

Third report on Bulgaria

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COUNCIL OF EUROPE
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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.

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

The country-by-country approach deals with all member States of the Council of Europe on an equal footing. The work is taking place in 4/5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998 and those of the second round at the end of the year 2002. Work on the third round reports started in January 2003.

The third round reports focus on "implementation". They examine if ECRI's main recommendations from previous reports have been followed and implemented, and if so, with what degree of success and effectiveness. The third round reports deal also with "specific issues", chosen according to the different situations in the various countries, and examined in more depth in each report.

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 propose, if they consider it necessary, amendments to 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 following report was drawn up by ECRI under its own and full responsibility. It covers the situation as of 27 June 2003 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.

Executive summary

Since the publication of ECRI's second report on Bulgaria in March 2000, progress has been made in a number of fields covered by the report. A law on refugees came into force in 2002 and the Ombudsman Act was passed in May 2003. The members of the Turkish community enjoy better representation in public bodies, and the right of peaceful assembly of the members of the Macedonian community is more effectively guaranteed. The National Police Department has set up a specialised human rights committee, and training has been organised for police officers, judges and other public servants. The Ministry of Education and Science has issued an instruction concerning the integration of children and pupils belonging to minorities, which is designed in particular to integrate Roma children in Bulgarian schools. A number of projects, such as the strengthening of governmental structures dealing with minorities issues, are under way. On 16 September 2003, the National Assembly adopted an Act on the protection against discrimination.

However, many of the recommendations in ECRI's second report have not been implemented or have been implemented only partially. For instance, the new Denominations Act passed in 2002 does not remedy all the shortcomings as regards freedom of religion in Bulgaria. The European Court of Human Rights has received an application concerning the creation of a Macedonian political party. There are still stereotypes, prejudices and discrimination against minority groups, particularly Roma, as well as against immigrants, refugees and asylum seekers. Lastly, there are still serious problems connected with the excessive use of firearms and force by the police against Roma. A large majority of Roma continue to face serious financial and social problems, live in very deprived neighbourhoods and are hard hit by unemployment. There is still a widespread problem of segregation of Roma children in schools, and, so far, the implementation of the Framework Programme for Equal Integration of Roma in Bulgarian Society, which the government adopted in 1999, is still in its early stages.

In this report, ECRI addresses a series of recommendations to the Bulgarian authorities. In particular, it recommends the ratification of Protocol No.12 to the European Convention on Human Rights and other international instruments concerned with combating racism and intolerance. ECRI draws the authorities' attention to the need to respect freedom of religion, on the one hand, and the freedom of association of Macedonians, on the other. In connection with criminal law, ECRI recommends that the authorities take steps to ensure that criminal law provisions designed to combat racism are more strictly implemented. With regard to civil and administrative law, ECRI recommends that the authorities implement the Act on the protection against discrimination and set up the Commission for the protection against discrimination as soon as possible. ECRI urges the Bulgarian authorities to intensify their efforts in order to improve the situation of Roma in all fields, particularly in economic and social matters. Furthermore, ECRI encourages the Bulgarian authorities to continue their efforts to improve the situation of other minority groups, including Turks, Macedonians and Pomaks, as well as the situation of immigrants, refugees and asylum seekers. It recommends the continuation of human rights training for officials who come into contact with members of these minority groups and awareness-raising among the general public and the media of the issues of racism and intolerance. With regard to the police, it advocates amending the legislation on the use of firearms and closely monitoring the situation as regards the excessive use of such weapons and of force against Roma. ECRI recommends combating the segregation of Roma children in schools and implementing, as soon as possible, the Framework Programme for Equal Integration of Roma in Bulgarian Society, ensuring that suitable strategies are introduced at regional and local level.

I. FOLLOW-UP TO ECRI'S SECOND REPORT

International legal Instruments

1. In its second report, ECRI recommended that the Bulgarian authorities ratify the European Social Charter. It also recommended that Bulgaria sign and ratify the following instruments: the European Charter for Regional or Minority Languages, the European Convention on the Legal Status of Migrant Workers and the Convention on the Participation of Foreigners in Public Life at Local Level.
2. ECRI is pleased to note that, on 7 June 2000, Bulgaria ratified the Revised European Social Charter, which came into force on 1 August 2000. To date, none of the other instruments mentioned above has not been signed or ratified. Bulgaria signed the Convention on Cybercrime on 23 November 2001 but has not yet ratified it. Bulgaria has not signed or ratified either the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, or Protocol No. 12 to the European Convention on Human Rights. The Bulgarian authorities have informed ECRI that the government is considering ratifying all these instruments.

Recommendations:

3. ECRI strongly encourages the authorities to ratify, as soon as possible, Protocol No.12 to the European Convention on Human Rights, the Convention on Cybercrime and the Additional Protocol thereto, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, the European Charter for Regional or Minority Languages, the European Convention on the Legal Status of Migrant Workers and the Convention on the Participation of Foreigners in Public Life at Local Level.

Constitutional provisions and other basic provisions

4. Article 6 of the Bulgarian Constitution lays down the principle of equality and prohibits discrimination as follows: "(1) All persons are born free and equal in dignity and rights. (2) All citizens shall be equal before the law. There shall be no privileges or restrictions on rights on the grounds of race, nationality, ethnic identity, sex, origin, religion, education, opinion, political affiliation, personal or social status, or property status." ECRI notes that this provision is directly applicable in the Bulgarian legal system under Article 5(2) of the Constitution and that the courts have already applied it in order to sanction instances of racial discrimination.

Recommendations:

5. ECRI encourages the Bulgarian authorities, and in particular the judicial authorities, to make full use of Article 6 of the Bulgarian Constitution, which prohibits discrimination, whenever necessary to counter any form of racial discrimination.

- **Constitutional provisions on political parties**

6. In its second report, ECRI asked the Bulgarian authorities to clarify the application of Articles 11(4) and 44(2) of the Constitution, concerning restrictions on the establishment of political parties founded on ethnic grounds.
7. ECRI notes that on 29 February 2000 the Bulgarian Constitutional Court ruled that those political parties which, by virtue of their membership criteria or their aims, are reserved exclusively for people from a particular ethnic, religious or racial group are prohibited. In particular, a political party could be prohibited if its statutes and rules of procedure prevent persons from a certain ethnic group from joining.
8. The Political Party of the United Macedonian Organisation (OMO Ilinden Pirin) was banned by the Bulgarian Constitutional Court in 2000. The European Court of Human Rights has received an application in this connection, lodged on the grounds of a breach of freedom of association, but has not yet handed down a judgment. ECRI notes that on 12 December 2002 the Sofia Court refused to register the OMO Pirin political party.

Recommendations:

9. ECRI encourages 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 (ECHR), is respected without any discrimination. It stresses that, under Article 11, paragraph 2 of the ECHR, no restrictions shall be placed on the exercise of freedom of association other than those such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

- **Denominations Act**

10. In its second report, ECRI called for the rapid removal of restrictions on the registration of religious communities.
11. A new Denominations Act was passed on 20 December 2002. It provides that in future religious communities shall be registered with the Sofia Court, except in the case of the Bulgarian Orthodox Church. ECRI notes that several religious communities, non-governmental human rights organisations and independent experts have levelled numerous criticisms at the Act, alleging that it introduces discrimination between the various denominations and restrictions on freedom of religion that are contrary to Article 9 of the European Convention on Human Rights. In particular, the Act makes it possible to restrict the exercise of freedom of religion in the event of a threat to "national security" - rather than public safety as foreseen in paragraph 2 of Article 9 of the ECHR - and states that religious communities and institutions and religious beliefs may not be used for political ends.

Recommendations:

12. ECRI recommends that the Bulgarian authorities ensure that Article 9 of the European Convention of Human Rights, concerning freedom of religion, is respected in all circumstances, with due regard for the relevant case law of the European Court of Human Rights. ECRI recalls that, under Article 9, paragraph 2 of the ECHR, freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Criminal law provisions

13. In its second report, ECRI encouraged the Bulgarian authorities to ensure that criminal law provisions fully allow for the racist motivation of offenders to be taken into account and to be considered as an aggravating circumstance in the case of common offences.
14. There have been no changes in the Criminal Code to this effect, despite requests to the Bulgarian authorities from certain non-governmental organisations. However, the Bulgarian authorities draw attention to the fact that Article 54(1) provides that judges are to take into account the motives and aggravating circumstances of a crime when making sentencing decisions. Although this article does not specifically mention racist motivation, a judge may make use of it in order to take such a motivation into account and thus hand down a more severe penalty.

