



DEMOLITION OF ROMA HOMES IN BULGARIA

**THE URGENT NEED FOR HOUSING AND ANTI-ROMA
PREJUDICE STRATEGIES**



EQUAL
OPPORTUNITIES
INITIATIVE
ASSOCIATION

OPEN SOCIETY
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Cover photo: A resident watches as her home and others are razed in a Roma neighborhood in Sofia, Bulgaria, on April 20, 2018. ©Jodi Hilton/SOPA/Getty

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EXECUTIVE SUMMARY

In 2017, the Open Society European Policy Institute and the Equal Opportunities Initiatives Association found extensive evidence that Roma are disproportionately affected by housing demolition orders, which breaches domestic, EU, and international law but are nonetheless approved by Bulgarian courts.¹ More than four years later, the situation has worsened as the demolition orders between 2017 and 2020 reached nearly 3,000. The destruction of housing has continued even during the pandemic, leaving people homeless and unable to obtain the documents that would prove their right to basic services.

The government has signalled its intention to tackle the problem of evictions and demolitions of Roma housing, but has failed to take the necessary action. Most urgently, it should make it easier for Roma to obtain legal status for their homes if they are of stable construction. Parliamentarians have tabled a bill to this effect: it needs to become law.

Alarming, millions of euros from the EU funds intended to address Roma housing have been diverted to building highways. Local opposition, fuelled by anti-Roma prejudice, has made it impossible to carry out many of the original housing integration plans intended for Roma.

The Bulgarian government could address these problems in its COVID-19 national recovery plan, the upcoming Green Deal measures and its integration and housing strategies. Bulgaria will further benefit if it creates a new national strategy to tackle the anti-Roma prejudice that continues to encourage demolitions and prevents fundraising projects for Roma from being built.

1 Memorandum to the European Commission: Violations of EU Law and Fundamental Rights by Bulgaria's Discriminatory Treatment of Roma in the Area of Housing. Open Society European Policy Institute, February 2017. (<https://www.opensocietyfoundations.org/uploads/20dae17f-c7c4-4e4e-8618-342d2907cb6b/bulgaria-roma-infringement-memo-20170214.pdf>)

POLITICAL CONTEXT

In recent years the political climate in Bulgaria has become noticeably more hostile toward Roma, particularly since nationalist parties joined the government in 2017. Hate speech aimed at Roma has become common. In 2019, the deputy prime minister, Krassimir Karakachanov, called for the demolition of Roma homes in the village of Voyvodino, blaming them for criminal behaviour. Protests, unrest and the demolition of several Roma homes followed, despite the fact that the occupants lived in the village permanently, had formal jobs, and had children at school there. Several court decisions confirmed the anti-Roma political climate², including remarks by the prosecutor general to the effect that Roma witnesses were unreliable.

However, far-right parties were voted out at the last election³, and in an unprecedented decision, Bulgaria's Supreme Administrative Court on 9 June 2021 found Karakachanov guilty of anti-Roma discrimination during the Voyvodino incident. He may be fined.⁴ Bulgaria has the opportunity to improve the climate for Roma.

IMPACT OF COVID-19

Lockdown measures were imposed in late March, with very little public scrutiny. They gave the Minister of Health unprecedented powers to curb the movement of people, which were frequently changed at an hour or two's notice, not updated online, and announced at impromptu government briefings. This led to confusion.

Several of the measures disproportionately affected Roma. Roma neighbourhoods were closed off, making it difficult for residents to go to work, attend school, get medical care or access basic public services. People who were unable to prove they had a permanent address sometimes found it impossible to get home. The sale of certain goods in sectors where Roma traditionally trade was abruptly banned. In some instances, members of the Roma community who criticised these measures on social media were prosecuted for failing to comply with pandemic measures.⁵

2 <https://bnt.bg/bg/a/ivan-geshev-ne-se-strakhuvame-i-znaem-istinata>

3 <https://theloop.ecpr.eu/something-old-something-new-the-snap-bulgarian-elections-of-july-2021/>

4 Bulgaria's former deputy PM accused of anti-Roma discrimination, Euractiv, June 15 2021 (https://www.euractiv.com/section/politics/short_news/bulgarias-former-deputy-pm-accused-of-anti-roma-discrimination/)

5 Case No 16269/2020, Sofia District court, 131 panel

Demolition of Roma Homes in Bulgaria

The urgent need for housing and anti-Roma prejudice strategies

State support during the crisis often did not extend to Roma because it was not aimed at small businesses. Home-schooling required a good internet connection and available devices, neither of which were available to the poorest families.

