

ECRI REPORT ON BULGARIA

(sixth monitoring cycle)



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FOREWORD

The European Commission against Racism and Intolerance (ECRI), established by the Council of Europe, is an independent human rights monitoring body specialised in questions relating to the fight against racism, discrimination (on grounds of “race”, ethnic/national origin, colour, citizenship, religion, language, sexual orientation and gender identity), xenophobia, antisemitism and intolerance. It is composed of independent and impartial members appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

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

ECRI's country monitoring deals with all member States on an equal footing. The work takes place in 5-year cycles. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, those of the third round at the end of 2007, those of the fourth round in the beginning of 2014, and those of the fifth round at the end of 2019. Work on the sixth round reports started at the end of 2018.

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

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

The sixth round country reports focus on three topics common to all member states: (1) Effective equality and access to rights, (2) Hate speech and hate-motivated violence, and (3) Integration and inclusion, as well as a number of topics specific to each one of them.

In the framework of the sixth cycle, priority implementation is requested again for two specific recommendations chosen from those made in the report. A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

The following report was drawn up by ECRI under its own responsibility. Unless otherwise indicated, it covers the situation up to 30 March 2022; as a rule, developments since that date are neither covered in the following analysis nor taken into account in the conclusions and proposals therein.

SUMMARY

Since the adoption of ECRI's fifth report on Bulgaria on 19 June 2014 progress has been made in a number of areas.

Bulgaria's national equality body, the Commission for the Protection against Discrimination (CPD), received funding to set up four additional local offices, bringing the total number to 24.

In the field of inclusive education, ECRI is pleased to note that at the end of 2019, a grant of BGN 7 million (approximately € 3.5 million) was awarded for increasing the capacity of pedagogical specialists to work in multicultural environments.

In 2020, for the first time, a Sofia-city ban of the Lukov March – an ultra-nationalist and neo-Nazi youth torch-bearing procession to glorify the legacy of a Bulgarian pro-Nazi politician – was upheld by the Supreme Administrative Court and the march subsequently cancelled.

The authorities have taken important steps to prevent and combat antisemitism in all its forms. Bulgaria became a full member of the International Holocaust Remembrance Alliance (IHRA), adopted the IHRA working definition of antisemitism, appointed a national coordinator on combating antisemitism, established a working group and initiated the development of an action plan.

Since 2019, the Ministry of Interior has worked with an LGBTI NGO on training investigative police officers on recognising anti-LGBTI hate crimes. A similar cooperation activity includes work with the National Police Academy on a new course covering this topic.

Regarding the integration and inclusion of Roma, the authorities introduced in 2016 Bulgarian language classes in preschools of a duration of up to 100 hours for children whose mother tongue is not Bulgarian. The vast majority of the beneficiaries are Roma. The public Employment Agency provided a number of services to promote the socio-economic integration of disadvantaged groups in the labour market. In 2020, nearly 30 000 Roma participated in these activities.

The work of the Roma mediators in the areas of education, employment and health has been very positive, also and especially during the Covid-19 pandemic when providing information and overcoming existing misunderstandings or mistrust was of crucial importance.

As concerns refugees and beneficiaries of subsidiary protection, ECRI notes that they can apply for family reunification, for which there are no specific conditions as regards income and housing, from the moment they receive protection status. ECRI also commends the authorities for their efforts in offering protection and support to the many Ukrainians who have sought refuge in Bulgaria.

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

While since 2014 there has been a mechanism for countering violence in schools, there is no specific system in place to monitor and counter racist and anti-LGBTI incidents in schools.

ECRI notes that there is still no official data on the LGBTI population in Bulgaria. Furthermore, in spite of ECRI's recommendation in its last report, the authorities have not carried out any study or research into the situation of this group. Also, the authorities did not develop legislation on gender reassignment and gender recognition as recommended by ECRI.

LGBTI persons, as well as Roma, are the main victims of public expressions of hatred and prejudice. In both cases, hate speech against these groups also came in recent years from high-level politicians. The positive steps taken to counter antisemitism have unfortunately not been applied to these types of hatred as well. The LGBTI community centre "Rainbow Hub" in Sofia was attacked several times in recent years.

In at least two cases, Roma have become victims of local mob protests and threats, also leading to attacks against and demolition of Roma houses.

In this report, ECRI calls on the Bulgarian authorities to take additional measures in a number of areas and makes a series of recommendations, including the following.

ECRI recommends that the authorities set up a system to monitor and counter racist and anti-LGBTI incidents in schools.