Recommendations:

15. ECRI recommends that the Bulgarian authorities insert a provision in the Criminal Code expressly stating that racist motivation for any ordinary offence constitute an aggravating circumstance. In this regard, it draws the Bulgarian authorities' attention to its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, which indicates the provisions that should be included in criminal law.
16. In its second report, ECRI encouraged the Bulgarian authorities to give high priority to criminal prosecution of offences of a racist or xenophobic nature and to collect and publish accurate data and statistics on the number of racist and xenophobic offences reported to the police, the number of prosecutions, reasons for not prosecuting and the outcome of the prosecutions.
17. The Bulgarian authorities have informed ECRI that, since the second report was adopted, there have been very few prosecutions and sentences under Articles 162, 163 and 172-1 of the Criminal Code, which provide for the punishment of racist offences. One of the explanations put forward by the authorities is that there are only isolated instances of such offences in Bulgarian society. ECRI is, however, concerned about the existence of reports by non-governmental

organisations describing serious racist incidents in Bulgaria that have not received all the attention they deserve, or been diligently prosecuted by the Bulgarian authorities.

Recommendations:

18. ECRI reiterates its recommendations that the Bulgarian authorities give priority to the criminal prosecution of racist and xenophobic offences and compile accurate statistical data in this field.
19. In its second report, ECRI recommended giving further training to police officers and judges to raise awareness of the problems of racism and intolerance. ECRI considers this point in the section on specific issues.

Civil and administrative law provisions

20. In its second report, ECRI recommended that the Bulgarian authorities introduce civil and administrative legislation to prohibit discrimination in all spheres of life.
21. Article 8(3) of the Labour Code was recently amended to ban direct and indirect discrimination on grounds, inter alia, of nationality, origin, race, colour or political beliefs.
22. On 16 September 2003, the National Assembly adopted an Act on the protection against discrimination. This Act prohibits discrimination in particular on grounds such as race, ethnic origin, religion and nationality. Direct and indirect discriminations are defined in the same terms as under community law¹. The scope of the Act is very large as discrimination is prohibited for any legal or natural, public or private persons in a large number of fields such as employment (including recruitment), education, professional organisations and trade unions, supply of good and services. The Act provides for the principle of a shared burden of proof between the victim and the discriminator in administrative and civil law. The Act also places an obligation upon employers to take preventive measures to fight against discrimination within their workplace. Positive measures of temporary duration aimed at promoting equal opportunities for certain disadvantaged groups are expressly allowed. In addition, the Act provides for the setting up of a Commission for the protection against discrimination². The law is to enter into force on 1 January 2004. ECRI welcomes the adoption of this law which is a significant step forward in the fight against racial discrimination in Bulgaria and contains a large number of elements provided in ECRI's General Policy Recommendation N°7 on national legislation to combat racism and racial discrimination.

¹ European Union Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and European Union Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation.

² See below "Specialised bodies and other institutions".

Recommendations:

23. ECRI recommends that the Bulgarian authorities swiftly implement the Act on the protection against discrimination and closely monitor its application.
24. ECRI strongly encourages the authorities to inform the general public about the content and the scope of this Act. It also encourages the authorities to provide training on the Act and on its implementation to judges and legal advisers.

Administration of justice

25. In its second report, ECRI recommended that the Bulgarian authorities ensure that Roma detainees were provided with immediate access to legal counsel and an independent medical examination.
26. Under Article 70(1), paragraph 7, of the Code of Criminal Procedure, legal aid is compulsory when the accused is unable to afford a lawyer but wishes to have one and it is in the interests of justice that he or she should be assisted by counsel. Under the Enforcement of Sentences Act, detainees are entitled to a medical examination on request. According to certain sources, however, the exercise of these rights raises problems in practice. For instance, lawyers appointed ex officio are not always paid promptly by the authorities. It would seem that further progress is needed if the rights provided for by law are to be fully recognised in practice, particularly as regards Roma.

Recommendations:

27. ECRI recommends 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 and an independent medical examination. It strongly encourages the authorities to make every effort to ensure that practice in this respect complies with the law.

Specialised bodies and other institutions

28. In its second report, ECRI recommended that the Bulgarian authorities set up a specialised body to combat racism and discrimination, in accordance with its General Policy Recommendation No.2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level.
29. The Act on the protection against discrimination³ establishes a Commission which is an independent body composed of nine members competent to take a range of measures to combat discrimination. The Act on the protection against discrimination provides for the establishment of a Commission, which is to be an independent body composed of nine members mandated to take a range of measures to combat discrimination. A permanent panel focused on racial discrimination is to be created within this Commission. This Commission will be mandated to receive complaints and issue decisions that will be binding upon

³ See above under "Civil and administrative law provisions".

the parties. It will be entitled to impose civil and administrative sanctions upon the authors of discriminatory acts. It will also be mandated to appear before the courts in cases of discrimination and to make recommendations to the authorities concerning the fight against discrimination. This Commission is to be set up shortly after the entry into force of the Act on 1 January 2004.

Recommendations:

30. ECRI recommends to the Bulgarian authorities to establish the Commission for the protection against discrimination as swiftly as possible and to provide it with the necessary financial and human resources so that it can carry out its work in the best possible conditions. It also encourages the authorities to set up local offices of the Commission in order to ensure that it is able to cover the whole territory of the country and be easily accessible for victims of discrimination wherever they are located.
31. The National Council on Ethnic and Demographic Issues, set up in 1997, is a body comprising representatives of the authorities, but also of non-governmental organisations, which is responsible for consultations, co-operation and co-ordination between government bodies and non-governmental organisations as regards the formulation and implementation of national policy in respect of ethnic and demographic issues and migration, and for the promotion and protection of tolerance and understanding between Bulgarian nationals from ethnic and religious minority groups.
32. According to certain sources, this body does not have sufficient resources or powers to operate effectively. ECRI has been informed that the Bulgarian government is contemplating setting up a National Agency for Minorities to define the government's responsibilities in respect of policy on minorities and reinforce the role currently played by the National Council on Ethnic and Demographic Issues. ECRI does not know what the structure of such a body would be, nor what powers it would have.
33. ECRI notes with satisfaction that a large majority of regional authorities have set up regional councils for ethnic and demographic issues and that certain municipalities have appointed experts on minority issues.

Recommendations:

34. ECRI recommends that the Bulgarian authorities strengthen the national machinery responsible for minority issues, whether by setting up a new body or by reinforcing the National Council on Ethnic and Demographic Issues. It stresses the importance of ensuring the participation of representatives of minorities on a body responsible for issues concerning them. Such a body should also have sufficient resources, particularly financial resources, to perform its task properly.
35. ECRI encourages the authorities to continue their efforts to set up local bodies to deal with minority issues, on which representatives of minorities are represented, with a view to establishing a policy that is appropriate to each region.

36. The Bulgarian authorities have informed ECRI that Parliament passed the Ombudsman Act in May 2003. ECRI is not familiar with the details of the Act, but welcomes the establishment of such an institution.
37. ECRI is satisfied to note that certain municipalities, including the city of Sofia, have appointed local Ombudsmen to improve relations between the municipal authorities and the inhabitants. It notes, however, that the public are still not sufficiently familiar with such bodies.

Recommendations:

38. ECRI recommends that the Bulgarian authorities appoint the Ombudsman provided for under the Act as soon as possible, so that she or he can take office quickly. It hopes that this institution will have all the powers and human and financial resources needed to perform its task effectively. It encourages it to examine the problems of racism, intolerance and racial discrimination in Bulgarian society with a view to taking an active part in solving them.
39. ECRI recommends that the Bulgarian authorities continue their efforts to appoint local Ombudsmen. It encourages them to inform the public about the existence of such institutions and to give the latter all the human and financial resources they need to perform their task satisfactorily.