Despite the pandemic, illegal house clearances continued unabated. There was no freeze on removal orders. The mayor of Stara Zagora, for example, allowed 97 demolitions to be carried out in the middle of the pandemic with the plan to continue with an additional 60 houses in the future. Many of the houses were large properties, built 30 years ago.

A National Recovery and Resilience Plan⁶ put forward in 2021, has since October 2021 been in parliamentary limbo and looks likely to be extensively rewritten. The EU's Green Deal,⁷ which could make a difference to Roma housing in terms of refurbishment, insulation and heating, has been entirely absent from the government plans concerning Roma.

“Roma neighbourhoods were closed off, making it difficult for residents to go to work, attend school, get medical care or access basic public services.”

6 <https://nextgeneration.bg/14>

7 A European Green Deal. European Commission (https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal_en)

THE HOUSING SITUATION OF ROMA IN BULGARIA

More than 10 percent of the Bulgarian population (700-800,000 people) are Roma.⁸ They live effectively segregated lives. Roma neighbourhoods have poorer schools, fewer health and social services, and higher unemployment and poverty than Bulgaria as a whole. Many neighbourhoods lack public transport, infrastructure, and basic services such as electricity, sewerage and rubbish collection. Four-fifths of Roma homes have no toilet; two-fifths rely on wells, communal pumps or fountains for water; and three-fifths have no mains sewerage.

The lack of development plans or regulation, as well as the difficulty in obtaining building permits, means that illegal construction is common but is only deemed illegal once it is finished. Under a law passed in 2014,⁹ illegal buildings cannot officially be

connected to mains electricity, water or sewerage. In turn, this means the occupants cannot obtain ID cards. Without a utility bill, a deed of ownership or a tenancy agreement, it is impossible to obtain a permanent address registration certificate. Since 2012, the latter has been required in order to issue the ID card on which access to basic rights and services depends. A request made under the Public Information Act revealed that 123,749 Bulgarian citizens do not have valid ID cards, of whom the overwhelming majority are Roma. This number will increase in 2022, as the cards are valid for ten years and those whose cards were issued under the previous requirements will find it impossible to renew them. Young people over 14 whose parents lack a registration certificate are also denied identification cards.

8 An EU Framework for National Roma Integration Strategies up to 2020, Brussels, April 5 2011 (http://ec.europa.eu/justice/policies/discrimination/docs/com_2011_173_en.pdf)

9 Ordinance no 6 of February 24, 2014 (in Bulgarian) (https://www.dker.bg/uploads/normative_docs/naredbi/Naredba_6_27092019.pdf)

DEMOLITIONS

Demolition orders often follow anti-Roma protests and tensions. In many cases families are not notified of the intended date of demolition, leaving Roma with no opportunity to save their furniture or belongings. Usually no alternative shelter is offered, even for children, the elderly or people with disabilities. Rarely, local authorities provide temporary shelter, but families subsequently become homeless.

In total, 2,857 homes have been destroyed since 2017, almost all of them Roma-owned.¹⁰ In 2017, 567 houses were demolished. The number has since risen every year, to 657 in 2018, 671 in 2019 and 962 demolitions in 2020¹¹. Research carried out by the

“In total, 2,857 homes have been destroyed since 2017, almost all of them Roma-owned.”

Directorate for National Construction Control on demolition orders issued between 2010 and 2012 found that 97 percent concerned the sole residences of Roma. According to data collected since 2012 from over half of Bulgarian municipalities, almost nine in ten of the demolitions were of Roma homes.

Using COVID-19 as an excuse for demolitions

Between 2015 and 2020, at least 205 Roma homes were demolished in Stara Zagora. In August 2020, the local authority began demolishing 97 others, despite of the pandemic. Some of these buildings have two storeys and have been standing for 30 years. Sixty more are scheduled for demolition. No alternative accommodation has been provided.