ECRI reiterates its recommendation that the authorities develop legislation on gender reassignment (change of a person's sex) and recognition in line with international human rights standards.

ECRI recommends that the authorities set up an LGBTI working group, which should include relevant organisations from the LGBTI community, to carry out research into existing forms of discrimination against LGBTI persons with a view to developing a national strategy and action plan to combat intolerance and discrimination against LGBTI persons.*

ECRI recommends that the authorities build on the positive actions they have taken to prevent and combat antisemitism in order to take similar measures also with regard to other groups that are vulnerable to hate speech.

ECRI strongly recommends that the authorities take all necessary measures to prevent threats and violence against Roma by groups of local residents.

ECRI recommends that the authorities ensure that no de facto segregation of Roma children takes place in kindergartens and schools.

ECRI recommends that the authorities protect Roma housing from demolitions that are not in line with relevant safeguards (such as a sufficient notice period, the possibility of legal remedies, and the provision of alternative accommodation) provided for by relevant international texts.

ECRI recommends that the authorities increase the number and scale up the successful work of Roma mediators in the areas of health, education and employment.*

ECRI recommends that the authorities scale up and expand the integration measures for refugees and beneficiaries of subsidiary protection (especially Bulgarian-language training for adults as well as skills-building and employment support) in order to reach more beneficiaries, either through the re-establishment of national integration programmes or the adequate funding and comprehensive roll-out of local-level activities.

* This recommendation will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

FINDINGS AND RECOMMENDATIONS

I. EFFECTIVE EQUALITY AND ACCESS TO RIGHTS

A. Equality bodies

1. The Commission for the Protection against Discrimination (CPD) was set up in 2005 and is, according to Article 40 of the Anti-Discrimination Act, the country's independent specialised state body for prevention of discrimination, protection against discrimination and ensuring equal opportunities. According to Article 41 of the Act, five members of the Commission are appointed by Parliament and four of them by the President of the Republic. In its previous report, ECRI recommended that a provision be inserted into the Anti-Discrimination Act expressly prohibiting members of the CPD from receiving any instructions.¹ To ECRI's knowledge such a provision has not yet been inserted into the Act. While, just as during the previous visit, ECRI did not receive any specific information that the absence of such a provision causes concrete problems, it reiterates the point made in 2014 and strongly encourages the authorities to include such a provision into the Anti-Discrimination Act.
2. ECRI also recommended in its previous report that the authorities provide adequate support to the CPD in order to set up local offices in all 28 districts of Bulgaria. ECRI has been informed that four additional local offices have been opened since, bringing the total number now to 24. ECRI commends the authorities for this progress, but also notes that the number still falls short of the recommended 28 local offices. Therefore, ECRI strongly encourages the authorities to support the CPD with additional resources to open four more local offices.
3. Furthermore, ECRI has learned that the absence of functional immunity for the CPD creates practical problems for the Commission's work as its members can be – and have been – brought to court over decisions taken by those who were found to have engaged in acts of discrimination. ECRI notes, as a positive example, that the Ombudsman already benefits from functional immunity.
4. ECRI recommends that the Bulgarian authorities amend the Anti-Discrimination Act (2005) with a view to granting functional immunity to members of the Commission for the Protection of Discrimination in line with § 24 of ECRI's General Policy Recommendation No. 2 (revised) on Equality Bodies to combat racism and intolerance at national level.

B. Inclusive Education

5. This part of the report deals with policies aimed at combating exclusion and marginalisation through inclusive education and fostering a society that is respectful of diversity and tolerant (sections II and III of ECRI's GPR No. 10 on combating racism and racial discrimination in and through school education). The specific measures for helping children belonging to minority groups are dealt with below in sections III and IV of this report.
6. Bulgaria's education laws and policies specifically provide for human rights education as an integral part of the curriculum, for example at the lower secondary school level where human rights are an independent area of competence according to the relevant Ordinance on civic, health, environmental and intercultural education. At high school level, human rights are an independent topic in the curricula for philosophy (X grade) and civic education (XI grade). Human rights also feature in a number of other subjects in the field of social sciences and humanities, such as history, geography and economics, Bulgarian language and literature, and foreign languages.

¹ ECRI (2014): §§ 28-29 and ECRI GPR No. 2 (revised) on equality bodies, section VIII, § 22.

