

IN THE EUROPEAN COURT OF HUMAN RIGHTS

YUSEINOVA AND OTHERS

Applicants

v

BULGARIA

Respondent State

**Application Number 30472/17**

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Third-Party Intervention of the European Roma Rights Centre

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1. The European Roma Rights Centre (“ERRC”) submits these comments in accordance with the permission granted by the President of the Section.
2. In order to assist the Court in summarising the intervention for inclusion in the judgment, the ERRC has prepared the following summary:

The ERRC insisted that the time had come for the Court to use the term “antigypsyism” in its case law. The term was now widely used by intergovernmental institutions, including most recently by the Committee of Ministers of the Council of Europe, to describe the specific forms of discrimination Romani people and certain others face. The Court had at least nine cases pending before it concerning forced evictions of Roma. This concentration of cases was not a coincidence: forced evictions are one of the most visible manifestations of antigypsyism in Europe today, and Roma are increasingly fighting back in court. Centuries of exclusion and discrimination have left Roma among the poorest people in Europe. The ERRC included data about Romani poverty and provided particularly detailed data about the deep poverty Roma face in Bulgaria. The difficult housing situation in which many Roma found themselves made forced evictions an attractive tool for public bodies and officials motivated by antigypsyism. The ERRC recalled an earlier submission they had made to the Court about forced evictions of Roma, describing evictions carried out contrary to the requirements of the Court’s case

law in Albania, France, Hungary, Italy, Macedonia, Romania, Serbia, and Slovakia. The ERRC then focused on Bulgaria, where political hate speech and forced evictions have been closely linked for several years. Politicians who have used anti-Roma hate speech are in powerful positions, and some recent evictions have been closely linked to elections and anti-Roma protests supported by political parties. Many Roma were still at risk of forced eviction, and the Committee of Ministers had found that Bulgaria has still not taken the necessary general measures to execute previous judgments about forced evictions. The ERRC argued that it would be a serious error for the Court to limit itself to a narrow consideration of the procedural failings of an eviction or to the failure to ensure alternative accommodation for those being evicted. The Court could not ignore the wider context of antigypsyism in which forced evictions of Roma were taking place. The ERRC urged the Court to: use the term “antigypsyism” to describe the particular forms of discrimination Roma in Europe face today; recognise that Romani poverty is a significant manifestation of antigypsyism; recognise that Romani people often live in informal housing as a result of this poverty, leaving them vulnerable to forced evictions; and recognise, particularly in Bulgaria, that forced evictions are closely linked to political hate speech and racialised politics, and are therefore a manifestation of antigypsyism. This approach pointed to a finding of a violation of Article 8 taken with Article 14, which provided the only chance that appropriate general measures would be taken.

**A. The time has come for the Court to use the term antigypsyism in its case law**

3. The word “antigypsyism” (which is sometimes spelled with a hyphen) is now widely used by intergovernmental institutions to describe the specific forms of discrimination Romani people face. The Committee of Ministers of the Council of Europe, for example, used the word eight times in its recent recommendation to the member States on improving access to justice for Roma and Travellers in Europe (CM/REC(2017)10). As the UN Special Rapporteur on Minority Issues has put it, “*While ... the reasons for the marginalization of Roma are complex..., an overreaching factor is the*

*deeply embedded social and structural discrimination Roma face worldwide, including anti-Gypsyism*".<sup>1</sup> According to the European Commission Against Racism and Intolerance ("ECRI"), "anti-Gypsyism" is "a specific form of racism, an ideology founded on racial superiority, a form of dehumanisation and institutional racism nurtured by historical discrimination, which is expressed, among others, by violence, hate speech, exploitation, stigmatisation and the most blatant kind of discrimination".<sup>2</sup> The Alliance Against Antigypsyism, of which the ERRC is a member, defines the concept as follows:

*Antigypsyism is a historically constructed, persistent complex of customary racism against social groups identified under the stigma 'gypsy' or other related terms, and incorporates: 1. a homogenizing and essentializing perception and description of these groups; 2. the attribution of specific characteristics to them; 3. discriminating social structures and violent practices that emerge against that background, which have a degrading and ostracizing effect and which reproduce structural disadvantages.*<sup>3</sup>

4. For over a decade the Court has found it convenient to note, when deciding cases that concern discrimination against Roma, "that as a result of their turbulent history and constant uprooting, the Roma have become a specific type of disadvantaged and vulnerable minority" (first use: *D.H. and Others v Czech Republic* (Grand Chamber), § 182). The ERRC urges the Court to supplant or supplement this language with the use of the term antigypsyism, which more appropriately captures the complex of racist ideas and discriminatory practices Roma and some others have faced and continue to face.