¹⁰ National Statistical Institute of Bulgaria

¹¹ The data are from the National Statistics Institute

Roma driven out and their homes demolished

After three Roma men assaulted a shop worker in Gabrovo in April 2019, the owner of the shop posted a video of the attack on social media. Authorities arrested and detained the three for 24 hours before being released. The citizens in Gabrovo organised protests when the Roma men were released after the 24-hour police detention since the prosecution office did not request permanent detention. The protesters attempted to attack the police premises. The local prosecution office requested a permanent detention measure with immediate effect which was granted by the local court.¹²

Protesters also attacked and destroyed a number of Roma homes, and the police evacuated Roma, who were still in Gabrovo. Following this, the Deputy Prime Minister, Tomislav Dontchev (also former mayor of Gabrovo) was sent by the Prime Minister Borisov to calm down the situation. During a press conference in Gabrovo, he stated: “People are angry at the feeling of some groups in society that they have more rights than others, from the abuse of social payments. Therefore, measures are needed immediately after the establishment of calm on the territory of the municipality, and maybe even before that.”¹³

At the same time the Deputy Prime Minister Alexander Karakachanov (from the “United Patriots”—far right political unity) responsible for national security called a meeting with officials of the Ministry of Interior to discuss the situation in Gabrovo. Here he recalled that he proposed in 2019 a new strategy for the Roma under the title *Concept for changes within the policy for integration of the Gypsy (Roma) ethnic group in Bulgaria and measures for implementation*.¹⁴ Free abortions were part of the “measures” envisaged within this strategy, as well as the evictions of Roma who have no permanent address registration.

12 <https://www.dw.com/bg/%D0%B3%D0%B0%D0%B1%D1%80%D0%BE%D0%B2%D0%BE-%D0%BA%D0%B0%D0%BA-%D1%81%D0%B5-%D1%81%D1%82%D0%B8%D0%B3%D0%BD%D0%B0-%D0%B4%D0%BE%D1%82%D1%83%D0%BA-/a-48303283>

13 *Ibid.*

14 <https://www.24chasa.bg/novini/article/7284053>

Anti-Roma protest prompted evictions

In January 2019, two Roma attacked a soldier in the village of Voyvodino. After protests by villagers, the deputy Prime Minister arrived on the scene and announced that the “tolerance of Bulgarian society” had been “exhausted” and that illegal Roma homes in the neighbourhood would be demolished: “Bulgaria must stop complying with Brussels officials and human rights defenders”, said the deputy Prime Minister. Violence broke out and some Roma residents fled, including pregnant women, children, the elderly and people with disabilities.

Two days later, the local mayor declared 15 buildings in the Roma district to be a public health risk. They were immediately removed. The electricity supply was cut off on the grounds that most families were using it illegally. Meanwhile, the two Roma responsible for the attack appeared in court and were remanded in custody. They were convicted three months later.

Anti-Roma protests continued. Ten days after the attack on the soldier, the mayor of Voyvodino ordered the demolition of all Roma residential buildings in the district. The residents appealed, but by the end of 2020 the Supreme Administrative Court had confirmed the demolition orders.

The Bulgarian Helsinki Committee took the case to the European Court of Human Rights, which ordered interim measures against the government on behalf of 16 of the 55 applicants. It ordered Bulgaria to house them and ensure the children would not be exposed to inhuman or degrading conditions, and to consider their applications for social housing. Any failure would be in breach of Article 34 of the Convention. At the time of writing, the families are scattered among different cities and towns and receive no state support.

ARE THE NATIONAL STRATEGIES WORKING FOR THE ROMA?

THE ROMA STRATEGY

In 2012 the Bulgarian parliament adopted the National Roma Integration Strategy (NRIS)¹⁵. It listed international human rights protection frameworks such as the Council of Europe's convention on the protection of national minorities, EU directives and policy recommendations, and the Council of the EU's Ten Common Basic Principles of Roman Inclusion. Setting out policy objectives in six areas, including housing, it acknowledged the problem of Roma housing segregation and the poor living conditions in the overcrowded settlements.

The Strategy set out ten objectives for improving Roma housing. They included allocating new areas for construction to reduce overcrowding, mapping and registering the settlements, providing basic utilities and social housing, offering alternative accommodation for Roma who had been evicted from illegal or dangerous housing, and developing cultural and education centres.

The Ministry of Regional Development identified several weaknesses in the way these aims were implemented. Targets were lacking or, in some instances, unreasonably low. Rules were changed

too often. It was difficult to monitor progress due to a lack of disaggregated statistics about Roma. Funds intended for improving housing were reallocated to other groups or projects. Ultimately, reporting was unclear and at times misleading.¹⁶

Until 2017, Parliament published annual monitoring reports on the strategy's implementation. Local authorities were supposed to use the Strategy to draw up their own plans, but for the most part this has not happened.

