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ПОСТОЯННО ПРЕДСТАВИТЕЛСТВО НА
РЕПУБЛИКА БЪЛГАРИЯ ПРИ СЛУЖБАТА НА
ООН И ДРУГИТЕ МЕЖДУНАРОДНИ
ОРГАНИЗАЦИИ В ЖЕНЕВА



MISSION PERMANENTE DE
LA REPUBLIQUE DE BULGARIE AUPRES DE L'ONU ET
LES AUTRES ORGANISATIONS INTERNATIONALES A
GENEVE

No. 395

Geneva, 7th August 2015

The Permanent Mission of the Republic of Bulgaria to the United Nations Office and Other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honour to transmit herewith the information provided by the Bulgarian authorities with regard to the urgent appeal sent by the Special Rapporteur on minority issues Ms. Rita Izsák on 13th July 2015 (letter, Reference: UA. BGR 1/2015).

The Permanent Mission of the Republic of Bulgaria to the United Nations Office and Other International Organizations in Geneva avails itself of this opportunity to renew to the Secretariat of the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration. *LS*

Annex: 4 pages



Office of the High Commissioner for Human Rights

Mandate of the Special Rapporteur on minority issues

Geneva

**INFORMATION PROVIDED BY THE BULGARIAN AUTHORITIES IN RESPONSE
TO THE REQUEST SUBMITTED BY MRS. RITA IZSAK, UN SPECIAL
RAPPORTEUR ON MINORITY ISSUES, REGARDING ALLEGED FORCED
EVICTIONS OF TWO ROMANI HOUSEHOLDS IN GARMEN MUNICIPALITY**

The Constitution of the Republic of Bulgaria prohibits racial discrimination in the most categorical manner.

Article 6, paragraph 1 of the **Constitution** stipulates that "All persons are born free and equal in dignity and rights". Article 6, paragraph 2, stipulates that "All citizens shall be equal before the law. There shall be no privileges or restriction of rights on the grounds of race, nationality, ethnic self-identity, sex, origin, religion, education, opinion, political affiliation, personal or social status or property status".

The Law on Protection Against Discrimination, adopted by the National Assembly on 16 September 2003 provides protection against all forms of discrimination, and contributes to its prevention. Its aim is to ensure in practice that every person receives the same equal treatment before the law. It explicitly bans any direct or indirect discrimination on grounds of sex, race, nationality, human genome, citizenship, origin, religion or belief, education, convictions, political affiliation, personal or public status, disability, age, sexual orientation, marital status, property status or on any other grounds and thus fully complies with the international treaties ratified by the Republic of Bulgaria, including the International Convention on the Elimination of All Forms of Racial Discrimination.

The Spatial Development Act (SDA) settles „the public relations, connected with the structure of the territory, the investment designing and the construction in the Republic of Bulgaria, and determines the restrictions of ownership for development purposes“. The Directorate for National Construction Control (DNCC) at the Ministry of the Regional Development and Wellness exerts control upon the lawfulness of the performance and the use of the construction and scrutinizes the validity of construction papers for all building categories. Article 225 regulates the procedure for „removal of unlawful construction of first, second and third category or parts thereof“.

Moreover, offences against national and racial equality are criminalised under the **Bulgarian Penal Code** and qualified with high degree of social danger. Recently, amendments have been introduced to the Penal Code by adding new grounds of discrimination and specifically criminalizing public incitement to violence or hate on ethnic grounds.

In reference to the **specific inquiry**, the Directorate for National Construction Control (DNCC) has issued orders for removal of the unlawful constructions against [REDACTED] and [REDACTED], as the beginning of the activities on their compulsory removal was assigned to start on July, 13th, 2015. These orders have been appealed on July, 8th, 2015 by the abovementioned persons before the Administrative Court in the town of Blagoevgrad through the attorney-at-law Daniela Mihaylova. The applicants claim, that the actions of the DNCC are void and violate the rights of the persons, residing in

the unlawful buildings, because after the compulsory removal the two families shall be left homeless, thus being in an extremely unfavourable situation.

