can take an indefinite number of years. This is the main reason that victims of discrimination not to seek justice in front of the national courts. It would not be unusual for a victim to ignore breaches of his or her rights due to the slow work of the courts. This is a problem that needs to be solved urgently as it seriously impedes the work and the image of the national courts.

An extremely important development for the national courts occurred in 2009. The first case of racially motivated violence was issued in the end of 2009. The case of Muywa Kolowole⁶⁷ was already discussed in the report. We will only state that this is a huge step made by the national courts and this positive trend should be continued by a number of decisions in this area.

⁶⁶ In 2008 were filed 738 complaints and signals, while in 2009 the number was 1039.

⁶⁷ In 2010, the Supreme Court of Bulgaria confirmed the Court Decision of the Sofia Appealing Court, which sentenced to imprisonment the skinheads that attacked Muywa Kolowole in 2007. This decision was a huge victory for the whole anti-discrimination and anti-racist movement in Bulgaria.

The CPD has also continued the positive trends started in previous years⁶⁸. Hate speech, used as a political instrument is not as frequent, which is mainly due to the decisions of the CPD against Bulgarian politicians. In 2009 Boyan Rasate was investigated in respect of this matter and a decision is to be issued soon.

Multiple decisions were issued against service providers who discriminate against customers on different grounds. Typical examples are the multiple cases against the electricity supplying companies, who discriminated against Roma people.

Many institutions were investigated for discriminating against customers on grounds of their ethnic origin. Many cases in this respect were issued against cafés, restaurants and others who discriminated against members of the Roma minority.

In conclusion, we could state that both the national courts and the CPD have made major developments in the area of discrimination. They are improving their quality and speed of work, which makes them quite efficient. This makes more and more victims of discrimination seek their own rights and justice.

VI.ii Migration and integration

As previously reported⁶⁹, the Bulgarian state authorities have no real policy regarding the integration or social inclusion of immigrant communities. This situation did not change in 2009 and the first semester of 2010. It is a well-known fact that neither the politicians, nor the government experts have ever tried to put together or implement a policy relating to migration. It should be pointed out that no governmental resources have ever been invested in creating a strategy in this area.

Traditionally, the only authority that shows any interest in immigration matters are the Police. In recent years and due to the obligations Bulgaria had regarding the accession to the European Union, the state adopted a number of legislative amendments in the area of migration. Still, as the only interested authorities were the police and the Ministry of Interior, this was the body that proposed most of the amendments. Usually, the amendments proposed by this body are related to multiple restrictions and the facilitation of easier control of foreigners in the state.

⁶⁸ See European Network Against Racism, Shadow Report 2007: Racism in Bulgaria (Brussels: ENAR, 2008) available online at <http://cms.horus.be/files/99935/MediaArchive/national/Bulgaria%20-%20SR%202007.pdf>, accessed 10 september 2010

⁶⁹ Ibid

We should point out that there is a complete lack of state policy towards integration or social inclusion. The only measures that are undertaken refer to recognised refugees and some asylum seekers.

There is little state practice regarding refugees. The traditional practice is to keep refugees in special camps that are designed to protect and guarantee the safety of the refugees. The protective camps are practically prisons, where the refugees are kept, sometimes for years. The material law states that a refugee can be detained in such “protective camps” with a court order for a period not longer than 6 months. The usual practice in refugee cases is to issue court orders every 6 months. Thus, the detention lasts for an indefinite period of time. In relation to this, a historical decision of the Supreme Administrative Court was issued in 2010. The courts stated that this practice contradicts the internationally guaranteed rights of the refugees and is in conflict with the EU directives. Therefore, following this decision, any refugee can rely on this precedent and avoid such a procedure. It should be noted that this is a huge breakthrough and is a real victory for refugees in Bulgaria.

Similarly to 2008⁷⁰, in 2009 and the first semester of 2010, a lot of cases of hate speech with regards to refugees occurred. Probably the biggest one was made in a TV show in a national television network by the politician Boyan Rasate. His speech was aimed at the refugees in Bulgaria and the harm that the Bulgarian society would bear from their impact. The speech included rude examples and insults that eventually were enough for the CPD to start an investigation of the case. Hopefully, the case will not be left without consequences and, similar to other cases of this type will serve as a warning to other people that such behaviour is in conflict with the Law and will not be tolerated.