Reception and status of non-citizens

40. In its second report, ECRI hoped that a legislative framework would soon be in place for asylum seekers and refugees and that the gaps in the infrastructure for dealing with asylum seekers, the slowness of the asylum procedure and the problem of the right, in practice, of asylum seekers to work would be addressed. It noted that free legal advice was provided by non-governmental organisations.
41. ECRI is satisfied to note that an Asylum and Refugees Act was passed on 16 May 2002 and came into force on 2 December 2002. The Act transfers responsibility for the asylum application procedure, which previously rested with the border police, to the Refugee Agency. The Act provides for an ordinary asylum application procedure and a fast-track procedure when the application is manifestly unfounded. In general, the Act is considered to conform to international standards, even though care should be taken to ensure that the interpretation of the clauses setting out the conditions under which refugee status may be refused or forfeited is not contrary to the 1951 Geneva Convention relating to the Status of Refugees.
42. ECRI is pleased to learn that fruitful co-operation has been established between the Refugee Agency, the border police, the High Commissioner for Refugees and non-governmental organisations, particularly in the form of training seminars for officials in contact with asylum seekers, including judges responsible for ruling on appeals concerning the asylum application procedure. Another example of this co-operation is a refugee integration programme set up to help refugees learn Bulgarian and gain access to the labour market.

43. With regard to the facilities for receiving asylum seekers, new centres have recently been opened and the Refugee Agency is responsible for placing asylum seekers in these centres or in private dwellings which it finances. ECRI has been informed by non-governmental organisations that the facilities in these reception centres need to be improved somewhat. As a rule, asylum seekers are entitled to legal aid as soon as they arrive on Bulgarian territory, but such aid is currently provided by non-governmental organisations and financed by the High Commissioner for Refugees.

Recommendations:

44. ECRI encourages 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 invites the authorities to pay for legal aid for asylum seekers throughout the asylum application procedure.
45. ECRI encourages the Bulgarian authorities to continue, and step up, their efforts to provide training in human rights and respect for differences for all officials who come into contact into asylum seekers and refugees.

Vulnerable groups

46. The situation of the Roma community in Bulgaria is dealt with in the section on specific issues.
47. In its second report, ECRI asked the Bulgarian authorities to address the issue of the representation of the Turkish minority in Parliament and government. It is satisfied to note that substantial progress has been made in this area.
48. In its second report, ECRI also asked the Bulgarian authorities to address the concerns relating to the special military units to which Turkish and Roma conscripts are posted and the representation of these minorities among officers in the military.
49. ECRI is pleased to learn that the specialised military units in question have been closed down and that Roma and Turks now do their military service in ordinary units. It notes, however, that little progress has been made as regards the number of Roma and Turkish officers and in the army.
50. As far as the Turkish minority is concerned, ECRI observes that the situation is still improving with regard to the problems of discrimination and intolerance, even though substantial progress still needs to be made. It also notes that the large part of the Turkish minority live in a region particularly hard hit by the economic recession and social crisis and are financially and socially disadvantaged in comparison with the rest of the Bulgarian population.

Recommendations:

51. ECRI encourages 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.
52. In its second report, ECRI recommended that the Bulgarian authorities take steps to ensure that all minority groups in Bulgaria, including Macedonians, effectively enjoyed the right of peaceful assembly.
53. Progress has been reported from several sources as regards the right of peaceful assembly of Macedonians, although they sometimes encounter harassment. ECRI is concerned by reports that restrictions on freedom of association still exist⁴. It is also concerned about allegations of discrimination and acts of intolerance on the part of the authorities and members of the majority population against people who openly declare themselves to be Macedonians.
54. ECRI notes that Macedonians have expressed the desire that the Bulgarian state should better acknowledge their existence as a national minority.

Recommendations:

55. ECRI encourages the Bulgarian authorities to continue their efforts to improve the situation with regard to the right of peaceful assembly of all minority groups, including Macedonians.
 56. ECRI also recommends that the Bulgarian authorities closely monitor allegations of discrimination and acts of intolerance against Macedonians and, if necessary, take steps to punish such acts.
 57. Lastly, ECRI strongly recommends that the Bulgarian authorities establish a dialogue with the representatives of the Macedonians to find a solution to the 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.
58. There is a group of Muslim Bulgarians in Bulgaria who identify themselves as Pomaks, whose exact number is difficult to establish. According to some sources, the Pomaks are sometimes subject to discrimination, particularly in employment and higher education, because of prejudices against them on the part of the majority population.

⁴ See above under "Constitutional provisions and other basic provisions".

59. Another problem raised by the representatives of the Pomak community is that they are often confused with members of the Turkish community in Bulgaria, because they are Muslims, like the latter. Pomak representatives have said that the Pomaks are Bulgarian-speaking Muslims who wish to identify themselves and be identified as such.

Recommendations:

60. ECRI recommends that the Bulgarian authorities closely monitor the allegations of discrimination and acts of intolerance against persons of Pomak origin and, if necessary, take steps to punish such acts.
61. ECRI also recommends that the Bulgarian authorities combat the stereotypes and prejudices that still exist against persons of Pomak origin and take steps to make the majority population aware of this problem.

Media

62. ECRI notes that certain prejudices and negative stereotypes against members of minority groups, such as Roma, Jews, immigrants, refugees and asylum seekers, and other members of minority groups have been conveyed in the media. According to several sources, the situation has improved over the last few years, in some cases significantly. ECRI is pleased to learn that there is less intolerance in the media, even if the overall results are not yet satisfactory.

Recommendations:

63. ECRI recommends that the Bulgarian authorities alert media professionals and their organisations to the dangers of racism and intolerance. If racist articles have been published, it strongly encourages the Bulgarian authorities to make every effort to prosecute and punish those responsible.

Climate of opinion

64. In its second report ECRI recommended that the Bulgarian authorities increase public awareness of the existence of racism and intolerance and encourage victims to defend their rights.
65. According to certain sources, manifestations of racism and intolerance on the part of the public towards Roma, but also other minority groups, such as ethnic and religious minorities, immigrants, refugees and asylum seekers, have existed to the same degree for a number of years. According to other sources, however, there is a slight decrease in the number of such manifestations. Acts of verbal or physical violence have by no means been eradicated, and the same is true for stereotypes and prejudices, which sometimes lead to acts of discrimination. The public and the authorities appear to be somewhat passive in the face of acts of intolerance of this kind, which are not sufficiently combated or punished.

66. ECRI notes that the Ministry of Culture and local authorities have striven to enhance public access to the cultures of the various ethnic minorities by organising activities at national and regional level. Such schemes have often taken place with the support of international organisations. Non-governmental organisations have taken steps to ensure that schoolchildren are taught more about the cultures of ethnic minorities, but the measures taken by the authorities to increase awareness among the general public and schoolchildren are still very limited.

Recommendations:

67. ECRI recommends that the Bulgarian authorities carefully monitor manifestations of racism and intolerance on the part of the general public against members of minority groups.
68. ECRI also recommends that the Bulgarian authorities increase public awareness of the problems of racism and intolerance so as to lower the level of intolerance among the population. It draws their attention in particular to the need to carry out national surveys of potential victims' experience and perception of discrimination and racism, as advocated in ECRI Recommendation No.4. Such surveys would provide a clear and exhaustive picture of the situation in the country.

Antisemitism

69. Manifestations of antisemitism are not very widespread in Bulgarian society, but ECRI notes that, according to some sources, antisemitic incidents appear to be on the increase. It observes that there are publications, graffiti and discussion forums on the Internet which propagate antisemitic ideas in Bulgaria. It is also concerned at instances where Jewish tombs have been desecrated and an attempt to set fire to a Jewish school in Sofia. Although these are isolated incidents, certain non-governmental organisations have decided to monitor the situation closely by setting up a working party to address the phenomenon of antisemitism in Bulgaria.

Recommendations:

70. ECRI urges the Bulgarian authorities to carefully monitor manifestations of antisemitism, which, according to some sources, appear to be on the increase. It recommends that they take all the requisite measures to put a stop to antisemitic acts and to punish their perpetrators.

Monitoring the situation

71. In its second report, ECRI recommended that the Bulgarian authorities consider ways of monitoring the situation with regard to racism and racial discrimination.
72. ECRI is concerned, however, about the lack of reliable information about the situation of the various minority groups living in Bulgaria. It notes that no specific steps have been taken to improve the situation in this respect. One of

the reasons put forward by the Bulgarian authorities to justify their failure to take action is the need to avoid discriminating against people on the grounds of their ethnic origin. ECRI considers, however, that it is essential to produce statistics in which figures are broken down according to ethnic origin in order to find out the extent of discrimination in fields such as employment and education.