7. As concerns the continuous professional training and development of teachers, ECRI is pleased to note that in 2019 the Ministry of Education and Science organised, under the National Qualification Programme, vocational training for pedagogical staff to improve their knowledge and teaching skills in the areas of, inter alia, pan-European values and civic education. Furthermore, at the end of 2019, a grant of BGN 7 million (approximately € 3.5 million) was awarded for increasing the capacity of pedagogical specialists to work in multicultural environments. The objective of the activities is to extend the professional competences of teachers, school principals and other pedagogical specialists to work in multicultural settings and to better enable children to recognise and respect ethno-cultural differences. The activities aim at reaching around 5 000 pedagogical staff from state and municipal schools and kindergartens, as well as educational mediators. ECRI strongly encourages the authorities to implement the planned activities, even though they have been severely delayed due to the Covid-19 health crisis, and to evaluate the results with a view to improving them, if necessary, and scaling up this type of work.
8. ECRI was informed by the Bulgarian authorities that while since 2014, there has been a mechanism for countering violence in schools, there is no specific system in place to monitor and counter racist and anti-LGBTI incidents in schools. Being aware of the pernicious effects of *hate-motivated* bullying, where it exists, and the potential harm to victims as well as their families and broader communities, ECRI considers that a robust mechanism to monitor and counter such incidents could be a very useful contribution to preventing hatred and, building also on the above-described training activities, provide helpful information and guidance to pedagogical staff.²
9. ECRI recommends that the Bulgarian authorities set up a system to monitor and counter racist and anti-LGBTI incidents in schools.

C. Irregularly present migrants

10. There are no official figures or estimates of the total number of irregularly present migrants in Bulgaria. It is generally estimated that the vast majority of migrants entering Bulgaria irregularly do not intend to stay in the country, and therefore do not apply for asylum in Bulgaria, but pass through it on their way to Central and Western Europe. While the Bulgarian authorities have policies and structures for dealing with asylum seekers, including reception centres (see section III.B), there are no specific measures in place for irregular migrants.
11. Nevertheless, the Bulgarian authorities informed ECRI that, for example, a lack of regular residence status would not be an obstacle for a person to access emergency medical treatment in hospital. Similarly, children at the age of compulsory schooling would not be turned away from enrolment in a school merely due to lack of residence status. ECRI was informed by the authorities that they do not have plans for designing any particular strategy or programme for irregular migrants, but that emergency assistance would be provided to any person present in the country regardless of his/her residence status.
12. While ECRI has not received any indication, either from civil society organisations or other interlocutors, that there is a specific need in this area at the moment, it encourages the authorities to assess the situation with regard to irregularly present migrants on an ongoing basis and, if and when necessary, to refer to ECRI's General Policy Recommendation No. 16 on safeguarding irregularly present migrants from discrimination for guidance.

² See also ECRI's General Policy Recommendation No. 10 (2006) on combating racism and racial discrimination in and through school education: II.1.b.

D. LGBTI equality

13. ECRI notes that there is no official data on the LGBTI population in Bulgaria.³ Recommendation CM/Rec(2010)5 of the Council of Europe's Committee of Ministers on measures to combat discrimination on grounds of sexual orientation or gender identity indicates that personal data referring to a person's sexual orientation or gender identity can be collected when this is necessary for the performance of a specific, lawful and legitimate purpose. Without such information there can be no solid basis for developing and implementing policies to address intolerance and discrimination against LGBTI persons.
14. Furthermore, in spite of ECRI's recommendation in its previous report,⁴ the Bulgarian authorities informed ECRI that they have not carried out any study or research into the situation of LGBTI persons and related problems of discrimination and intolerance that the latter might experience. In this respect, the authorities referred to some work done by NGOs, and in particular LGBTI advocacy groups themselves, but also mentioned that these activities – with one exception⁵ – had not received any form of government support.
15. ECRI was informed by NGOs that they identified more than 200 legal aspects in which LGBTI persons could be considered as being discriminated against. According to these organisations, the identified legal problems concern especially areas of day-to-day life, such as family law (there is no legal possibility to register same-sex partnerships in Bulgaria⁶), property and contractual law, inheritance rules, as well as health-related issues.
16. In its last report, ECRI also recommended that the authorities develop legislation on gender reassignment and gender recognition ensuring that it is in line with international human rights standards and expertise.⁷ As already mentioned by ECRI previously, there is no specific legislation regulating gender reassignment for transsexual or intersex persons. Article 76 of the Civil Registration Act stipulates that a person's sex and name can only be changed following court proceedings, but no procedures and criteria for allowing or refusing an application are defined.⁸ In this context, ECRI notes that the European Court of Human Rights in its 2020 judgment in the case of *Y.T. v. Bulgaria* found that Bulgarian courts breached the right to respect for private life (Article 8 ECHR) when they dismissed, without providing sufficient reason, the applicant's request for gender reassignment. ECRI also notes that on 26 October 2021 the Bulgarian Constitutional Court issued a binding interpretative decision in which it found that the Bulgarian Constitution only recognises a binary biological sex (female/male) and not a socially or psychologically constructed *gender* and/or a non-binary gender identity. This decision confirmed an earlier ruling of the Bulgarian Constitutional Court from 2018 in the context of discussions over whether the country's ratification of the Council of Europe's Convention on Preventing and Combating Violence against Women and Domestic Violence (also known as the *Istanbul Convention*) would violate the Constitution. While the Court's decision at the time meant that Bulgaria could not ratify the Istanbul Convention, ECRI notes that neither the 2018 nor the 2021