Responding to the request of the European Commission, the Bulgarian government is working on a new (and delayed) Roma Integration Strategy¹⁷ for 2020-27. While it contains a much more detailed analysis of the overall situation of Roma, the section on housing lacks sufficient detail. The new National Strategy for Inclusion and Participation of Roma 2021-2030 concedes that very little progress has been made.

Key proposals of the draft Strategy include mapping Roma areas using drone technology and drawing up housing registers; providing social housing for the most vulnerable; and giving legal status to houses occupied by families who are officially homeless.

15 National Roma Integration Strategy of the Republic of Bulgaria, 2012-20 (https://ec.europa.eu/info/sites/default/files/roma_bulgaria_strategy_en.pdf)

16 Insert footnote: Minutes of a meeting of the Monitoring Committee under the Operational Program "Regional Development" of June 2015, available at: http://www.bgregio.eu/media/OPRD/Komitet%20za%20nabludenie/16%20KN%20OPRD%202007-2013_Protokol.PDF

17 <https://strategy.bg/PublicConsultations/View.aspx?lang=bg-BG&Id=5708>

The Strategy envisages two methods of regulating illegal housing: legalising it, or issuing a tolerance certificate. In 2003 and 2012-13, legalisation was briefly permitted on payment of a fee and on condition that the applicant paid outstanding fines and had an investment project approved. Tolerance only applies to buildings constructed before 2001 which meet the standards of the time, even though no planning permission had been granted. Once a tolerance certificate is issued, the building can be sold, and the occupants cannot be evicted or the building demolished on the grounds that it is illegal.

In 2018, a group of MPs from the ruling party tried to make the legalisation route easier by introducing an amendment to the Territorial Organisation Act. It would have allowed applications for very recent buildings and would not have distinguished between business and residential uses. Applicants would pay a substantial fee to the local authorities. The amendment only covered the legalisation and not the tolerance route.

After objections from the National Association of Municipalities and the Chamber of Architects, the amendment was dropped, and subsequent attempts to reform the law have also failed. It is unclear whether the housing section in the new Roma strategy will be properly addressed and even implemented.

THE HOUSING STRATEGY

The 2018 National Housing Strategy was intended to tackle social exclusion and big regional disparities in the quality of Bulgarian housing. It identified the problems of empty homes, a shortage of social housing, and a need to build new, energy-efficient homes, but did not mention the issue of illegal Roma dwellings. It recommended that a central government fund should distribute money to local authorities, who would draw up their own housing programmes.

Like the Integration Strategy, the National Housing Strategy suggested mapping Roma settlements in detail, legalising homes and protecting people from forced evictions where no alternative accommodation was available. There would also be support for people to build new houses in accordance with construction regulations. For this to work, we believe negative attitudes toward Roma would need to be overcome, ideally through pilot projects that would be copied elsewhere. However, the Minister of Regional Development has now embarked on a new Strategy¹⁸, and it is unclear whether NGOs' suggestions for the first draft will be taken on board.¹⁹

18 Ministry of Regional Development and Public Works Housing Strategy (<https://www.mrrb.bg/en/housing-policy/housing-strategy/>)

19 Opinions of NGOs have been posted on the web Portal for Public Consultations of the Council of Ministers, available at: <https://www.strategy.bg/PublicConsultations/View.aspx?lang=bg-BG&Id=5708>

THE ROLE OF EU FUNDING

The Bulgarian government's efforts to invest approximately 24 million EU funding into social housing have largely failed. Much of the money was redirected to roadbuilding projects. The Regional Development programme (2007-13)²⁰ provided grants for “modern social housing to accommodate vulnerable, minority and socially disadvantaged groups and other disadvantaged groups”. In 2011, four local authorities secured funding for social housing projects also targeting the Roma community. The exact available EU financial resources were 49,208,337 Bulgarian Leva.

The European Commission made it clear the projects must desegregate Roma housing and be accompanied by steps to ensure Roma can access jobs, education, health and social services. Local authorities had to prove that communities had been informed about their plans and that they enjoyed broad public support.

However, one of the Bulgarian government's chief priorities in June 2015²¹ was highway construction. When the EU funding earmarked for regional road infrastructure had run out, the government diverted

money from the urban development fund—leaving only the money intended for social housing.