Recommendations:

73. ECRI strongly encourages 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. Such a data collection system should comply with national law and European regulations and recommendations on data protection and the protection of privacy, as stated in ECRI General Policy Recommendation No.1 on combating racism, xenophobia, antisemitism and intolerance. When collecting data, the Bulgarian authorities should, in particular, make sure to respect the anonymity and dignity of the people questioned and the principle of full consent. Furthermore, the data collection system on racism and racial discrimination should take into consideration the gender dimension, particularly from the viewpoint of possible double or multiple discrimination.

II. SPECIFIC ISSUES

Situation of the Roma community in Bulgaria

- ***Excessive use of force and firearms by the police against members of the Roma community.***

74. In its second report, ECRI recommended that the Bulgarian authorities reconsider the relevant provision of the Ministry of the Interior Act and restrict the use of firearms by the police to cases where they are really necessary. It stressed that it was important for the authorities to acknowledge the existence of the problem posed by certain questionable behaviour on the part of the police, and for the police and political leaders to express their strong commitment to ensuring that any allegations of misbehaviour or criminal acts on the part of the police are promptly and stringently investigated and dealt with. ECRI also recommended setting up an independent body - acting at central and local level - to examine police, investigative and penitentiary practices.
75. The authorities have informed ECRI that Article 80 of the Ministry of the Interior Act was amended in February 2003 in order to strengthen the restrictions on the use of firearms. However, according to certain non-governmental organisations, further changes are still needed in order for this provision to conform fully to the United Nations Basic Principles on the use of Force and Firearms by Law Enforcement Officials, adopted in 1990. ECRI is concerned about allegations of instances of excessive use of firearms by the police, which have sometimes led to the death of Roma. ECRI has also heard allegations of the excessive use of firearms by gendarmes.

76. ECRI is concerned about information received from non-governmental sources but also from the Bulgarian authorities⁵ to the effect that Roma have been ill-treated by the police, whether on their arrest, during their interrogation or during police custody and, when they are in prison, by members of the prison staff. The Bulgarian authorities have informed ECRI that they are looking into these cases and that police officers found to be responsible for such ill-treatment have been disciplined and in some cases dismissed on grounds of serious misconduct. According to certain sources, however, ill-treatment inflicted by members of the police has not always received sufficient attention from the Bulgarian authorities, and those responsible are not always properly punished. The prevalence of a feeling of impunity among certain members of the police force could also account for behaviour of this type. ECRI notes that the police is not demilitarised, and that it is therefore the Military Prosecution Office that is responsible for investigations into the conduct of members of the police force.
77. ECRI is particularly concerned about the findings of surveys of physical violence in police stations, which show that the proportion of people of Roma origin who state that they have been subjected to physical violence in police stations is three times higher than the proportion of people of Bulgarian origin. It therefore seems that members of the Roma community are ill-treated more often than members of the majority population.
78. ECRI is pleased to learn that a specialised human rights committee was set up in the National Police Department in August 2000 to deal, in particular, with problems of this kind. The committee is responsible for taking steps to improve police conduct as regards respect for citizens' rights and for organising training for police officers in human rights and international standards applicable to law enforcement agencies. A co-ordinator has been appointed for each regional police directorate to relay the committee's work by organising schemes at local level. The specialised human rights committee has, inter alia, drafted a statement which police officers must make to arrested persons to inform them of their rights. It has prepared a handbook on human rights in police practices for police officers. ECRI has also been informed that a code of ethics for the police is under preparation.
79. Numerous schemes have been launched to provide human rights training for police officers with the help, in particular, of the international community and Bulgarian non-governmental organisations. ECRI notes, in particular, that the pilot project, mentioned in its second report, on police work with ethnic minorities, which was launched in Plovdiv in 1999, is being extended to other regions. The project mainly concerns regions with a large Roma population. It has been welcomed both by the police and by local representatives and has produced convincing results. Training in human rights and in the principle of non-discrimination has been given to judges, with the help in particular of non-governmental organisations.
80. So far, the Bulgarian authorities have not set up an independent body to investigate ill-treatment or acts of discrimination committed by members of the police force. As a rule, such acts are investigated by police officers who do not work in the same police station as the person who has been accused and, if necessary, by the Prosecutor's Office. The authorities have informed ECRI that

⁵ See the report submitted by Bulgaria under Article 25, paragraph 1, of the Council of Europe Framework Convention for the Protection of National Minorities, 9 April 2003, ACFC/SR(2003)001.

a human rights working party set up in the National Police Department has suggested that the government appoint such a body. The government is considering this proposal. The authorities have also reported that the draft law on the prevention of discrimination provides for an independent body which would be able to investigate and punish acts of discrimination perpetrated by public servants, including police officers. It is also likely that the Human Rights Ombudsman Act which has just been passed allows the Ombudsman to examine human rights violations perpetrated by the police. ECRI considers these measures insufficient, however, particularly as a means of dealing with the excessive use of force and firearms.

Recommendations:

81. ECRI strongly recommends that the Bulgarian authorities take steps to restrict the use of firearms by the law enforcement agencies to cases where their use is really necessary. In particular, it urges the Bulgarian authorities to amend the law to this end and ensure that international standards are conformed to in practice in this field.
82. ECRI urges the Bulgarian authorities to take steps to put a stop to all ill-treatment by members of the police. It also recommends ensuring that allegations of ill-treatment are subject to a prompt, impartial investigation leading, where appropriate, to effective punishment of those responsible.
83. ECRI recommends 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.
84. ECRI recommends that the Bulgarian authorities 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 encourages 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 by the police and the general public.
85. In its second report, ECRI recommended that the Bulgarian authorities take more proactive measures to encourage the recruitment of members of the Roma community in the various structures of the criminal justice system, particularly as police officers.
86. Roma representation on the staff of the Ministry of the Interior is increasing: the figure as at 21 October 2001 was 158 people. Of these, four are officers and 89 work in the national police protection unit. It is likely that there are more Roma in the police force, for the figures available concern only people who voluntarily identify themselves as Roma. Nevertheless, ECRI still considers this figure insufficient.
87. The Bulgarian authorities have informed ECRI that the method for recruiting police officers is based on neutral criteria which take account of the skills of the applicants. One of the obstacles to access to police officer posts is the requirement that candidates have a certain level of education and knowledge

which people of Roma origin rarely attain because of the difficulties they encounter in the educational field⁶.

Recommendations:

88. 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. Such a measure would facilitate relations between these bodies and the Roma community.

- Problems encountered by the Roma community in various fields of life

89. ECRI is concerned about reports of serious difficulties encountered by members of Roma community in many spheres of life. No improvement has been noted in this respect, and there are some reports of a deterioration in the situation of Roma, who, particularly because of the economic recession and social crisis, are excluded from society even more than before. The main problems stem from the fact that the Roma districts are turning into ghettos. Far from declining, this problem has apparently worsened in some respects. Most Roma neighbourhoods consist of slums, precariously built without planning permission on land that often belongs to the municipalities, as in the case of the Faculteta district in Sofia. As the Bulgarian authorities have not taken steps to address the situation, the people living in these districts have no access to basic public services, whether health care, public transport, waste collection or sanitation. The inhabitants of these areas are often in a deplorable state of health and cannot afford medical treatment, as there are no facilities on the spot and, in any case, medical care is too expensive for them, despite social welfare. ECRI is particularly concerned about reports that the electricity supply is sometimes cut off in an entire Roma district as certain inhabitants do not pay their bills. This problem has apparently worsened since the electricity company started to operate in a market economy. In some cases, moreover, Roma do not receive the welfare benefits to which they are entitled.
90. The serious social and financial problems facing members of the Roma community are a source of growing tension between them and the authorities and the majority population, which leads to open, sometimes violent conflict, particularly when the inhabitants of Roma districts demonstrate in support of their rights.
91. ECRI is concerned about reports that Roma are still very widely discriminated against in all areas of life. For example, they are apparently refused entry to places open to the public, such as bars and shops, solely because of their ethnic origin. In addition, Roma are subjected to a large amount of racism and intolerance on the part of the majority population, fuelled by stereotypes and prejudices against them⁷.

⁶ See "Education of Roma children", below.