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<sup>1</sup> Report of the Special Rapporteur on minority issues, "Comprehensive study of the human rights situation of Roma worldwide, with a particular focus on the phenomenon of anti-Gypsyism", A/HRC/29/24, 11 May 2015, § 12.

<sup>2</sup> General Policy Recommendation No.13, CRI(2011)37.

<sup>3</sup> The Alliance's paper, published in June 2016 and updated in June 2017, can be downloaded at <http://antigypsyism.eu/wp-content/uploads/2017/07/Antigypsyism-reference-paper-16.06.2017.pdf>.

## **B. Forced evictions of Roma are a manifestation of antigypsyism in Europe generally and in Bulgaria in particular**

5. The Court has already delivered at least four judgments finding violations of the Convention resulting from forced evictions of Roma or Travellers: ***Connors v United Kingdom*** (2004); ***Yordanova and Others v Bulgaria*** (2012); ***Winterstein and Others v France*** (2013); ***Bagdonavicius and Others v Russia*** (2016).
6. There are at least nine cases currently pending before the Court concerning forced evictions of Roma: ***Hirtu and Others v France*** (application no.24720/13); ***Caldaras and Lupu v France*** (application no.13561/15); ***Aydarov and Others v Bulgaria*** (application no.33586/15); ***Caldaras and Others v Poland*** (application no.6142/16); ***Stan v France*** (application no.41969/16); ***Sisu and Others v France*** (application no.45871/16); ***Bekir and Others v Macedonia*** (application no.46889/16); ***Selimović v Serbia*** (application no.24942/18); and the present case.
7. This concentration of pending cases is not a coincidence; the Court should expect more to come. Forced evictions of Roma are common and are one of the most visible manifestations of antigypsyism in Europe today. The Council of Europe Commissioner for Human Rights saw the pattern and, on a single day in January 2016, sent letters<sup>4</sup> to ministers in Albania, Bulgaria, France, Hungary, Italy, Serbia, and Sweden demanding measures be taken to stop forcibly evicting Roma without providing adequate alternative accommodation. At the same time, Roma are fighting back against these forced evictions and taking more cases to court than ever before. The failure of the domestic courts to deal with these cases in accordance with the Court's case law means that increasing numbers will end up in Strasbourg.
8. Why are Roma so frequently threatened with forced eviction? Centuries of exclusion and discrimination have left Roma among the poorest people in Europe; and the difficult housing situation in which many Roma find

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<sup>4</sup> The letters (sent on 26 January 2016) and responses can be downloaded at <https://www.coe.int/en/web/commissioner/-/european-countries-must-stop-forced-evictions-of-roma>.

themselves makes forced eviction an attractive tool for public bodies and officials motivated by antigypsyism.

### **i. Romani poverty**

9. As a consequence of centuries of exclusion and discrimination – including slavery in Romania that only ended towards the end of the 19th century – Roma are Europe’s most economically and socially excluded ethnic minority.
10. A recently published EUROCITIES report<sup>5</sup> details how Roma face a higher risk of poverty, experience more severe forms of poverty, and are more likely to be born into poverty than other Europeans. Roma are more likely to live in overcrowded and precarious housing. Roma are also more likely to be unemployed and are at higher risk of certain health conditions. The report rightly stresses how these challenges are interdependent, and how discrimination is a factor common to all of them.
11. Many Roma from the European Union’s newest member States are living in worse material conditions than when their countries joined the Union in the 2000s.<sup>6</sup> A survey by the European Union Fundamental Rights Agency (“FRA”) of over 16,000 Romani households in 11 EU member States found that 90% of Roma surveyed had an income below the national poverty threshold and more than half lived in segregated areas in housing that fell below minimum housing standards.<sup>7</sup> FRA also found that 40% of Romani children lived in households struggling with malnutrition and hunger. According to data collected by the United Nations Development Programme (“UNDP”), Roma are twice as likely as their non-Roma neighbours to be unemployed.<sup>8</sup> UNDP data revealed that lower levels of

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<sup>5</sup> EUROCITIES, *Roma Inclusion in cities – Mapping of the situation of Roma in cities in Europe*, 17 October 2017, available at <http://www.eurocities.eu/eurocities/documents/EUROCITIES-report-maps-the-situation-of-Roma-in-cities-in-Europe-WSPO-AS8CQ2>.