Meanwhile, the head of the Regional Development programme's managing authority explained that the housing projects were proving a ‘serious challenge’: “There have been great difficulties in convincing the public of the need for these projects ... [They should] be implemented only after the local public is ready to accept [them].”²²

Further social housing projects were abandoned and the funds again redirected to roadbuilding. Informal conversations (since the authorities do not collect this data) suggest that less than 5 percent of the Roma households in these areas are housed in the three pilot projects that have been built. Interviews with local authorities and the local Roma community confirm that the criteria for social housing—such as a condition that residents have not occupied a building illegally, or the terms on which rent is paid—effectively exclude them.

Social housing projects for 55 million Bulgarian leva (~27 million euro) have been submitted under

20 Operational programme ‘Regional Development’ – Bulgaria (https://ec.europa.eu/regional_policy/en/atlas/programmes/2007-2013/bulgaria/operational-programme-regional-development)

21 http://www.bgregio.eu/media/OPRD/Komitet%20za%20nabludenie/16%20KN%20OPRD%202007-2013_Protokol.PDF

22 Minutes of the 15th meeting of the Monitoring Committee of the Operational Programme “Regional Development” of December 2014, p. 16 (in Bulgarian) (http://www.bgregio.eu/media/Monitoring/15_KN_OPRR_protokol_2007-2013.PDF)

another EU programme, Growing Regions,²³ during the 2014-20 period. So far, only one town has implemented the programme. Delays in agreeing to the projects, getting local approval, and signing contracts have affected all social housing plans, with 560 dwellings now expected to be built by mid-2023. In some places for example Blagoevgrad, Bourgas and Stara Zagora it was only possible to gain the support of local people if young families and single parents were included in the housing schemes.²⁴ Inevitably, this means fewer Roma households will be housed.²⁵

According to the local Roma community just one Roma family has been housed. The main reason

is again anti-Roma attitudes.²⁶ More strikingly the municipality of Varna even decided to use the EU funds from the programme to demolish Roma housing, on the grounds that it was an obstacle to new development.²⁷

We do not know whether the European Commission has approved this use of the funds. A government must ask for the approval of EU officials before spending EU funds, since the regulations state they should not lead to the exclusion of Roma or discrimination against them—indeed, Roma inclusion is the aim.

“...the municipality of Varna even decided to use the EU funds from the programme to demolish Roma housing, on the grounds that it was an obstacle to new development.”

23 Operational programme ‘Regions in Growth’ – Bulgaria (https://ec.europa.eu/regional_policy/en/atlas/programmes/2014-2020/bulgaria/2014bg16rfop001)

24 Minutes of the meeting of the Monitoring Committee under the Operational Programme “Regions in Growth” from May 2018 (in Bulgarian) (<http://www.bgregio.eu/media/OPRD/Komitet%20za%20nabludenie/KN%202014-2020/2018/Protokol%2012%20KN.pdf>)

25 More information is available in the Protocols of the regular meetings of the Monitoring Committee (in Bulgarian) (<http://www.bgregio.eu/op-regioni-v-rastezh--2014-2020/komitet-za-nablyudenie-na-oprr.aspx>)

26 <https://dariknews.bg/regioni/blagoevgrad/otkriha-novite-socialni-zhilishta-v-blagoevgrad-183-apartamenta-chakat-svoite-naemateli-2165715>

27 The investment programme is available at <https://www.varna.bg/bg/395>

BULGARIAN COURT RULINGS ON FORCED EVICTIONS

The Bulgarian administrative courts have heard a number of appeals against demolition orders on Roma homes. A list of anti-discrimination legislation in Bulgarian, EU and international law appears in the Annex.

In demolition cases, European Court of Human Rights (ECtHR) case law assumes that public institutions should respect the proportionality between the public benefit and interference in individual rights (Article 8 of the European Convention on Human Rights and Fundamental Freedoms). In *Yordanova v Bulgaria*²⁸ and *Ivanova and Cherkeзов v Bulgaria*²⁹, the ECtHR criticised decisions by Bulgarian Supreme Administrative Court and other administrative courts. Cases currently under ECtHR review are listed in the Annex.

These courts have adopted two approaches. In one, proportionality does not apply at all when illegal dwellings are being removed. In the other, the public interest in demolition outweighs individual rights, with only very limited exceptions assessed on a case-by-case basis.