⁷ See "Climate of opinion", above.

Recommendations:

92. ECRI considers that there is 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. In particular, it recommends that the Bulgarian authorities ensure that Roma have equal access to services offered to the public. It would draw attention, in this connection, to the measures advocated in its General Policy Recommendation N°3 on combating racism and intolerance against Roma/Gypsies and General Recommendation N°7 on national legislation to combat racism and racial discrimination⁸. Special attention should be drawn to the situation of Roma women who may be victims of discrimination on several grounds, for instance on that of their sex and ethnic origin.

- **Employment**

93. The unemployment rate among the Roma population is very high, and well above average. In certain disadvantaged Roma districts, it may be up to 90 % or more. The Bulgarian authorities have informed ECRI that Roma have difficulty in finding work because they are poorly educated and do not have sufficient vocational skills. ECRI would, however, draw attention to allegations that certain Roma are refused jobs, even though they have the education required, solely because of their ethnic origin. ECRI notes that the Ministry of Labour has set up training schemes to enable people who have been excluded from the labour market for a long time to find jobs. These measures mainly benefit Roma, even though they do not cater for them exclusively.

Recommendations:

94. ECRI recommends 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.
95. ECRI recommends that the authorities closely monitor the situation as regards discrimination in employment and take steps to prevent and punish any acts of racial discrimination in this field.

- **Education of Roma children**

96. In its second report ECRI recommended that the Bulgarian authorities take steps to combat school segregation, either in the form of Roma and non-Roma schools or of classes of Roma children and classes consisting solely of non-Roma children within the same school. It also recommended, as a matter of urgency, putting an end to the practice of sending a high percentage of Roma children to special schools which are actually intended for children with mental disabilities.

⁸ See also the recommendations above, under "Civil and administrative law provisions".

97. ECRI notes in this respect that non-governmental organisations have set up pilot "desegregation" projects to take Roma children out of schools in Roma districts and enrol them in schools to which they did not previously have access. These experiments have proved very successful over the last few years, but such projects are few and far between, and exist only in certain municipalities.
98. The Ministry of Education and Science is aware of the problems referred to by ECRI in its second report in connection with the education of Roma children, and recently took steps to improve the situation. In April 2002 an Advisory Council on the Education of Children and Pupils belonging to Minorities was set up. This permanent body is responsible for advising the Ministry of Education and Science, inter alia, on matters concerning the integration of Roma children. In September 2002 the Ministry of Education and Science adopted an "Instruction on the integration of children and pupils belonging to minorities". The Education Act was amended to provide for a compulsory preparatory one-year class for children with a poor grasp of Bulgarian. The Ministry is devising a strategy for the integration of children and pupils belonging to ethnic minorities.
99. ECRI observes that progress in the field of the education of Roma children is far from sufficient and consists largely of initiatives on the part of non-governmental organisations.

Recommendations:

100. ECRI urges the Bulgarian authorities to take steps without delay to give Roma children more equal opportunities in the educational field. It stresses 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.
101. In particular, ECRI recommends that the authorities take over the "desegregation" programme by enabling children in schools attended solely by Roma children, where the standard of education is below average, to receive an education of the same standard as that given to other children. ECRI reiterates 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.

- *Implementation of the Framework Programme for Equal Integration of Roma in Bulgarian Society*

102. The Framework Programme for Equal Integration of Roma in Bulgarian Society was devised at the instigation of Roma non-governmental organisations with the help of representatives of the Roma community. The programme was endorsed by over 70 Roma organisations and adopted by Cabinet decree on 22 April 1999. It covers all the main problems which Roma encounter in Bulgaria and is designed, in particular, to improve their situation in numerous areas such as employment, vocational training, land ownership, social welfare, education, health, culture and housing. The programme provides for much more stringent measures to combat discrimination, in particular the establishment of a specialised government body in this field.

103. The National Council on Ethnic and Demographic Issues is responsible for co-ordinating and assessing the implementation of the Framework Programme. It has drawn up, in conjunction with Roma organisations, an action plan for its implementation establishing short-, medium- and long-term priorities. This action plan was adopted by the Council of Ministers of the Bulgarian Republic on 25 September 2003. Roma experts have also been appointed in several ministries and other government departments under the programme.
104. The Framework Programme for Equal Integration of Roma in Bulgarian Society is unanimously considered, including by Roma representatives, to be well structured and fairly comprehensive and to meet the needs of the Roma community effectively. According to a number of sources, certain aspects need to be reinforced, in particular measures to improve the situation in the criminal justice and health fields.
105. There is, however, a unanimous feeling within the Roma community and among non-governmental organisations, whether or not they are Roma organisations, that, apart from the few initiatives mentioned in this report, the programme has remained a dead letter and that the few measures taken under it for the benefit of Roma are the result of isolated initiatives by non-governmental organisations, taken with the support of European or other foreign funds. As far as the government is concerned, there appears to be no integrated policy for implementing the programme, and no significant sum has been earmarked in the state budget and local authority budgets to fund its implementation. The view in certain quarters is that the government lacks the political resolve to carry through such a programme, although the National Council on Ethnic and Demographic Issues considers that the political resolve exists but is not backed up by budgetary funds.
106. ECRI is very concerned to learn that, four years after the adoption of the Framework Programme, its implementation is still in its early stages. It is convinced that the best way of solving the serious difficulties facing the Roma community in Bulgaria is to implement the existing Framework Programme and update it to make good any shortcomings.
107. ECRI's attention has also been drawn to the need for find local solutions to the problems encountered by the Roma population, which means that regional and local authorities must devise strategies with the help of members of the communities concerned. Such strategies are needed, in particular, to deal with the urban development situation in neighbourhoods where Roma live and the integration of Roma children into Bulgarian schools, and these are problems that cannot be addressed without the co-operation of the municipalities concerned.

Recommendations:

108. ECRI urges the Bulgarian authorities to speed up the implementation of the Framework Programme for Equal Integration of Roma in Bulgarian Society. It recommends that the Bulgarian authorities take a clear public stand, asserting their political resolve to implement the Framework Programme without delay. ECRI also urges the authorities to ensure that the funds needed to finance the Framework Programme are made available.
109. ECRI encourages the Bulgarian authorities to devise and implement quickly, at regional and local level, in conjunction with the national authorities, effective strategies for improving the situation of Roma. These strategies should allow for, and make it possible to adapt to, local features. In this connection, it urges regional and local authorities to work closely with representatives of the local Roma community and local non-governmental organisations when devising and implementing these strategies.

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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 third report on Bulgaria, is dated 27 June 2003, 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 Bulgarian authorities. A number of their comments were taken into account by ECRI, and integrated into the report.

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

Observations on the ECRI Third Report on Bulgaria

The Bulgarian authorities regret that only part of their comments, submitted on the Draft third report on Bulgaria have been given due consideration by ECRI and that the latter had decided to retain numerous texts containing evident inaccuracies misrepresenting the real situation with respect to human rights in Bulgaria.

General observation

There is no clear distinction drawn in the Report between facts established or confirmed by the Rapporteurs and various allegations made by “some sources” (repeatedly quoted). The said “sources” should be more clearly identified so that the readers would be in a slightly better position to judge the credibility of these allegations, which, unfortunately, seriously distort the reality of the situation in Bulgaria.

With respect to the Executive Summary:

Part of the statements and conclusions contained in the Executive Summary draft do not fully conform to the findings of the report itself.

Second paragraph of the Executive Summary:

(see comments with respect to the relevant parts of the Report)

- third sentence: Only political parties organized “on ethnic, racial or religious lines” and “parties which seek the violent usurpation of state power” are prohibited under Art.11(4) of the Constitution. Referring to “ethnic”, the restriction is applicable only to parties, the statutes of which would stipulate that their membership is open only to a particular ethnic group/groups.

Third paragraph of the Executive Summary:

- second sentence: Bulgaria is a party to (among others) the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention (No. 111) concerning Discrimination in Respect of Employment and Occupation, the Convention against Discrimination in Education and the Convention on the Elimination of Discrimination against Women. These international legal instruments are an integral part of Bulgaria's domestic legislation.

In this context it would be suggested that ECRI be more specific in its recommendations to Bulgaria to ratify “other international instruments concerned with combating racism and intolerance”.

