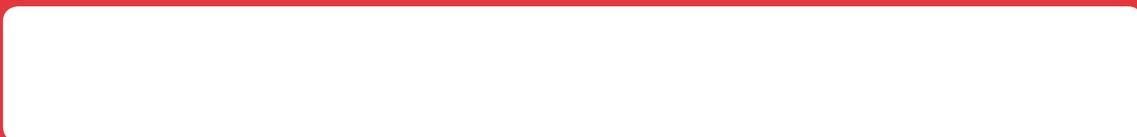


PARALLEL REPORT

BY THE EUROPEAN ROMA RIGHTS CENTRE CONCERNING BULGARIA

Written Comments of the European Roma Rights Centre concerning Bulgaria to the CEDAW Council for consideration at the 52nd session (9 to 27 July 2012).



CHALLENGING DISCRIMINATION PROMOTING EQUALITY

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INTRODUCTION

The European Roma Rights Centre (ERRC)¹ submits this report to the United Nations Committee on the Elimination of Discrimination Against Women (Committee) for its review of Bulgaria's compliance with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), with a focus on trafficking and child protection.

According to the 2011 census in Bulgaria, 325,343 people declared themselves Romani from a total population of 7,364,570; around 4.4% of the population.² However, according to widely accepted estimates, Roma constitute approximately 10% of the total Bulgarian population.³

Various factors make Romani women and children highly vulnerable to trafficking in human beings and forced family separation leading to placement in State care. Among them, poverty, illiteracy and the impact of discrimination are major factors. Roma experience the highest levels of poverty in Bulgaria. According to a 2010 study of the World Bank,⁴ nearly 9 out of 10 Bulgarian Roma had a per capita income equal to the income of the poorest four-tenths of the population, with 67% of Roma being among the poorest 20% of all people in Bulgaria.

According to a recent survey conducted by the Fundamental Rights Agency, Romani women in Bulgaria have lower rates of employment in comparison not only to non-Roma, but also to Roma men. In addition, Romani women appear to be less aware of the existing anti-discrimination laws than Romani men.⁵

TRAFFICKING IN HUMAN BEINGS

Article 6 of the CEDAW Convention indicates that States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women. During research conducted by the ERRC and partners in 2011 on human trafficking, respondents indicated that Roma are highly overrepresented among trafficking victims, accounting for between 50% (NGO estimates) and 80% (police estimates) of all persons trafficking for the purpose of sexual exploitation.⁶ Roma are also reportedly trafficked for the purposes of forced labour, exploitation for begging and illegal adoption.⁷ Various factors make Romani women and children highly vulnerable to trafficking. Among them, poverty and illiteracy are major factors.

Bulgarian legislation related to human trafficking does not conform to the standards set out in the Palermo Protocol.⁸ The Bulgarian Penal Code defines human trafficking only by the acts and the purpose: the means appears only as an aggravating circumstance rather than as a core element of the crime. The term "sexual exploitation" as a purpose of trafficking does not directly appear in Bulgarian law. Instead, the ambiguous

1 The European Roma Rights Centre (ERRC) is an international public interest law organization which combats anti-Romani racism and human rights abuses of Roma. The approach of the ERRC involves strategic litigation, international advocacy, research and policy development and training of Romani activists. www.errc.org.

2 National Statistical Institute, *Census 2011*, available at: <http://censusresults.nsi.bg/Census/Reports/2/2/R9.aspx>.

3 Claude Cahn and Professor Elspeth Guild, *Recent Migration of Roma in Europe* (OSCE/CoE, December 2008), available at: <http://www.osce.org/hcnm/78034>.

4 Roma Inclusion: An Economic Opportunity for Bulgaria, Czech Republic, Romania and Serbia," Policy Note (World Bank, September 2010).

5 European Union Agency for Fundamental Rights (FRA), UNDP, *The situation of Roma in 11 EU Member States - Survey results at a glance*, 2012, available at: http://fra.europa.eu/fraWebsite/attachments/FRA-2012-Roma-at-a-glance_EN.pdf.