“...the ECtHR criticised decisions of the Bulgarian Supreme Administrative Court and other administrative courts.”

In *Marinova v Mladost* (2019),³⁰ the administrative court decided that demolition was in the interests of the “life and health” of the applicant because the building was illegal. In *Bojkova v Sofia Municipality*,³¹ it ruled that demolition served the right of other members of society to live in a developed environment. It said that the three-month voluntary enforcement period would allow the family to find another home and seek help from social services if necessary. In other words, Convention rights should be taken into account when the demolition order was executed, but did not prevent it.

28 *Yordanova and others v Bulgaria*, Application no. 25446/06 (<https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-110449%22%7D>)

29 *Ivanova and Cherkeзов v Bulgaria*, Application no. 46577/15 (<https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-162117%22%7D>)

30 Decision no. 2044/30.10.2019 r. on administrative case 1141/2019 of Varna Administrative Court

31 Decision no. 7253/21.11.2016 on administrative case 4512/2016 of Sofia City Administrative Court

A 2017 Supreme Administrative Court decision also took this approach. It set a high threshold for the burden of proof that the applicant was living at the dwelling; holding that registration of the address was not sufficient evidence that they lived there. Consequently, the right to a home and family life was not engaged. In another case,³² the court said witness testimony was not enough to establish that the family were living there, because it was still under construction.

Bojkova confirmed that Article 6 of the Bulgarian Administrative Procedure Code (the principle of proportionality) does not apply. It referred to a Supreme Administrative Court decision³³ that cited measures in secondary legislation to limit the harmful consequences of removing illegal houses. But our research has found no evidence that this legislation exists.

Nonetheless, the Supreme Administrative Court of Bulgaria (SAC) held that the Convention was applicable under the Bulgarian Constitution—if it is “necessary in a democratic society”, if it pursues a legitimate aim, if a “pressing social need” is established, and in particular if it is proportionate to the aim.

Do demolition orders discriminate against Roma? The administrative courts say not, pointing to the

protection of the right to equal treatment enacted in Article 50 *et seq* and Article 71 of the Protection Against Discrimination Act. One decision stated that since the building’s construction was in breach of the Territorial Organisation Act, there had been no direct discrimination. It was not possible to establish whether indirect discrimination had occurred because statistics about whether demolitions disproportionately affected Roma were not available. This view is shared by the Supreme Administrative Court,³⁴ which accepts that the Protection Against Discrimination Act is the correct channel for discrimination claims.

Due to the failure of the Bulgarian courts to recognise discrimination, this report shows that EU’s Directive 2000/43/EC, which prohibits discrimination on the grounds of racial or ethnic origin in a number of fields, including housing, is not fully implemented in Bulgaria, when it comes to access to housing for the Roma. Furthermore, domestic legislation has not been amended to satisfy the country’s positive obligations under the European Convention on human rights and fundamental freedoms (ECHR) and the revised European Social Charter (ESC) under which Bulgaria has been criticised. Moreover, the ESC has asked Bulgaria to ensure access to housing by tolerating illegal occupants and refraining from their eviction, when there is no alternative accommodation.³⁵

32 Decision no. 96/12.01.2017 on administrative case 392/2016 of Blagoevgrad Administrative Court

33 Decision no. 7240/28.05.2013 on administrative case 4333/2013 of the Supreme Administrative Court, Second division

34 Decision no. 8669/05.07.2017 on administrative case 3366/2017 of the Supreme Administrative Court, Second division

35 *ERRC v Bulgaria*, Collective Complaint 31/2005, decision on the merits 16 October 2005

CONCLUSION

Between 2017 and 2020, the Bulgarian government carried out 2,857 housing demolition orders, the majority of which were the sole residences of Roma. These mass demolitions continue to disproportionately target Roma on the basis of their ethnicity. The demolitions are provoked by tensions between Roma and non-Roma and represent a disproportionate response from the Bulgarian authorities breaching the Protection Against Discrimination Act, the EU's Race Equality directive and other international law.

Families throughout the country are made homeless and given no alternative accommodation, nor the chance to register at another permanent address. This means they cannot obtain new ID documents

and are not entitled to basic rights and services. As a result, 123,749 citizens, the majority of whom are Roma, do not have valid ID cards. Our research shows that this number will continue to grow in the next years if the government does not address this issue.