³ See also ECRI's last report on Bulgaria (2014): §111-115.

⁴ ECRI (2014): § 115.

⁵ The authorities informed ECRI that they supported the study entitled "Bulgarian Criminal Law and LGB persons" carried out by the NGO "Deystvie" in 2020 through the project "Elaboration of instruments for civil participation in process of legislation formulation, implementation and monitoring of anti-discriminatory policies in Bulgaria", co-financed by the EU through the European Social Fund.

⁶ In this context, see Recommendation CM/Rec(2010)5: § 25, which calls on the governments of Council of Europe member states in which national legislation does not recognise registered same-sex partnerships to provide same-sex couples with legal or other means to address the practical problems related to the social reality in which they live.

⁷ ECRI (2014): § 120.

⁸ Judgement of the European Court of Human Rights in the case of *Y.T. v. Bulgaria* of 9 July 2020 (application no. 41701/16). See in particular §§ 11, 18 and 65-74.

decision precludes gender reassignment (change of a person's sex⁹) and should not pose an obstacle to developing and adopting relevant legislation on gender reassignment and recognition in order to provide legal certainty for the persons concerned.

17. ECRI reiterates its recommendation that the authorities develop legislation on gender reassignment (change of a person's sex) and its recognition ensuring that it is in line with international human rights standards and expertise.
18. In its last report, ECRI recommended that the authorities draw up and adopt an action plan to combat homophobia and transphobia in all areas of everyday life, including education, employment and health care, taking inspiration from Recommendation CM/Rec(2010)5 of the Committee of Ministers of the Council of Europe on measures to combat discrimination on grounds of sexual orientation or gender identity.¹⁰ However, no such action plan has been developed and no steps have been taken so far to initiate the relevant process. ECRI reiterates the need for developing such an action plan, which should be based on a national strategy, and for taking the first step in this direction by setting up an LGBTI working group, which should include relevant organisations from the LGBTI community.
19. ECRI recommends as a matter of priority that the Bulgarian authorities set up an LGBTI working group, which should include relevant organisations from the LGBTI community, to carry out research into existing forms of discrimination against LGBTI persons with a view to developing a national strategy and action plan to combat intolerance and discrimination against LGBTI persons.
20. In this monitoring cycle, ECRI also covers the situation of intersex persons.¹¹ According to NGOs met by ECRI, intersex issues are often pathologised by healthcare professionals in Bulgaria and are frequently considered to necessitate a medical response. Most "sex-normalising" treatments/surgery take place in early childhood with the consent of the parents. There are two specialised departments in the University hospitals in Sofia and in Varna. An LGBTI-NGO established contact with the heads of these departments and held meetings to raise awareness about intersex persons and their specific needs and problems from a rights-based perspective. ECRI strongly encourages the Bulgarian authorities to support such dialogue and to take inspiration from available international guidance on the topic.¹² It also refers to the recommendation made in the preceding paragraph.

II. HATE SPEECH AND HATE-MOTIVATED VIOLENCE

A. Hate speech¹³

21. ECRI received information from various NGOs indicating that hate speech is widespread in Bulgaria, confirming the concerns of the Council of Europe Commissioner for Human Rights,¹⁴ targeting now in particular Roma and LGBTI people. This phenomenon is particularly noticeable in political discourse, especially in the run-up to local or national elections, of which several were held in 2021 (three parliamentary elections and one presidential election). While during the 2015

⁹ In its last report, ECRI already noted that surgery relating to a change of sex is covered under the national health insurance system. See ECRI (2014): § 121.

¹⁰ ECRI (2014): § 123.

¹¹ Persons born with chromosomal, hormonal or anatomical characteristics which do not match strict medical definitions of male or female. (EU FRA 2015: 2.)