VI.iii Criminal justice

VI.iii.i Racism as a crime

A long waited legislative amendment was realized in 2009 - the Criminal Code now recognizes the provocation for discrimination on any grounds as a crime⁷¹. The scope of the Act includes provocations made by any type of media, by live speeches or by provocative acts. This is a relevantly wide scope, which could possibly make the amendment work. The sanctions for this crime are limited up to four years imprisonment and a cumulative financial sanction of BGN 5,000 to BGN 10,000. It should be noted that according to the classification of the different crimes, provided by the Code itself, this is not a serious crime⁷².

⁷⁰ Ibid

⁷¹ The full text of the Criminal Code can be found here: <http://lex.bg/bg/laws/ldoc/1589654529> accessed on 10 September 2010

⁷² The Bulgarian Criminal Code classifies as a serious crime one which includes a sanction higher than 5 years of imprisonment.

We should also note that racially motivated crimes are also criminal offences incriminated. Violations of personal integrity or the integrity of property, which are based on the race, ethnical background or religion of the victim fall within the scope of the relevant article of the Criminal Code. The sanctions for racially motivated crimes are the same as the offences for the provocation of discrimination.

The legislator has also included acts of provocation or the creation of an organization for carrying out racially motivated crimes as a crime. As the potential risk to the public interest in this type of crimes is much higher, the sanctions provided are also much higher – imprisonment of up to 6 years and a cumulative financial sanction of BGN 10,000 to BGN 30,000. In this situation, the crime is treated as a serious one⁷³.

The Criminal Code provides a sanction for being a member of an organization, created for racially motivated attacks. It should be pointed out that this is a criminal offence even if no attacks have been carried out. The members of these organizations are liable to be imprisoned for up to 3 years.

Based on the made implementations, we can state that the legislator has tried to include most of the cases of racially motivated crimes into the Criminal Code. This fact itself reflects the positive development. The positive trend however, should be supported by proper implementation by the Police forces and the national courts. If the state authorities undertake the necessary measures, the situation would be really improved.

VI.iii.ii Counter terrorism

As previously pointed out⁷⁴ the authorities in Bulgaria have never actually implied any significant counter terrorist measures. This did not change in 2009 and the first semester of 2010. The only actions undertaken by the state in the area of counter terrorism are traditionally aimed at migrants. The authorities often tend to emphasize the actions of the migration authorities. This puts a lot of pressure on immigrant communities. This is usually done to demonstrate some activities in front of the national media and the population. Still, these actions influence public opinion. These trends create further problems in the area of migration. We are

⁷³ The full text of the Criminal Code can be found here: <http://lex.bg/bg/laws/ldoc/1589654529> accessed on 10 September 2010

⁷⁴ See European Network Against Racism, Shadow Report 2007: Racism in Bulgaria (Brussels: ENAR, 2008) available online at <http://cms.horus.be/files/99935/MediaArchive/national/Bulgaria%20-%20SR%202007.pdf> accessed 10 September 2010 and European Network Against Racism, Shadow Report 2008: Racism in Bulgaria (Brussels: ENAR, 2009) available online at <http://cms.horus.be/files/99935/MediaArchive/national/Bulgaria%20-%20SR%202008.pdf> accessed 10 September 2010

certain these actions do not have any success in the counter terrorism field. The problems could be solved by a number of legislative amendments in the field, that would emphasize the targets of the governmental bodies in this respect.

VI.iii.iii Ethnic profiling

Traditionally, ethnic profiling is a major problem for Bulgarian society⁷⁵. Its main manifestations influence the work of the Police authorities in the state, quite often the work of the public prosecution, the work of the media and public opinion. The ethnic background of individuals is often emphasized in order to create tension.