- third sentence: Freedom of association is constitutionally guaranteed for all citizens in Bulgaria, including for individuals identifying themselves as Macedonians, subject only to the restrictions of Art.11(4) of the Constitution of Bulgaria (see above).

- seventh sentence: see comments in respect of paragraphs 50 to 65 below.

- ninth sentence: see comments in respect of paragraphs 75 to 77 below.

- tenth sentence: There had never been a policy of “segregation” 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 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. It is precisely this situation that the authorities are taking special measures to rectify. Therefore, the word "segregation" with respect to Roma children is inaccurate.

With respect to paragraph 15 of the Report:

The established practice of the courts in Bulgaria is, based on the provision of Art. 54 (1) of the Criminal Code, to treat any proved racist motivation of offenders as an aggravating circumstance.

With respect to paragraphs 17 and 18 of the Report:

The very few prosecutions and sentences under Articles 162, 163 and 172 (1) of the Criminal Code **are indeed** due to the fact that there are only very isolated instances of such offences in Bulgarian society. This fact is supported by the compiled statistical data on criminal offences, which includes any racially motivated offences.

With respect to paragraph 50 of the Report:

Representatives of the Turkish minority are members of the ruling parliamentary coalition in Bulgaria. They occupy ministerial posts, posts of governors and vice-governors of regions and are also widely represented in municipal councils.

Unfortunately, it is a fact that some regions, where persons belonging to the Turkish minority form a large part of the population, have been particularly hard hit by economic recession in the context of Bulgaria's transition to a market economy. However, many other people not belonging to the Turkish minority also live in these regions and are equally hard hit by these economic difficulties.

Consequently, a conclusion that only persons belonging to the Turkish minority "are financially and socially disadvantaged in comparison with the rest of the Bulgarian population" would be inaccurate.

With respect to paragraphs 52, 53 and 55 of the Report:

The right to peaceful assembly is explicitly guaranteed by the Constitution of the Republic of Bulgaria. Article 43 of the Constitution provides that "Citizens shall have right to peaceful and unarmed assembly for meetings and manifestations" and that "The procedure for organizing and holding of meetings and manifestations shall be established by law".

Subject solely to the relevant provisions of the law, which are in strict conformity with Bulgaria's international legal obligations, all citizens in Bulgaria, whether belonging to a "minority" or a "majority", enjoy equal rights fully and effectively, including with respect to the right of peaceful assembly.

With respect to paragraph 54 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 5071 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 “better acknowledge” anyone’s existence specifically as a “national” minority.

It should be reiterated, however that those 5071 individuals enjoy fully and effectively all the rights and freedoms guaranteed to all Bulgarian citizens.

With respect to paragraphs 53 (second part) and 57 of the Report:

The allegations contained in this part of the Report are not supported by facts. Since the adoption of the second report of ECRI there have been no reports pointing to any particular problems (e.g. “harassment”) concerning “the situation with regard to the right of peaceful assembly of all minority groups, including Macedonians”, of “acts of intolerance” having been committed “against people who openly declare themselves to be Macedonians”, or of preventing “this group” from living together with the “majority population” and respecting one another.

(See also comment with respect to paragraph 54 above).

With respect to paragraph 56 of the Report:

The Bulgarian authorities closely monitor all alleged acts of intolerance against any person under their jurisdiction, without discrimination, and, if necessary, do take steps to punish any such acts.

With respect to paragraphs 58 and 59 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. Therefore, these individuals were not “confused” with members of any other group.

There have been no reports indicating the existence of “discrimination, particularly in employment and higher education because of prejudice” against the Bulgarian-speaking Muslims. Furthermore, the existing provisions in Bulgaria’s labour and higher education legislation, expressly prohibiting discrimination on the basis of ethnic self-identification or religion, are rigorously enforced.

With respect to paragraph 60 of the Report:

As already noted, the Bulgarian authorities closely monitor all alleged acts of intolerance against any person under their jurisdiction, without discrimination, and, if necessary, do take steps to punish such acts.

With respect to paragraph 61 of the Report:

As already noted, the Bulgarian authorities consistently combat stereotypes and prejudices, if and when such are manifested against persons belonging to any existing ethnic, religious or linguistic minority.

With respect to paragraph 65 of the Report:

The competent authorities in Bulgaria have not received reports indicating the existence “on the part of the public” of “manifestations of racism and intolerance towards Roma, but also other minority groups ...”, especially “to the same degree for a number of years”. The authorities are aware of the existence of certain stereotypes and prejudices, which, admittedly, could “sometimes” - but not necessarily do - “lead to acts of discrimination”. However, these are very isolated acts. Furthermore, the competent authorities are by no means “passive” in the face of such acts and resolutely combat and punish them.

With respect to paragraphs 69 and 70 of the Report:

Contrary to the equivocal statement of ECRI that manifestations of antisemitism are “not very widespread” in Bulgarian society, such manifestations are practically **non-existent** in Bulgaria.

Tolerance and respect for diversity have been the basic values of Bulgarian society throughout the country’s long history. One eloquent example of this is the rescue by the people of Bulgaria of 50 000 Bulgarian Jews from deportation to Nazi concentration camps during World War II, the 60th anniversary of which was celebrated in March 2003 throughout the country. Commemorating the Day of the Victims of the Holocaust on the 10th March, the Bulgarian Parliament adopted a Declaration, in which it condemned intolerance, racism, racial discrimination, xenophobia and anti-Semitism.

Referring to these historic events in his keynote address to the OSCE Conference on anti-Semitism (Vienna, 19 June 2003) the Minister of Foreign Affairs of Bulgaria Mr Solomon Passy recalled that “during WW II Bulgaria was the only European state that saved its Jews while keeping them in their native country”. Mr. Passy reiterated Bulgaria’s unwavering commitment to “zero-tolerance” to any form of intolerance, including anti-Semitism.

It is obvious therefore why only a few very isolated cases have been reported for the past years in Bulgaria and that any allegations by anonymous “some sources” that such incidents “appear to be on the increase” only distort reality. (Unfortunately, these allegations have apparently uncritically been reproduced by ECRI.)

With respect to paragraphs 72 and 73 of the Report:

The statement that there is a “lack of reliable information about the situation of the various minority groups living in Bulgaria” is inaccurate. All the essential information (gender, property status, level of education, employment, etc.) with respect to all persons residing in the territory of Bulgaria, including those individuals, who identified themselves as belonging to a minority group, was collected during the national census of 2001. Furthermore, this information is being utilized 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 specifically aimed at addressing the needs of particular minority groups.

With respect to paragraph 75 of the Report:

With the amendment of Art.80 of the Ministry of the Interior Act, the use of firearms by the police was subjected to additional restrictions, fully in line with the UN Basic Principles on the use of Force and Firearms by Law Enforcement Officials (1990). Special Instructions on the use of special equipment by the Ministry of the Interior, drafted with the participation of NGO’s competent in this sphere, have also

been approved. In addition, a Code of Ethics was elaborated with the assistance of the Council of Europe, which introduces even more stringent standards in respect of the use of firearms by the police. These developments clearly demonstrate the inaccuracy of the allegations of "certain" NGOs in this regard.

Rare instances of excessive use of firearms have, regrettably been reported, but the victims of these incidents are not only Roma. Therefore, the contents of this paragraph are inaccurate.

With respect to paragraphs 76, 77, 81 and 82 of the Report:

The third and fourth sentences of paragraph 76 contain unsubstantiated allegations, levelled by unidentified "some sources". 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 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 reoccurrence 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. In this connection it should also be noted, that the monitoring of the complaints registered has **not** revealed any facts thus far that could warrant the assumption "that members of the Roma community are ill-treated more often than members of the majority population" (paragraph 77). Notwithstanding, the competent authorities in Bulgaria are prepared to take appropriate action if concrete facts are presented to them, which would demonstrate that members of the Roma community or persons belonging to other minority groups are deliberately singled out for ill-treatment by the police.

With respect to paragraph 89 of the Report:

ECRI has correctly observed that members of the Roma community encounter "serious difficulties" "in many spheres of life". The rest of this paragraph, however, regrettably contains sweeping, grossly inaccurate generalizations.

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 largely 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. Among the most important of these measures was the adoption in 1999 by the Government of a "Framework Programme for the Equal Integration of Roma in Bulgarian Society", elaborated with the active participation of over 70 Roma organizations.