¹² See for example: Council of Europe Commissioner for Human Rights, Human rights and intersex people (2015).

¹³ According to ECRI's GPR No. 15 on combating Hate Speech, "hate speech" shall mean the advocacy, promotion or incitement, in any form, of the denigration, hatred or vilification of a person or group of persons, as well as any harassment, insult, negative stereotyping, stigmatization or threat in respect of such a person or group of persons and the justification of all the preceding types of expression, on the ground of "race", colour, descent, national or ethnic origin, age, disability, language, religion or belief, sex, gender, gender identity, sexual orientation and other personal characteristics or status.

migration crisis¹⁵ hate speech was mostly directed against migrants, in particular Muslims, this appears to have shifted back in recent years mainly towards members of the Roma and LGBTI communities.

22. An example of anti-Roma hate speech at high political level occurred in the aftermath of a conflict between Roma and non-Roma individuals in Vojvodinovo in January 2019 and the ensuing anti-Roma protests and evictions (see also section III.A below). One of the then Deputy Prime Ministers, instead of calming the situation and preventing or countering expressions of racism, publicly called “Gypsies in Bulgaria [...] exceptionally insolent”, declared that the “tolerance of Bulgarian society has run out” and called for a “solution to the Gypsy problem”.¹⁶ Roma have also been scapegoated and targeted by hate speech in the context of the Covid-19 pandemic (see also section IV.A below). In Bulgaria, politicians and some media have referred to Roma people as a threat to public health and requested special measures targeting them on this basis.¹⁷ A Bulgarian member of the European Parliament publicly called for Roma neighbourhoods to be closed during the pandemic, because in his view “Gypsies have a very low health culture [and] have no personal hygiene”. In addition to such generalising prejudice, he also characterised organisations which defended Roma as “anti-Bulgarian traitors”.¹⁸ Furthermore, the European Court of Human Rights in its 2021 judgment in the case of *Budinova and Chaprazov v. Bulgaria* found that the anti-Roma statements made by a Bulgarian politician were a violation of Article 8 (right to private and family life) in conjunction with Article 14 (prohibition of discrimination) of the European Convention on Human Rights.¹⁹
23. Anti-LGBTI statements have also become a common occurrence in Bulgarian political discourse and members of this community are frequently portrayed as posing a threat to the country’s tradition and to national identity. Some candidates standing for the 2019 local elections reportedly ran campaigns advancing an anti-LGBTI agenda including a ban on the Sofia Pride Parade.²⁰ The increase in recent years of hostile manifestations against LGBTI persons²¹ also became visible during the “Balkan Pride” photo exhibition which was part of the “Together” programme for tolerance in the city of Plovdiv as European Capital of Culture 2019: the event was marred by hate speech on the part of some politicians.
24. A Bulgarian LGBTI NGO informed ECRI about a survey it held in 2019 on the experience of LGBTI people of online hate speech and hate crimes.²² Out of 250 respondents, 73% had experienced hate speech and/or hate crime in the preceding five years including: insults, blackmail, threats of being outed, threats to destroy property, threats of violence against persons or even death threats. Of the victims, 34% did not report the incidents; 24% reported them to the relevant social media companies and only 3% reported cases to the police. The main reasons for not reporting cases were that victims did not want to disclose their sexual orientation/gender identity and that such incidents occur already too often anyway.

¹⁵ For a definition of this terminology see ECRI’s Annual Report 2015.

¹⁶ European Roma Rights Centre (ERRC) (16 April 2019), Bulgarian Government Set for Sweeping Victory in EU Elections after Anti-Roma Violence.

¹⁷ Commissioner for Human Rights of the Council of Europe (7 April 2020), Statement, Governments must ensure equal protection and care for Roma and Travellers during the COVID-19 crisis.

¹⁸ European Roma Rights Centre (4 May 2020), Anti-Roma hate speech by MEP Angel Dzhambazki.

¹⁹ Judgement of the European Court of Human Rights in the case of *Budinova and Chaprazov v. Bulgaria* of 16 February 2021 (application no. 12567/13).

²⁰ CommDH(2020)8: § 9, footnote 7; ILGA Europe, Annual review of the human rights situation of lesbian, gay, bisexual, trans and intersex people in Bulgaria covering the period of January to December 2019.

Respondents who reported cases were often dissatisfied with the responses they received.