<sup>6</sup> George Soros, *Europe Needs a Roma Working Class*, THE GUARDIAN (26 November 2015), available at <https://www.theguardian.com/business/2013/nov/26/europe-roma-working-class-george-soros>.

<sup>7</sup> FRA, *Poverty and Employment: The Situation of the Roma in 11 EU Member States* (2011), available at [http://fra.europa.eu/sites/default/files/fra-2014-roma-survey-employment\\_en.pdf](http://fra.europa.eu/sites/default/files/fra-2014-roma-survey-employment_en.pdf).

<sup>8</sup> Niall O’Higgins, United Nations Development Programme Roma Inclusion Working Papers, *Roma and non-Roma in the Labour Market in Central and South Eastern Europe* (2012), available at <http://www.aiel.it/Old/bacheca/Capua/papers/OHiggins1.pdf>.

educational achievement among Roma could not explain this gap: after controlling for education and experience levels, Roma are still less likely to be employed and still receive lower wages compared with non-Roma. In fact, the gap between the unemployment rates of Roma and non-Roma was largest for those with the highest levels of education. The UNDP data showed that an increase in Roma educational participation from 2004 to 2011 had not led to a corresponding increase in relative employment prospects.

12. In Eastern Europe, 71% of Roma live in deep poverty.<sup>9</sup> Research has found that 92% of Romani children in Bulgaria are living in poverty, more than twice the percentage of non-Roma children.<sup>10</sup>
13. Eighty-five percent of Roma aged 18-25 in Bulgaria have not completed secondary education, compared with 32% of non-Roma. Approximately 50-70% of Roma in urban areas in Bulgaria live in homes or in shelters considered to have been built illegally. Almost 40% of Roma live in houses without any plumbing and 80% do not have a toilet. On average, Roma in Bulgaria have less than half the dwelling space of non-Roma. Life expectancy for Roma is more than ten years below the average life expectancy in Bulgaria.<sup>11</sup>
14. This is not a mere coincidence or simply an unfortunate situation. Nor is it, as the racists would have it, a choice or the fault of Romani people. Romani poverty is the result of historical and ongoing antigypsyism.

#### **ii. Forced Evictions of Romani People**

15. As a result of being poorer, Roma are also more likely to be living in informal housing, leaving them at risk of forced eviction or demolition of their homes. We direct the Court to our third-party intervention in *Caldarar and Others v Poland* (application number 6142/16), § 12, where we set out examples from Albania, France, Hungary, Italy, Macedonia, Romania,

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<sup>9</sup> The World Bank, *Brief: Roma* (24 February 2015), available at <http://www.worldbank.org/en/region/eca/brief/roma>.

<sup>10</sup> Ron Haskins, *Helping the Roma in Bulgaria: Recommendations to the Board of America for Bulgaria Foundation* (2011), page 4 and footnote 4, available at [https://www.brookings.edu/wp-content/uploads/2016/06/0819\\_roma\\_haskins.pdf](https://www.brookings.edu/wp-content/uploads/2016/06/0819_roma_haskins.pdf).

<sup>11</sup> All of the information in this paragraph is taken from: Roma Education Fund, "Bulgarian Country Assessment 2015", pages 11-15, available at [http://www.romaeducationfund.hu/sites/default/files/publications/bg\\_country\\_assessment\\_2015\\_web.pdf](http://www.romaeducationfund.hu/sites/default/files/publications/bg_country_assessment_2015_web.pdf).