6 Interview with a police officer from the Combating Organised Crime Directorate, Regional Department of the Ministry of Interior. Northeastern Bulgaria: 23 March 2010. Interview with a police officer of the Border Police Department. Central Bulgaria: 19 March 2010. Interview with a representative of the Animus Association Foundation. Sofia, Bulgaria: 9 March 2010. Interview with a representative of the Crime Prevention Fund. Pazardžik, Bulgaria: 16 March 2010.

7 It is possible to talk about trafficking in children when the adoption can be compared to a sale, particularly when a child is abducted or proposed for adoption by a member of his/her family without the consent of his/her parents: "Concerning the parents' authorisation for adoption, special attention should be given to the situation of unmarried or especially poor women who, because of their financial situation or the social unacceptability of their circumstances, may be forced or pressured into giving up their children for adoption." Ms Ofelia Calcetas-Santos, *Report of the Special Rapporteur on the sale of children, child prostitution and child pornography*, CN.4/1999/71 (Office of the United Nations High Commissioner for Human Rights, 29 January 1999).

8 The Council of the European Union, *2002/629/JHA: Council Framework Decision of 19 July 2002 on combating trafficking in human beings*, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:203:0001:0004:EN:PDF>.

terms “vicious practice” and “debauchery” are used in place of “sexual exploitation.”⁹ None of these terms encompass the concept of exploitation. This may pose serious barriers to the legal protection of Roma and other persons who are trafficked given that the majority of trafficked persons identified during ERRC research in Bulgaria were trafficked for the purpose of sexual exploitation.

Bulgaria’s National Programme for Prevention and Counter-Acting the Illegal Trafficking of People and Protection of its Victims, adopted in 2010, lists as high-risks groups for its prevention activities women, children, ethnic minorities, unemployed and socially disadvantaged people. It includes only two activities explicitly aimed at preventing trafficking of Romani individuals despite the fact that Roma are widely held of be significantly affected by this crime.¹⁰

Research by the ERRC and its partners indicates anti-trafficking preventative and victim support services may not be reaching vulnerable Roma. On one hand, the provision of segregated education to Romani children may reduce the access of Roma to preventative services. In Bulgaria municipal authorities reported that they organise lectures in schools with police and NGOs to raise awareness among students about trafficking as a preventative measure. However, the authorities reported that this is not done in segregated Roma-only schools,¹¹ leaving the most vulnerable group without access to anti-trafficking prevention activities.¹² In addition, victim support service providers reported that they face great difficulties in maintaining constant communication with Romani clients because many do not have regular access to telephones and do not use the Internet.¹³

CHILD PROTECTION

Article 16 of the CEDAW Convention indicates that States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women, including the same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount.¹⁴

Research by the ERRC and partners in Bulgaria in 2011¹⁵ found that Romani children are vastly overrepresented in State institutional care. The State Agency for Child Protection provided data about the number of Romani children living in institutional care, according to which as of 31 December 2009, 1,705 of 3,440 (49.6%) children in Homes for Children Deprived of Parental Care (HCDDPC) were Romani; 1,190 of 2,334 (51%) children in Homes for Medical-Social Care of Children aged 0 to 3 (HMSCC) were Romani; and 314 of 956 (32.8%) children in Homes for Children with Intellectual Disabilities (HCID) were Romani.¹⁶ In the 15 children’s homes visited during research for this study, 510 of the 809 (63.0%) children resident in the homes were Romani.

9 Article 159(a-d), Bulgarian Penal Code, amended by SG 27/2009.

10 It includes research on migratory perceptions and vulnerability to human trafficking for labour exploitation. Among the Roma ethnic group” and a “Training of the staff of the NCCTHB, LCCTHB and the institutions working in the field of human trafficking on the specificities of working with Roma minorities and the methods of prevention.” Bulgaria, *2010 National Programme for Prevention and Counter-Acting the Illegal Trafficking of People and Protection of its Victims*, available at: http://antitrafficking.government.bg/images/prog_files/1273647904.pdf.

11 Segregated “Romani schools” located in or near segregated Romani neighborhoods are by far the largest system of segregated schooling for Romani children. According to estimates, these schools serve between 44% and 70% of Romani children. Research has identified very poor infrastructure and technical equipment in these schools, as well as very lenient attitudes of teachers and regional educational inspectors to school absences and low quality of teaching. *Written Comments of the Bulgarian Helsinki Committee and the European Roma Rights Centre Concerning Bulgaria for Consideration by the United Nations Committee on the Elimination of Racial Discrimination at its 74th session* (December 2008), available at: http://www.bghelsinki.org/upload/resources/BHC_ERRC_Bulgaria_CERD74_bg.pdf.