In relation to the police, officers often engage in ethnic profiling when they rely on ethnic or racial stereotypes as a basis for suspicion of alleged criminals. This often concerns police-initiated stops – police officers often use ethnical profiling as a reason to carry out identity checks, which eventually leads to searches. It should be noted that the Bulgarian Police does not collect any information on the ethnicity with regards to police searches. This lack of information is a problem. If there is no information about the extent of the ethnic profiling, it would be quite difficult to develop working strategies that address the impact of profiling on police relations with minority communities.

We could conclude that the problem with ethnic profiling within the police cannot be solved without a major change in the organization of the Police and in the data collection process.

The public prosecution also uses ethnic profiling. The problem is on a lower scale compared to the one in the police forces, but it still should be mentioned. When dealing with criminal investigations, the investigators along with the prosecutors often find it easier to shift the responsibility to members of minority groups. This is mostly done with regard to the Roma minority. The prosecutors are quite aware (in most of the cases) if the rights of the suspected criminals but often rely too much on the work done by the investigators and file accusations based on suspicious evidence. The prosecutors often tend to have hundreds of cases to deal with and have no resources to study every single case thoroughly. This, of course is a major problem in the whole system. It could be solved by simply increasing the number of the prosecutors. The work of the public prosecution would also improve if the work of the investigators improved. If the evidence is properly handled, the conclusions would be closer to the truth and the accusations filed by the public prosecution would be just.

The media play a major role in forming public opinion on different matters. When the media use ethnic profiling and seek the “spicy news” in order to draw attention to the media itself, the results are frightening. Most of the media in Bulgaria tend to reveal the ethnic background of criminals when announcing the

⁷⁵ Ibid

news of the day. By doing this, the media build the public opinion so that the society believes that nearly all of the crimes of the state are committed by Roma. This, in general creates a number of prejudices regarding the members of the Roma minority. The media use ethnic profiling in a way to create ethnical prejudices regarding the Roma minority. This is a practice that has been sanctioned by the CPD but still continues.

In addition, society also uses ethnic profiling. When a number of prejudices have been created, the individuals tend to bend the truth in different situations. It is not rare for a witness of a crime to identify the criminal as a Roma at the beginning of the investigation just because he or she subconsciously believes that the crime should be committed by a Roma. This often results in false accusations of members of the Roma society. Changing the beliefs and the behaviour of the society is slow and difficult. In order for this to be achieved, other actors should amend their actions and as a result, this influences society. Nevertheless, such a process takes time.

VI.iv Social inclusion

Just like in the previous periods⁷⁶, 2009/2010 did not bring a strategy for the social inclusion of most of the discriminated minorities in Bulgaria. The authorities traditionally apply a number of sporadic measures, which would eventually be reported to the European Commission. The actions, however rarely have positive results of a permanent nature. The financial crisis that affected the whole world seriously impeded on social inclusion actions. The huge deficit in the budget has practically put on hold all efforts for social inclusion of minority groups. Still, a number of measures exist in order to encourage the practical social inclusion of some of the minorities in the state.

With regards to the Roma minority, we could state that no actual policy exists. Although a number of official documents on Roma integration were adopted by the authorities in 2009, no practical steps were actually undertaken in order to overcome these problems.

Regarding the social inclusion of immigrants, we could mention that the Bulgarian authorities neither have a real strategy nor a general concept of migration policy. This leads us to the conclusion that there is a complete lack of any policy towards the integration or social inclusion of the immigrant

⁷⁶ See European Network Against Racism, Shadow Report 2007: Racism in Bulgaria (Brussels: ENAR, 2008) available online at <http://cms.horus.be/files/99935/MediaArchive/national/Bulgaria%20-%20SR%202007.pdf> accessed 10 September 2010 and European Network Against Racism, Shadow Report 2008: Racism in Bulgaria (Brussels: ENAR, 2009) available online at <http://cms.horus.be/files/99935/MediaArchive/national/Bulgaria%20-%20SR%202008.pdf> accessed 10 September 2010

communities. This is a real problem that should be dealt with in the near future, or the situation might escalate and take on dangerous dimensions.