Serbia, and Slovakia. In all of these countries, significant numbers of Roma face forced evictions that fly in the face of the Court's case law (particularly the principles set out in *Winterstein v France* (2013), §§ 148, 159). In many cases, those evictions are explicitly linked to antigypsyism. For example, the UN High Commissioner for Human Rights said in 2015 that in France, “[i]t is becoming increasingly apparent that there is a systematic national policy to forcibly evict the Roma”.<sup>12</sup> In Slovakia the movement “Let’s wake up!” (*Zobud’me sa!*) was set up in 2011 and collected the signatures of 402 mayors of Slovak towns and villages, with the aim of classifying Romani people’s homes as waste and coordinating the demolition of Romani neighbourhoods.

16. There is currently a wave of anti-Roma pogroms taking place in Ukraine, in which organised, violent groups are forcing Roma from their homes.<sup>13</sup>
17. In Bulgaria, the situation is also particularly bad. ECRI has described Roma as one of “*the main targets of racist hate speech*” in Bulgaria.<sup>14</sup> This hate speech and other explicit outbursts of antigypsyism in Bulgaria are directly linked to threats of forced eviction.
18. The situation was comprehensively covered in a submission the Equal Opportunities Initiative Association and the Open Society Foundations (“EOIA and OSF”) sent to the European Commission in February 2017, calling on the Commission to bring infringement proceedings under European Union law against Bulgaria for violations resulting from discriminatory evictions of Roma. The ERRC urges the Court to consider that document in full.<sup>15</sup>
19. According to one expert,<sup>16</sup> the current cycle of racist protests and forced evictions can be traced back to September 2011 and to events in

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<sup>12</sup> The High Commissioner’s statement, made on 11 September 2015, can be found at <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=16409&LanglD=E>.

<sup>13</sup> The ERRC has summarised the situation at <http://www.errc.org/news/anti-roma-pogroms-in-ukraine-on-c14-and-tolerating-terror>.

<sup>14</sup> CRI(2014)36, page 15.

<sup>15</sup> The document is available at <https://www.opensocietyfoundations.org/sites/default/files/bulgaria-roma-infringement-memo-20170214pdf.pdf>.

<sup>16</sup> Rositsa Kartunkova, “Bulgaria (not) only for Bulgarians”, 9 March 2018, available at <https://www.novinite.com/articles/188574/Rositsa+Kratunkova%3A+Bulgaria+%28not%29+only+for+Bulgarians>.

Katunitsa (Plovdiv). A local incident sparked national demonstrations at which racist slogans were used, including death threats to Roma. Organised demonstrations continued in 2012. In December 2014, MPs made racist speeches in Parliament about Roma. For example, Valeri Simeonov, the leader of the National Front, made a speech in Parliament using particularly repulsive language. On 24 May 2017, following elections, Mr Simeonov was made Deputy Prime Minister and head of Bulgaria's National Council on Co-Operation on Ethnic and Integration Issues. On 31 October 2017, he was found guilty by a domestic court of hate speech arising out of the December 2014 speech.<sup>17</sup> He is joined in cabinet by other politicians who have made their racist views about Roma very clear.

20. Meanwhile, there has been a spate of what appear to be racially and politically motivated forced evictions. In Garmen Municipality (where evictions are the subject of the complaint in *Aydarov v Bulgaria*, application no.33586/15) the Patriotic Front, an alliance of political parties, stoked hostility against Roma throughout the summer of 2015. According to the BBC (reporting in June 2015), the Patriotic Front “*appears to want to prove to its supporters that it is active on two of its main policies – demolishing illegal Roma settlements, and preventing asylum-seekers entering Bulgaria*”.<sup>18</sup> The result was daily protests against Roma which pushed for forced evictions of Romani neighbourhoods. As EOIA and OSF put it,<sup>19</sup> “[i]n the light of the upcoming local elections in October 2015... the municipality took action to meet the ethnic Bulgarian demands”: four homes were demolished, making families homeless. Further planned evictions related to the anti-Roma protests led to the *Aydarov* complaint. The ERRC notes that the Court hardly referred to this background in the statement of facts available on HUDOC for the *Aydarov* case. This

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<sup>17</sup> DW, “Bulgarians unfazed by anti-Roma hate speech from deputy prime minister”, 31 October 2017, available at <http://m.dw.com/en/bulgarians-unfazed-by-anti-roma-hate-speech-from-deputy-prime-minister/a-41183829>.

<sup>18</sup> “Bulgaria tensions lead to Roma home demolitions”, 21 July 2015, available at <sup>18</sup> <http://www.bbc.com/news/world-europe-33597660>.