12 Interviews with the former secretary of the Local Commission for Combating Trafficking in Human Beings and an education expert in Sliven. Southeastern Bulgaria: 16 March 2010. Interview with a member of the Local Commission for Combating Trafficking in Human Beings and a director of a municipal Prevention Department. Northeastern Bulgaria: 23 March 2010. Interview with a Romani member of the municipal council. South-central Bulgaria: 8 April 2010.

13 Interview with a representative of the Animus Association Foundation. Bulgaria: 9 March 2010. Interviews with representatives of the SOS - Families at Risk NGO and representative of a crisis. Northeastern Bulgaria: 23 March 2010.

14 United Nations, *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*, 1979, Article 16 (f), available at: <http://www2.ohchr.org/english/law/cedaw.htm>.

15 European Roma Rights Centre, *Life Sentence: Romani Children in Institutional Care*, 2011, available at: <http://www.errc.org/article/life-sentence-romani-children-in-institutional-care/3923>. Researchers visited 15 children’s homes and conducted 136 interviews.

16 Response number 05-00-5 by Nadya Shabani, Chair of Bulgaria’s State Agency for Child Protection: 1 June 2010.

During interviews, social workers, service providers and children's home workers reported that single Romani mothers and Romani girls who give birth before the age of 16 are at particular risk of separation from their children: they may leave their children in institutions voluntarily or may be targeted for child removal by child protection departments.¹⁷

Only a very broad legal definition of child endangerment as a basis for child placement in institutional care exists in Bulgaria. Detailed descriptions of child endangerment and clear guidelines for assessment are lacking, which creates significant opportunities for subjective interpretation or mis-application of child protection provisions by child protection and social workers, and may have a particularly negative impact on Romani children and families. Bulgaria's policy on child protection does not recognise the particular vulnerability of Romani children to removal from their families.¹⁸

RECOMMENDATIONS

On the basis of the above, the ERRC recommends that Bulgarian authorities:

- Amend national law to confirm with international standards on trafficking in human beings;
- Amend national anti-trafficking policy to adequately account for the high vulnerability of Roma to trafficking;
- Design and implement trafficking prevention campaigns specially targeted at Roma living in situations of social exclusion or segregated settlements in Bulgaria;
- Take measures to ensure that victim support services reach Roma affected by trafficking;
- Revise national child protection policy to include Romani children and families as at particular risk of endangerment in Bulgaria, including specific objectives, benchmarks and indicators, targeted programme plans, and monitoring and evaluation systems for assessing the impact of policies on Roma; and
- Develop domestic practitioner guidelines to identify and assess child endangerment in an unbiased manner;
- Provide full and adequate protection to Romani children and families at risk of separation;
- Annually collect comparable data disaggregated by ethnicity, gender, disability and other relevant factors, in the areas of trafficking, child protection, as well as education, housing, employment and health care, with appropriate measures to protect the personal data of Romani children and families.

¹⁷ Interview with the director of the Child Protection Department. Sliven, Bulgaria: 26 July 2010. Interviews with Romani families at risk and families whose children live in institutions. Nadezhda Romani neighbourhood, Sliven, Bulgaria: 28-29 July 2010. Interview with a senior expert at the Child Protection Department. Varna, Bulgaria: 2 August 2010. Interviews with Romani families at risk and families who have children in institutions. Vladislavovo Romani neighbourhood, Varna, Bulgaria: 5 August 2010. Interview with a representative of the Home for Medical-Social Care of Children aged 0 to 3. Plovdiv, Bulgaria: 14 July 2010.

¹⁸ Bulgaria, *National Strategy for Child Protection 2008-2018* (February 2008), available at: <http://www.strategy.bg/StrategicDocuments/View.aspx?lang=bg-BG&Id=464>. Bulgarian Council of Ministers, *Vision of Deinstitutionalization of Children in Bulgaria* (24 February 2010), available at: <http://sacp.government.bg/programi-dokladi/strategii-programi-planove/>.