25. Hate speech against Muslims had increased in particular as a result of the 2015 migration crisis and public discourses referring to Muslims in negative terms were commonplace in politics, the media, and the Internet. The Office of the Grand Mufti reported that the Bulgarian Muslim community was the target of several incidents of hate speech by politicians in the context of public debates about a number of legislative proposals on religious issues. These concerned the law prohibiting the wearing of face-covering clothing in public spaces (adopted in September 2016), the reform of the Act on Religious Denominations (adopted in December 2018), and a bill proposing to add the notion of "radical Islam" to the Criminal Code (proposed in 2015, not adopted).²³ With the strong decline in the number of migrants arriving in Bulgaria, anti-Muslim hate speech also declined and the focus of intolerant political discourse shifted back towards Roma and LGBTI persons. ECRI was also informed that there are now relatively few incidents of hate speech against the historical (mainly Muslim) Turkish minority in Bulgaria.
26. Although the levels of public expressions of antisemitism in Bulgaria are still relatively low, the country is not exempt from the rising trend of anti-Jewish hatred observed in many member states of the Council of Europe. The authorities informed ECRI about antisemitic statements made by some politicians, officials and other public figures in the last few years. Antisemitic rhetoric continues to appear on social networks and in some media, especially online. Several incidents of vandalism of Jewish graves and monuments, as well as displaying Nazi symbols or selling souvenirs with Nazi insignia in tourist areas have been reported around the country. Antisemitic incidents in football have also been noted in Bulgaria, with some extremist fans uttering racist chants and making Nazi salutes during matches.²⁴
27. Since 2003, the Lukov March – an ultra-nationalist and neo-Nazi youth torch-bearing procession to glorify the legacy of a Bulgarian pro-Nazi politician – has been held annually in Sofia. The Bulgarian authorities informed ECRI that while the sub-text of the march is clear, and its pro-Nazi character is underlined by the participation of known neo-Nazi groups from elsewhere in Europe, the march is usually held in silence and organisers are careful to warn participants not to display Nazi or antisemitic symbols. In 2017 and subsequent years, the rally had been initially banned by an order of the Mayor of Sofia, for the ban then to be overturned by a court on the grounds of the constitutional right to peaceful assembly. In February 2020, a decision by the Supreme Administrative Court upholding the ban by the mayor resulted in the torchlight procession being cancelled for the first time in the last 17 years. The event was limited to a short flower-laying ceremony at Lukov's former home with less than 100 supporters in attendance.
28. Jehovah's Witnesses informed ECRI that the overall situation regarding hateful expressions against them in Bulgaria has improved somewhat since 2014. Nevertheless, members of this religious group still experience hate speech including as a result of political campaigns both at national and local level. Stirring up hatred against them is part of a broader nationalistic intolerance directed against "the other" and against minorities perceived to be alien or dangerous to the nation's cohesion. Suggestions made by ultra-nationalist parties to ban Jehovah's Witnesses further fuelled already existing resentments and, in some cases, stimulated local politicians to take actions that publicly exhibit intolerance. In the city of Shumen for example, the municipal ordinances (Article 5.6) prohibit "non-traditional religions" from proselytising at the homes of residents. It appears that

²³ ACFC (2020): § 62.

²⁴ CommDH(2020)8: § 8, footnote 4, The Sofia Globe (29 October 2019), UEFA penalises Bulgarian Football Union over racist behaviour at Bulgaria-England Euro 2020 match.

58. While ECRI commends the Bulgarian authorities for the steps taken to combat hate crime and hate-motivated violence, it was informed by many civil society organisations about a wide-spread unwillingness amongst victims of racist and anti-LGBTI violence to report cases to the police due to a lack of trust in the law enforcement authorities. In this respect, ECRI notes the absence in the police of dedicated hate crime officers or hate crime units which can serve as a permanent link to the communities most affected by hate-motivated violence.
59. ECRI recommends that the authorities establish within the police dedicated hate-crime units to work closely with the communities most affected by hate-motivated violence.
60. ECRI is pleased to note that the at times violent border vigilante groups that existed in 2016 and 2017 have ceased to be active. However, ECRI also expresses its concern that these groups were at some point receiving what could be considered as encouragement from politicians and officials. Furthermore, no case of anti-immigrant violence led to a conviction in the criminal courts, as only one person was put on trial and the initial conviction was subsequently overturned. ECRI strongly encourages the authorities to ensure proper accountability for any such action in the future.