<sup>19</sup> EOIA and OSF (see above, note 15), pages 10-11.



background is essential for understanding that case and other forced evictions of Roma in Bulgaria.

21. On 11 September 2015, the UN High Commissioner for Human Rights linked these evictions in Bulgaria to “*anti-Roma riots*” and criticised the authorities’ decision to proceed with the evictions complained of in the *Aydarov* case without offering alternative accommodation.<sup>20</sup>
22. Other forced evictions of Roma in Bulgaria have been closely linked to hate speech and politics. Between 2012 and 2016, Varna Municipality issued 92 orders for demolitions of residential homes, all of them concerning Romani families.<sup>21</sup> When, on 5 August 2015, the Municipal Council there met to discuss a local Roma integration strategy, non-Roma came to protest. In response, the mayor initiated the execution of 61 demolition orders, resulting in the demolition of 46 homes.
23. Roma remain at risk of forced evictions provoked by menacing, racist demonstrations. On 4 July 2017, for example, there was a massive anti-Roma demonstration in Asenovgrad, which attempted to push through a police barricade into a Romani neighbourhood. The protesters demanded evictions of Romani families.<sup>22</sup> The Court is already aware of the deficiencies in the domestic legal system which leave anyone living in informal housing in Bulgaria vulnerable to forced evictions that do not meet the safeguards set out in the Court’s case law. The Committee of Ministers has found that the Court’s judgments in *Ivanova and Cherkeзов v Bulgaria* (2016) and in *Yordanova and Others v Bulgaria* (2012) have not yet been properly executed; general measures are still needed.<sup>23</sup>

### **C. The Court should address the context of antigypsyism when dealing with cases of forced evictions of Roma**

24. The Court now has to decide at least nine cases concerning forced evictions of Roma, including at least two cases against Bulgaria (see

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<sup>20</sup> The statement is the same as the one cited above at note 12.

<sup>21</sup> EOIA and OSF (see above, note 15), page 13.

<sup>22</sup> Romea, “Bulgaria: Anti-Roma Protests Continue After Alleged Romani Attacks on Teenagers”, 4 July 2017, available at <http://www.romea.cz/en/features-and-commentary/reportage/bulgaria-anti-roma-protests-continue-after-alleged-romani-attacks-on-teenagers>.

<sup>23</sup> The notes of the last examination by the Committee of Ministers, on 19-21 September 2017, are available on HUDOC-EXEC at <http://hudoc.exec.coe.int/eng?i=004-1924>.

- above, § 6). The ERRC is confident that the Court, applying the principles set out in *Winterstein and Others v France* (2013), §§ 148, 159, will find violations of Article 8 in these cases because of the procedural failings involved and the failure to ensure appropriate alternative accommodation.
25. It would be a serious error for the Court to limit its consideration to these matters when ruling in those nine cases. Such a narrow approach will do little to stem the ever-increasing number of forced eviction cases that Roma will have to bring to Strasbourg.
26. The Court cannot ignore the context in which forced evictions of Roma take place in Europe as a whole and in particular countries and individual cases. See, *mutatis mutandis*, *Bączkowski and Others v Poland* (2007), § 100. The ERRC urges the Court to:
- a. use the term “antigypsyism” to describe the particular forms of discrimination Roma in Europe face today;
  - b. recognise that Romani poverty is a significant manifestation of antigypsyism;
  - c. recognise that Romani people often live in informal housing as a result of this poverty, leaving them vulnerable to forced evictions; and
  - d. recognise, particularly in Bulgaria, that forced evictions are closely linked to political hate speech and racialised politics, and are therefore a manifestation of antigypsyism.
27. Such an approach points to a finding of a violation of Article 8 taken with Article 14 of the Convention. See, *mutatis mutandis*, *E.B. v France* (Grand Chamber, 2008), § 80 (“*the illegitimacy of one of the grounds has the effect of contaminating the entire decision*”); and *Sampanis and Others v Greece* (2008), § 82. Only a judgment that makes such a finding has the chance of ensuring that general measures will be taken to stop the wave of forced evictions Romani people face in Bulgaria and elsewhere in Europe.

European Roma Rights Centre  
15 June 2018