The implementation of the Framework Programme, supervised by the National Council on Ethnic and Demographic Issues (NCEDI), includes specific practical measures as follows:

- in the field of protection against discrimination:

- the elaboration of a draft Protection against Discrimination Law, adopted by the National Assembly on 16 September 2003;
- the setting up within the National Police Service (NPS) of a Specialized Commission on Human Rights, chaired by the Deputy Director of the NPS (with special emphasis on the Roma minority). Regional coordinators have been assigned to every Territorial Directorate of the Interior, who coordinate with the Specialized Commission and organize locally the activities, related to the protection of human rights. In March 2003 trainings that included all the regional coordinators took place with lecturers from human rights NGOs;
- the establishment in September 2002 within the Ministry of the Interior of a permanent working group on human rights issues, chaired by a Deputy Minister of the Interior with the participation of representatives of the relevant directorates and national services. The objective of the working group is to set up the institutional framework to offer comprehensive solutions to issues, related to human rights;
- the recruitment by the Ministry of Interior of 158 Roma. 4 officers and 89 sergeants work for the Guard Police at the National Police Service;
- training courses for the staff of the Guard Police from the regional directorates in Plovdiv, Sliven, Pazardzhik, Montana, Sofia with the objective of better familiarizing policemen with the history, traditions, customs and religious beliefs of different ethnic minorities, particularly the Roma so as to improve mutual understanding for the purpose of ethnic minorities community policing; courses for police sergeants and cadets (mainly Roma) of the Police Academy; training course for police officers and seminar for heads of regional and area directorates, aimed at providing skills for work in a multicultural environment and observance of human rights standards;
- Expert study conducted on ethnic minorities' social integration in the Bulgarian Army. Specific modules to familiarise cadets with Bulgarian ethnic minorities' culture were incorporated in the 2002/2003 academic year curriculum of the higher military schools and the Military Academy "G.S. Rakovski" aimed in particular at eliminating any existing prejudices between representatives of different ethnic groups.

- in the field of education:

- the elaboration by the Government of a holistic concept for integration of children and schoolchildren of minority origin in the area of education with special focus on children belonging to the Roma minority;
- the establishment of a Consultative Council on education of Children and Schoolchildren from Ethnic Minorities to consult the ministerial team about the "development of strategies concerning the educational policies targeting children and schoolchildren from ethnic minorities" and "the development of strategies and implementation of specific measures aimed at the integration of Roma schoolchildren with their peers".

- approval by the Minister of Education and Science in September 2002 of an “Instruction for the integration of children and schoolchildren from minorities”, containing the following strategic goals:
 - integration and preservation of the ethnic and cultural identity of children and pupils belonging to minorities through education and extra curriculum educational activities;
 - overcoming the specific issues in order to fully implement in practice the principle of equal access to quality education;
 - establishing preconditions for a more successful socialisation of youth from the different minority ethnic communities;
 - turning cultural diversity into a factor of mutual cognition and a source of spiritual development for young people for the establishment of a favourable environment of mutual respect, tolerance and understanding.
- The document specifies the particular problems facing students from Roma ethnic background and sets specific goals related to the integration of children and pupils from Roma ethnic background: procedure to move pupils from schools in Roma neighbourhoods and create better opportunities for access to quality education. Concrete measures to implement the Instruction are already being taken by regional inspectorates of education, municipalities and school governing bodies.
- Ordinance № 6 of the Minister of Education and Science for teaching of children with special educational needs and/or suffering from chronic illnesses, already in force, puts an end to the admittance of children with normal mental capabilities to the specialised, so called ‘assistance schools’;
- at the end of 2002 training for 50 teachers and 50 teacher-assistants was completed (with the participation of Roma schoolchildren) aimed at providing them with specific skills to work in a multicultural environment. Teacher-assistants have been appointed to commence work in schools in the 2003-04 school year. Their duty is to facilitate the adaptation of Roma children to the teaching process and their integration into a multi-cultural environment;
- teaching manuals for inter-cultural education were published;
- the Ministry of Labour and Social Policy in cooperation with NCEDI is implementing a Child Welfare Reform programme, aimed at the preparation of pre-school children from disadvantaged families (mainly of Roma origin) for enrolment in first grade. During the current school year a total of 2,000 children have been covered.
- a project supporting integrated schools implemented by the Ministry of Education and Science with Roma non-governmental organizations, is being enlarged, currently encompassing 1,500 Roma children and schoolchildren, who have enrolled in the integrated schools.
- amendments to the National Education Bill (Official Gazette, No. 90 of 24.09.2002) came into force, providing that all children of pre-school age are subject to mandatory free-of-charge inclusion in preparatory groups in kindergartens and in preparatory classes to the schools. Funds have been provided in the state budget (this measure will be most beneficial to children of Roma and Turkish origin);

- *The school curricula include themes and texts aimed at introducing the Roma and other ethnic minorities in Bulgaria, and presenting examples of the literature and arts of prominent artists, belonging to minorities.*
- in the field of health care:*
- *a survey was carried out by the Ministry of Health in 15 Bulgarian towns (January - February 2003) to assess the health status of the Roma community and identify problems that the Roma are faced with in the health care system. The survey has provided the basis for the draft Health Strategy for Roma, prepared by the Ministry;*
 - *Vidin, Sliven and Kjustendil (towns with a high percentage Roma population) were supplied with modern medical equipment. Under the National Health Care Map, medical equipment has been provided for the whole rural network of primary health care, including the areas with dominant Roma population;*
 - *Under the National Immunizations Schedule, immunization points have been opened for compulsory, free of charge immunization of Roma (children and adults);*
 - *with the relevant amendment of the Act of Public Health Insurance, as of 1 January 2003 the number of people insured through the State budget has been increased. In particular, all children below 18 years of age have obligatory free of charge health insurance. Direct access to the paediatric and gynaecological clinics is provided.*
- in the field of employment and social security numerous measures and programmes for social and economic integration of unemployed Roma are being currently implemented, mainly by the Ministry of Labour and Social Policy, aimed at providing adequate job opportunities and professional qualification for the Roma community:*
- *Programmes for Temporary Employment in Public Works: National Programme for Temporary Employment, Programme for Temporary Employment during the Winter Months and Specialised Programmes, implemented in all the regions of the country. The objective is to provide minimum income to unemployed that are reliant upon social assistance through inclusion in employment.*
 - *renovation of tourist sites and buildings: the objective is to provide temporary employment in the construction industry, thus creating conditions for sustainable employment in the tourism sector;*
 - *in 2002 the Ministry of Labour and Social Policy elaborated a National Programme "From Social Assistance to Provision of Employment", which is aimed at providing employment for, and the social integration of, long-term unemployed, who receive monthly social assistance. 100 000 unemployed, most of them Roma, are expected to join by the end of 2003. The Programme includes components such as "Literacy" and "Qualification", aimed at increasing the competitiveness in the labour market of the illiterate and unemployed. In 2003 1000 unemployed enrolled in the literacy courses, out of which approximately 80% are estimated to be of Roma origin;*
 - *During the winter period 2002-2003 canteens for around 5 000 children were set up with financing from the Social Assistance Fund as a social mechanism to attract children to school;*

- in the field of urbanisation and living conditions:

- the legalization, where possible, of existing illegal housing is being considered;
- the municipalities of Sofia and Plovdiv are implementing “Roma Housing Construction” projects with financing provided partially by the Council of Europe Development Bank. In Sofia 75 two- and three storey houses for the Roma living in the “Christo Botev” quarter are being constructed. The building of the technical infrastructure, the renovation of the school, kindergartens and the health center are being completed. In Plovdiv, 40 out of the planned 72 buildings have already been constructed. Other urban development projects have been completed and/or are being in the municipalities of Stara Zagora, Pazardzhik, Lom, Omurtag, Venetz and Dulovo.