III. INTEGRATION AND INCLUSION

A. Roma

Data and policies

61. Bulgaria has various national minorities. In this respect, ECRI refers to the Advisory Committee on the Framework Convention for the Protection of National Minorities (FCNM) and its work.⁴⁰ The Advisory Committee also covers issues related to the expression of a separate identity, such as mother-tongue education, which are not covered by ECRI. Furthermore, analysing the situation from an integration and inclusion perspective, ECRI does not aim at covering all minority groups in this section, but limits itself to the most socially marginalised one, namely Roma.
62. There is an estimated average of 750 000 Roma persons living in Bulgaria, approximately 9.94% of the population.⁴¹ In its last report, ECRI recommended⁴² that the authorities allocate adequate funding to the National Roma Integration Strategy (2012-2020) for it to be effective and find solutions, in close cooperation with all the communities involved, in order for the National Council for Cooperation on Ethnic and Integration Issues (NCEII) to function efficiently. The NCEII, which functions as an advisory and coordinating body assisting the government in its policy regarding national, ethnic and religious minorities, is chaired by a Deputy Prime Minister and includes senior officials from all ministries and organisations representing national minorities. The NCEII coordinates and monitors the implementation of the National Roma Integration Strategy (2012-2020) and the new National Strategy for Equality, Inclusion and Participation of the Roma (2021-2030)⁴³ and the action plans for the strategies' implementation. In the past, NGOs did not always see the NCEII as effective and groups representing Roma and the Turkish minority have distanced themselves from it at some point. The appointment as chair of the NCEII of a Deputy Prime Minister belonging to an ultra-nationalist party, in 2017-2018, has notably led to the collapse of the NCEII's co-operation with Roma NGOs.⁴⁴ However, this situation seems to have improved again since

⁴⁰ See: Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC), Fourth Opinion on Bulgaria, 2020.

⁴¹ Council of Europe, Roma and Travellers (2012), Estimates on Roma population in European countries.

⁴² ECRI (2014): § 79.

⁴³ Adopted by the Council of Ministers on 5 May 2022 (Decision No. 278): <https://nccedi.government.bg/en/node/451>

⁴⁴ CommDH(2020)8: § 28.

and ECRI, highlighting its previous recommendation, strongly encourages the authorities to ensure close cooperation and efficient functioning of this mechanism to ensure the implementation of the National Strategy for Equality, Inclusion and Participation of the Roma (2021-2030).

63. The new strategy focuses on the priority areas of education, employment, housing and health, with equality, inclusion and participation being cross-cutting issues. Furthermore, a new emphasis is placed on Roma women which is also reflected in the creation of advisory boards with Roma women and youth. Local level (municipal) Roma integration plans feed into regional ones, which in turn form the basis for the national plan. A common problem, however, is that local authorities do not always receive the necessary resources for what they could do, even when there is the political will among municipal politicians, as seen by ECRI in the city of Plovdiv.

Education

64. According to a UNICEF 2017 report, 45% of Roma children do not attend pre-school education or kindergarten, and 15% do not go to school.⁴⁵ Reports continue to refer to de facto segregation in education for Roma pupils because many Roma live in de facto segregated areas and Roma children mainly study in schools located in such residential areas. These schools are attended mostly by Roma pupils and are often sub-standard.⁴⁶ In this context, ECRI notes that the municipal authorities in Plovdiv attempted, from 2017 until 2021, a de-segregation project that consisted of bussing Roma children from Roma neighbourhoods to three schools in other areas. However, the authorities noted that while a small number of Roma children could be integrated reasonably well into their new schools, this changed when the numbers grew. The municipal experts admit that eventually the attempt failed as a counter-reaction became visible: non-Roma children were moved out of the schools by their parents. The project experience will now be analysed and assessed jointly by the local authorities and the Bulgarian Academy of Sciences which had accompanied the project. ECRI strongly encourages the national authorities to support the analysis as well as future steps local authorities will take to address this problem.
65. Since 1 August 2016, according to the Pre-School and School Education Act, kindergartens and schools may not segregate children of different ethnicities into separate groups or classes.⁴⁷ However, ECRI has heard about such a complaint in Plovdiv. Current data on de facto segregation in schools is generally lacking, but in a 2014 study, the EU's Fundamental Rights Agency had found that, in Bulgaria, the percentage of Roma children up to the age of 15 reported as having attended a special school or class mainly for Roma was 14%.⁴⁸
66. ECRI recommends that the authorities ensure that no de facto segregation of Roma children takes place in kindergartens or schools.
67. Only an estimated 9% of Roma have secondary education and just 0.5% a university degree, according to the 2011 Census. With regard to the latter figure, some progress has been reported: a 2019 survey indicated the share of Roma with tertiary education to be 2.6%.⁴⁹ Although there are no official statistics per ethnicity, many teachers and experts share the opinion that in secondary schools with a majority of Roma students the dropout rate and irregular attendance are higher.