No political will exists to address the problem of illegal Roma housing, despite the measures set out in the draft National Housing Strategy and National Strategy for Roma Integration. The National Recovery and Resilience Plan makes no mention of it. More than 50 million euro of EU funding that was intended to tackle the problem has been diverted to building highway or housing projects that currently exclude Roma families.

RECOMMENDATIONS FOR THE BULGARIAN GOVERNMENT

- Impose a moratorium on all demolition orders for homes until the law has been updated.
- Amend the Territorial Organisation Act to make it easier to retrospectively legalise buildings that are of stable construction for residential use, and reduce the fines imposed for illegal dwellings. A draft bill already exists.
- Extend the timeframe for applying for housing permits and standardise the timeframe for submitting legalisation documents.
- Enforce the relevant European Court of Human Rights rulings.
- Finalise the National Housing Strategy, incorporating the EU Green Deal, and address housing problems adequately in the Strategy for Roma Integration.
- Take illegal Roma dwellings into account when drawing up municipal development plans.
- Incorporate international protections from compulsory evictions and the demolition of the family home into Bulgarian national law.
- Create a national strategy to combat anti-Roma prejudice.
- Take a proactive approach to preventing illegal construction.
- Recognise and address Roma housing issues in the COVID-19 Recovery Plan.
- Use the Access to Public Information Act (outlined in the Annex) to obtain information about demolitions and housing policies.

ANNEXES

METHODOLOGY

The methodology used in this report includes desktop research and review of primary and secondary domestic legislation; analysis of international legal frameworks and implementation strategies at national level; compilation of statistical data and information from case studies to record existing trends and inform general observations; working with stakeholder groups on the field; and collection of personal accounts from affected individuals and households.

ANTI-DISCRIMINATION LEGISLATION IN BULGARIAN, EU AND INTERNATIONAL LAW

The Racial Equality Directive of the Council of the EU

Directive 2000/43³⁶ prohibits direct and indirect discrimination on the grounds of race and/or ethnic origin. It explicitly includes the protection of the right to housing.

The Bulgarian Constitution

The Constitution³⁷ states that all citizens are born free and equal in rights and dignity. Paragraph 2 states that no privileges or limitations of rights should be allowed on grounds of ethnic origin.

Everyone should be protected from illegal interference with their private and family life, and no one may enter a home without the permission of the owner. However, there is no constitutional procedure for protection against violations of those rights.

The Protection Against Discrimination Act

The Act³⁸ prohibits discrimination on any grounds (including ethnicity) with respect to education, employment, and “other rights”—though not housing, despite the provisions of the Racial Equality Directive. It provides for collective as well as individual appeals. The former can be initiated by a non-government organisation.

A Commission for Protection Against Discrimination³⁹ can initiate investigations, make rulings, ban discriminatory practices, and impose fines. It can also review legal provisions that contravene the Act. However, so far the Commission has neither initiated nor investigated any cases of discrimination against Roma.

36 Council Directive 2000/43/EC (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32000L0043>)

37 The Bulgarian Constitution (https://www.legislationline.org/download/id/6476/file/Bulgaria_Constitution_am2015_en.pdf)

38 The Protection Against Discrimination Act (https://www.legislationline.org/download/id/7046/file/Bulgaria_anti-discrimination_act_2003_2006_am.pdf)

39 The Commission for Protection Against Discrimination (<https://www.kzd-nondiscrimination.com/layout/>)

International conventions

According to the Constitution, international legal instruments take precedence over domestic law that contradicts them. The National Roma Integration Strategy explicitly adopts these principles and norms and proposes amending national legislation on illegal construction that would integrate them. But no such changes have been made.

The International Convention on the Elimination of All Forms of Racial Discrimination⁴⁰

Bulgaria is obliged to take active measures to prohibit and eliminate discrimination on the grounds of ethnic origin, and to guarantee equality before the law.

The European Convention on Human Rights

Bulgaria is a signatory to the Convention⁴¹, which guarantees rights without any discrimination on the grounds of ethnic origin. Article 8 protects the right to housing, as part of the right to non-interference with private and family life. However, it has not yet ratified Protocol 12 (general prohibition of discrimination).

The Council of Europe's Framework Convention for the Protection of National Minorities

The Convention⁴² obliges Bulgaria to ensure equality before the law and equal legal protection for minority groups.