VII. National recommendations

VII.i General

- Society should overcome the prejudices regarding minority groups and immigrants;
- The bodies dealing with racism and discrimination should increase their capacity and their effectiveness;
- Discrimination in the area of health care should be reduced and eventually ceased;
- Segregation in education should be ceased;

VII.ii Anti discrimination

- More victims should seek justice in front of the national courts or the CPD;
- The court system should increase the speed of its work;
- The courts should increase the quality of their work'
- The courts should continue the positive trend on issuing decisions in cases with racially motivated crimes;

VII.iii Migration and integration

- A state policy on the social inclusion of migrants in Bulgaria should be created and developed;
- The conditions in which migrants are living should be improved;
- The authorities should comply with the current jurisprudence and stop the practice of indefinite detention of migrants;
- The asylum procedure should be legislatively amended in order to become just and fair;

VII.iv Criminal justice

VII.iv.i Racism as a crime

- The Parliament should incriminate all types and forms of racism as a social phenomenon.

VII.iv.ii Counter terrorism

- The state authorities should try to fight real terrorism and stop the simulative campaigns against immigrant communities. Most of the counter-terrorism legislation should be re-drafted;

VII.iv.iii Ethnic profiling

- A major reform of the organization of the Bulgarian Police forces should be made, especially in the way data is collected from the police units.

VII.v Social inclusion

- The state authorities should prepare and implement a real strategy for the social inclusion of the minority groups in Bulgaria.
- Practical and consistent actions should be undertaken by the state for the social inclusion of minorities.

VIII. Conclusion

A number of major developments occurred in 2009 and in the first semester of 2010. We will review the 3 most important ones that had and will have the biggest impact on the civil society.

The first and most important one is a legislative amendment in the Criminal Code. The Legislator has undertaken a number of steps in order to show that racially motivated crimes will not be tolerated. Racially motivated crimes now incur much heavier sanctions. This amendment sends a strong signal to those elements in society who believe that racial discrimination is a positive phenomenon for Bulgaria and its people.

This was a huge positive step made by the Bulgarian authorities in 2009. We should note that amending the Criminal Code was one of the national recommendations, made in the previous Shadow Report for Bulgaria.

The second important step made in 2009 was the court decision in the case of *Muywa Kolowole*. The court showed that the system is not afraid to implement the Criminal Code and its full authority. This was another signal made by the Judicial power.

This was a second steady step in the same direction – decreasing and consequently exterminating the negative social phenomenon that is discrimination and racially motivated crimes.

The third positive development that should be noted is another court decision – the one made by the Supreme Administrative Court with regards to the migrants in the state. This decision might practically and legally end the endless detentions of migrants in Bulgaria. This, as already noted is a historical step towards the full implementation of migrant rights. The court decision itself concerns one particular migrant, but in fact, the importance of the decision is enormous. This judicial act represents a significant case law, which can be used by all migrants in the state. No lower court can try to overrule this case, which makes it a significant source of law in the fight for the human rights of migrants in Bulgaria.

The three developments that were discussed show that the authorities in Bulgaria – both legislative and judicial are on the right path. The right steps were made so that the human rights of all people in Bulgaria are kept. Practical steps were made in order to seriously decrease the racially motivated crimes and racism in general and on the other hand a significant victory was made for the rights of the migrants. Based on everything mentioned above, we could state that 2009 and the first semester of 2010 were fruitful in relation to the human rights and the anti-racism movement in general.

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X. Annex 1: List of abbreviations and terminology

BSP – Bulgarian Socialist Party

CEDB – Citizens for European Development of Bulgaria

CEM – Council of the Electronic Media

CPD – Commission for Protection against Discrimination

DNCC - Department of the National Constructional Control

ECHR – European Convention for Protection of Human Rights and Fundamental Freedoms

ERRC – European Roma Rights Centre

EU – European Union

EUMAP – EU Monitoring and Advocacy Program

IMRO – Internal Macedonian Revolutionary Organisation

LGBT – Lesbian, gay, bi- and transsexual

MRF – Movement for Rights and Freedoms

NGO – Non-governmental organisation

NMSS – National Movement of Simeon the Second

NMSP – National Movement for Stability and Prosperity

SRA – State Refugee Agency