⁴⁵ UNICEF (2017), Situation of women and children in Bulgaria: 10.

⁴⁶ ENLE (2019): 40.

⁴⁷ ENLE (2019): 40.

⁴⁸ EU FRA (2016a), Education: The situation of Roma in 11 EU Member States: 48.

⁴⁹ Angelova, R., Dimitrova, M., et al. (2021), Education and success of the Roma community: Main conclusions from a nationally representative survey of the Roma community in Bulgaria.

protection and some 10 000 Bulgarians. The related national campaign included television programmes, regional roundtables, information materials and a conference at national level. Local authorities, in particular the city of Sofia also participated with a variety of activities.

101. In its fifth report, ECRI recommended that the Commission for Protection against Discrimination (CPD) produces and publishes information about discrimination, and explaining the procedures for discrimination complaints, in a variety of languages used in the country and disseminates it widely. In its 2017 conclusions, ECRI found that this recommendation had been partially implemented and commended in particular the website of the CPD to which a tool had been added to produce translations of relevant information about the CPD procedures into a large number of languages. At the time, ECRI regretted that complaints to the CPD had to be transmitted in Bulgarian or at least with a Bulgarian translation if the original was drawn up in a different language. The authorities refer in this regard to Article 3 of the Constitution of the Republic of Bulgaria which stipulates that Bulgarian shall be the official language of the state. However, ECRI also notes that the Advisory Committee on the Framework Convention for the Protection of National Minorities (FCNM) referred to the possibility, in the case of persons who have no command of the Bulgarian language, that their complaint would be translated. Nevertheless, the Advisory Committee regretted that no provisions were made at least for persons belonging to the two largest ethnic minorities in the country to address the CPD in their first language, namely Romani and Turkish. ECRI concurs with the view of the Advisory Committee that this could lower the threshold for individuals to file complaints and be a valuable symbolic gesture towards these groups.⁶³ It therefore strongly encourages the Bulgarian authorities to consider this possibility, also taking into consideration Article 53(2) of the Anti-Discrimination Act.

⁶³ ACFC (2020): § 41.

INTERIM FOLLOW-UP RECOMMENDATIONS

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

- (§ 19) ECRI recommends that the Bulgarian authorities set up an LGBTI working group, which should include relevant organisations from the LGBTI community, to carry out research into existing forms of discrimination against LGBTI persons with a view to developing a national strategy and action plan to combat intolerance and discrimination against LGBTI persons.
- (§ 82) ECRI recommends that the authorities increase the number and scale up the successful work of Roma mediators in the areas of health, education and employment.

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

13. (§85) ECRI recommends that the authorities scale up and improve their measures for Roma integration by, inter alia, collecting comprehensive and gender(sex)-disaggregated Roma-specific data in the areas of education, employment, housing and health. The data collection should respect the principles of informed consent, self-identification, confidentiality and exclusive use for the promotion of Roma equality. The authorities should also provide increased support, including financial resources, and capacity building on Roma integration to municipalities, including with the aim of harmonising standards across the country. When implementing this recommendation, the authorities should draw inspiration from ECRI's General Policy Recommendation No. 13 on combating antigypsyism and discrimination against Roma.
14. (§94) ECRI recommends that the authorities scale up and expand their integration measures for refugees and beneficiaries of subsidiary protection (especially Bulgarian-language training for adults as well as skills-building and employment support) in order to reach more beneficiaries, either through the re-establishment of national integration programmes or the adequate funding and comprehensive roll-out of local-level activities.
15. (§99) ECRI recommends that the Bulgarian authorities take the heightened vulnerabilities, as a result of the Covid-19 pandemic, of many Roma in the areas of education and employment into consideration in the future implementation of the National Strategy for Equality, Inclusion and Participation of the Roma (2021-2030), but also when designing socio-economic recovery programmes for persons affected by the pandemic. Furthermore, the authorities should make the best possible use of Roma health mediators in terms of overcoming any existing misunderstandings or mistrust resulting from measures taken during the pandemic.

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APPENDIX: GOVERNMENT'S VIEWPOINT

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

ECRI, in accordance with its country-by-country procedure, engaged into confidential dialogue with the authorities of Bulgaria on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which, in line with ECRI's standard practice and unless otherwise indicated, could only take into account developments up until 30 March 2022, date of the examination of the first draft).

The authorities also requested that the following viewpoint be reproduced as an appendix to the report.

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