CASES CURRENTLY UNDER EUROPEAN COURT OF HUMAN RIGHTS REVIEW

Borova

In 2015, the applicants sought to obtain formal ownership of the two-storey Sofia house where they had lived since 1999. It was their only home and built on land bought by the mother of one of the applicants. Local officials inspected the property and declared it illegal. Maria Borova objected, arguing the decision contravened Articles 3 and 8 of the European Convention and Article 1 of the First Protocol. She also alleged a violation of the Protection from Discrimination Act on the grounds that demolitions were targeted only at Roma. Furthermore, she argued the house ought to be a “tolerable construction” within the meaning of the Territorial Organization Act. Appeals to the Sofia Administrative Court and the Supreme Administrative Court (SAC) were rejected, and the applicants submitted the case to the European Court.

Chuchorova

The co-owner of a plot in Petrich started building a two-storey house there in 2006. The building permit was revoked on the grounds that she had not got the permission of the co-owners. Having obtained that, she received a new permit and added a loft area. However, that permit was revoked too, as the authorities stated that the property already contained an illegal construction. Appeals to local

40 International Convention on the Elimination of All Forms of Racial Discrimination (<https://www.ohchr.org/en/professionalinterest/pages/ceerd.aspx>)

41 European Convention on Human Rights (https://www.echr.coe.int/Documents/Convention_ENG.pdf)

42 The Framework Convention for the Protection of National Minorities (<https://www.coe.int/en/web/minorities>)

administrative court and the SAC failed and in 2016 the mayor of Petrich ordered the loft area to be removed. A further appeal on the grounds that this would leave her family and sick father homeless (her sister's family lived in the lower two storeys) was rejected. The case is pending at the ECtHR, but the authorities have nonetheless asked her to remove the second storey.

Ivanov

The co-owner of a plot in Sofia added a second storey and an annex to his house there. Although the municipality issued a certificate of tolerance for the building, subsequent inspections found no evidence of it, nor of construction documentation. The applicant objected, arguing that he and his sisters were the owners of the property, the construction had not been specified correctly and the certificate of tolerance had been overlooked. He also claimed his treatment was discriminatory under Article 14 of the Convention and Article 1 of the Protocol. A demolition order was appealed before the Sofia Administrative Court and the SAC on the grounds that the house was his family's only home and the authorities had violated the proportionality principle, invoking Articles 3 and 8. This too failed because the construction was ruled illegal. A case at the ECtHR is pending.

Iordanov

Petar Iordanov added an annex to a house on co-owned land in Sofia. A municipal inspection found it had been built without the necessary paperwork and issued a demolition order, even though a certificate of tolerance had been issued. The applicants have filed a case to the ECtHR.

Aydarov and others⁴³

Between 2010 and 2012, the Garmen authorities issued 114 certificates of tolerance for illegally built houses on agricultural land owned by the municipality. All but ten of these were subsequently revoked and demolition orders issued. Appeals to the local administrative court and the SAC invoking Articles 3 and 8 failed. After a series of court battles the Aydarov family home was demolished. In October 2018 the ECtHR declared the complaint under Article 14 inadmissible because the case could have been submitted to the Commission for Protection Against Discrimination. The time for submitting it had also been exceeded. The Court indicated, however, that a claim under Article 3 against the actual demolition of their house would have been considered had the formal requirements been met.

THE ACCESS TO PUBLIC INFORMATION ACT

In 2015, Bulgaria amended the Access to Public Information Act⁴⁴ in ways that should make it easier to obtain information about Roma housing policies and demolitions. Public authorities now have a duty to publish information that has been requested and provided more than three times. They also have to publish data relating to the prevention of a threat to the life, health and safety of citizens or their property, which has obvious applicability to plans to demolish Roma homes.

Authorities also have an obligation to enlarge the categories of information they publish online. None has published demolition orders yet, though there is a clear public interest in doing so. A request for demolition orders in Varna from the Equal Opportunities Initiative in 2015 took two years to resolve⁴⁵.

43 Decision, Application no. 33586/15, Stoyan Lyubenov Aydarov and Others against Bulgaria (<https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-187469%22%5D%7D>)

44 The Access to Public Information Act (https://www.aip-bg.org/en/legislation/Text_of_the_APIA/200432/)

45 Decision of the Supreme Administrative Court on 31 July 2017 (in Bulgarian) (<http://www.sac.government.bg/court22.nsf/d038edcf49190344c2256b7600367606/6588a733d4b36217c22581600029e23c?OpenDocument>)