- in the field of culture:

- In August 2002 the Ministry of Culture, NCEDI, the Municipality of Stara Zagora, the Open Society Foundation and other donors supported financially the 10-th Anniversary Roma Festival Romafest in the city of Stara Zagora;
- In October 2002 UNESCO approved a 20 000 USD project to set up a Roma Theatre, submitted by the Ministry of Culture. The implementation of this project is under way;
- In 2002 NCEDI, the Municipality of Shumen and other donors supported financially a tour of the Bulgarian Roma Philharmonic Orchestra and the musical Spanish folklore band in Bulgaria and Spain;
- The Roma New Year 2003 was marked with a gala concert and a series of cultural events in the Roma neighbourhoods in Sofia and throughout the country. NCEDI provided financing for the cultural programme;
- In 2003 the NCEDI supported financially the celebration of the International Day of Roma, 8-th April, in Sofia and in the countryside;
- The realization of a joint Ministry of Culture and UNDP project “Civic Development and Participation through the Network of Chitalishte” started in 2002. The project contains a component on the “inclusion of social and ethnic groups to community life”;
- NCEDI and the Ministry of Culture supported various other cultural and educational events, organized by Roma organizations in 2002 and 2003.

Various activities are also being carried out, supported financially by the NCEDI, in the field of public awareness (radio and TV broadcasts and newspapers in the Roma language, seminars for minorities’ journalists, etc.)

Furthermore, in September 2003 the Bulgarian Government adopted a special **Action Plan** for the implementation of the Framework Programme, which contains concrete further measures to address the socio-economic problems of the Roma community, including equal access to education, employment, health care, improvement of housing conditions etc.

The implementation of the Action Plan shall be financed from the State budget. 28.6 million leva have already been allocated from the budget for the period 2003-2004.

It ought to be obvious from this non-exhaustive account that does not include other programmes implemented in different spheres, which, while not specifically designed to cater exclusively for Roma, benefit the majority of the members of the Roma community, that the sweeping suggestion that “the Bulgarian authorities have not taken steps to address the situation” is plainly false.

Most other allegations contained in paragraph 89 are equally inaccurate.

However, an explanation for some of these inaccuracies may in part be provided in a report of a meeting held 13-14 December 2002 in Skopje, the Republic of Macedonia, organised by the Project on Ethnic Relations, entitled “**The Romani “mahalas” (neighbourhoods) of South-Eastern Europe: politics, poverty and ethnic unrest**”. Brief extracts from this highly revealing report (hereinafter referred to as the Skopje Report) should contribute to the better understanding of important aspects of the situation in the “Roma neighbourhoods”. Furthermore, it clearly indicates that the problems of the dwellers of these neighbourhoods should be analysed also from a historical perspective (which ECRI apparently disregarded).

The Roma districts in the cities of many of the countries in South-Eastern Europe are not the result of neglect or of deliberate “ghetto-ization” by the authorities, but a legacy of the Ottoman Empire. This fact is also clearly acknowledged in the Skopje Report: “The Romani mahalas are a social and historic phenomenon, originating in the Ottoman laws that has persisted for centuries”(p.10).

Concerning the present circumstances in these neighbourhoods the Skopje Report notes: “In the post-Communist transition, these neighbourhoods experienced uncontrolled growth due to the immigration of a rapidly growing and newly impoverished Romani population” (p.1).

Due to various objective and subjective factors, many (but by no means all!) members of the Roma community found it particularly difficult to adapt to the new realities of the market economy. “...Romani mahala-dwellers are still captives of the past, holding onto and behaving according to preconceptions about the socialist welfare state that clash with the modern realities of a market economy and privatisation.” (Skopje Report, p.6).

More concretely, the allegation that the people living in these districts “have no access to basic public services” is largely inaccurate. Certain difficulties (though not remotely on the scale suggested) do exist in this regard, and the authorities are taking concrete measures to address them (see above). However, as the Advisor on Roma and Sinti issues at the OSCE, N. Gheorghe remarked during the Skopje meeting: “...many of the Roma confuse public services with rights to which they are entitled and which are guaranteed by the welfare state” (Skopje Report, p.16).

With respect to housing, ECRI correctly notes that many dwellings in the Roma neighbourhoods were built “without planning permission on land that often belongs to municipalities”, or, according to the Skopje Report “in violation of building and planning codes, or at least outside of the urban planning process” (p.5). The authorities in Bulgaria are trying to address the problem in a more pragmatic manner (see above), but they could not be expected to contravene the law in the process.

Concerning the issue of the electricity supply it should be noted that dwellers of such neighbourhoods sometimes refuse to pay their electricity bills. This attitude could at least in part be explained by the fact that “...Romani mahala-dwellers believe they have rights as citizens to electricity and other services, and that the state has an obligation to provide and to a large extent to subsidize them” (Skopje Report, p. 7). In these circumstances electricity suppliers may find themselves with

no other option but to “sometimes cut off” the electricity supply in order to incite the consumers to commence honouring their debts. It should be emphasized that such cut-offs are part of standard practice and the ethnic origin of the consumers is completely irrelevant in these cases.

With respect to welfare benefits, which allegedly “in some cases, moreover, Roma do not receive” while “they are entitled” to them, it should be underscored that Bulgaria’s social welfare legislation sets uniform objective criteria for access to welfare benefits for all citizens, irrespective of their ethnic origin (furthermore, any discrimination, including on ethnic grounds is expressly prohibited by law). The question of who is entitled or not entitled to welfare benefits is determined by the relevant services on the basis of a means test. Every single decision of these services must be (and is) in written form and clearly motivated. If a claimant is not satisfied with a decision, he/she is entitled to appeal it before the regional welfare office. Consequently, this allegation of ECRI is also erroneous.

With respect to paragraph 90 of the Report:

This sweeping statement is obviously inaccurate. There is **no** evidence that the problems facing the members of the Roma community “are a source of growing tension between them and the authorities and the majority population”, as alleged by ECRI. Neither is there any evidence that “when the inhabitants of Roma districts demonstrate in support of their rights”, such demonstrations “lead to open, sometimes violent conflict” with the “majority” population.

The very few cases of momentary tension (but by no means “violent conflict”) were essentially much more a socio-economic, rather than an ethnic phenomenon and measures have been taken to address such situations (see above).

With respect to paragraph 91 of the Report:

This text is also, unfortunately, a sweeping generalization, which is inaccurate and not supported by facts. Circumstantial evidence could possibly lead to the supposition that certain stereotypes and prejudices may still exist among “the majority population” (as well as among minority groups). It may also be surmised that any surviving stereotypes and prejudices could potentially lead to isolated instances of intolerance or discrimination among private individuals in everyday life. For example, allegations concerning instances of waiters not serving clients supposedly “solely because of their ethnic origin” have occasionally been cited, by NGOs. Whether true or not, however, such allegations cannot be taken as a positive indication that “Roma are still very widely discriminated against in all areas of life”, or that “Roma are subjected to a large amount of racism and intolerance on the part of the majority population”.

It should also be underscored in this context that the authorities are determined to continue to combat any such stereotypes and prejudices, with the aid of the members of the Roma community.

In view of the above, it is obvious that the recommendations contained in paragraph 92 are only partly relevant.

With respect to paragraph 93 of the Report:

The allegations that certain Roma with the required education are refused jobs “solely because of their ethnic origin” is inaccurate. It would be further recalled that the existing provisions in Bulgaria’s labour legislation, expressly prohibiting discrimination on the basis of ethnic self-identification or religion, are rigorously enforced and non-compliance with these provisions is subject to punitive sanctions.

With respect to paragraph 96 of the Report:

*It is reiterated that there had never been a policy of “school segregation” in Bulgaria (see comment concerning the tenth sentence of the **Third** paragraph of the Executive Summary);*

With respect to paragraphs 97 and 99 of the Report:

Special measures by the Government aimed at the full integration of Roma children in the schools have been implemented (see comment concerning paragraph 89 above). Consequently, the statement contained in paragraph 99 is inaccurate;

In view of the above, it is obvious that the recommendations contained in paragraphs 100 and 101 are also only partly relevant.

With respect to paragraph 105 of the Report:

In the light of the relevant information provided above, it is evident that the conclusions contained in this paragraph are inaccurate and in contradiction with the facts.

With respect to paragraph 108 of the Report:

One of the latest and most important occasions when the Bulgarian authorities took “a clear stand, asserting their political resolve to implement the Framework programme” was the participation, in person, of the Prime Minister of the Republic of Bulgaria Simeon Saxe-Coburg Gotha in the international conference “Roma in an Expanding Europe - Challenges for the Future” (Budapest, 30 June - 1 July 2003), where he reiterated the full commitment of the Bulgarian authorities to resolving the problems of the Roma community in Bulgaria.