Regarding the complaints of Aydarov and Iliev there are **Decisions of the Administrative Court**, dated July, 10th, 2015, by which the latter rejects their requests. They have been left without consideration as inadmissible in procedure and the proceedings of the cases have been discontinued in the respective parts. By the same Court decisions both complaints have been rejected in the parts, in which is requested voidance of the appealed acts and the requests for stopping their execution have been left without consideration. In this part the Decisions of the Blagoevgrad Court are final on the grounds of Article 4 of the Administrative Procedure Code.

Meanwhile on July, 10th, 2015 the affected families have approached the **European Court of Human Rights** on the grounds of Rule 39 of the Rules of the Court with the purpose of imposing interim measures against Bulgaria. In this connection additional information has been requested from the Bulgarian government concerning the measures undertaken to secure accommodation for the vulnerable individuals, pursuant to Article 8 of the European Convention on Human Rights, as well as information whether the envisaged measures provide for separation of the children from their parents. Also the Ministry of Labour and Social Policy and the State Agency for Child Protection addressed the DNCC with a request not to start the compulsory removal of the unlawful constructions in the village of Garmen, until the problem of the accommodation of the families with children is not solved. In this context, the execution of these two orders has been postponed until information is received from the competent authorities, concerning the possibilities for accommodation of the two families.

As a result of the information submitted by the Bulgarian authorities, the European Court of Human Rights **refused to impose interim measures** in order to stop the execution of the order for demolition of the unlawful constructions in instance, giving them time until July, 31st, 2015 to inform it, whether they are willing to keep their applications. Otherwise they will be deleted without notification.

We would like to state, that the abovementioned cases are only two amongst other cases of unlawful construction on the Bulgarian territory. According to Articles 272 and 273 of the Administrative Procedure Code the competent body is entitled to implement the execution in the fixed term, using ways and means, which with regard of the specific circumstances of the concrete case will ensure the most effective execution of the obligation and would be most favourable for the involved citizens or organizations. 124 invitations for voluntary execution in Garmen municipality are addressed in full compliance with the Law. In case of lack of voluntary execution, timely actions for compulsory removal of the unlawful settlements are undertaken, in accordance with the Spatial Development Act. Thus on the grounds of the Spatial Development Act, the DNCC has issued totally 124 orders for removal of unlawful constructions, as at present 102 are subject to execution and have entered into force in the period 2011 – 2014. Up to the moment only 8 of them are executed (4 compulsory and 4 voluntary).

There should be taken into consideration that all unlawful constructions, including those of the families [REDACTED] and [REDACTED] by definition represent buildings, which are dangerous and

threaten the lives and health of their inhabitants, amongst whom there are juveniles and under age persons. These buildings do not comply with the normative requirements for a "house" and do not offer normal hygienic conditions, sanitary junctions and water supply. We underline, that the occupancy of these unlawful buildings in its legal essence is an illegal conduct, out of which nobody, including these two concrete families, cannot derive rights.

We also notify the fact, that before undertaking actions for execution, the Directorate for National Construction Control addressed an inquiry to the mayor of Garmen municipality and the Regional governor of the town of Blagoevgrad regarding the opportunity to provide social services to the affected Roma. In May 2015 the respective competent regional structures informed, that they do not have at their disposal municipal houses in the region. However, the Regional Directorate "Social assistance" in the town Gotse Delchev offered the two families accommodations in social homes but they refused. These refusals have been recorded.

We would like to inform, that 22 removal orders have been scheduled for execution by the end of July, including the deferred two of [REDACTED] and [REDACTED]. On the 16th of July the Directorate for National Construction Control has approached the mayor of Garmen municipality immediately to provide a timetable with deadlines for temporary accommodation of the occupants of the unlawful constructions. When informed on this matter, the DNCC, by competence, will schedule dates and time for the compulsory execution of the orders, strictly observing the established legal procedure.

Regarding the allegations for intentional actions of the Directorate for National Construction Control and discrimination against the Roma community, we would like to highlight, that information on all issued and enforced orders for removal of unlawful constructions, as well as the steps undertaken for their implementation, is publicly available on the website of the authority. So for purpose of transparency, since December 10th, 2010 a public register for all orders in force was created and monthly updated. According to the published data, out of totally 6080 entered into force orders, up to the moment over 4530 unlawful constructions have been removed, and the pending ones are around 1550. Recent data shows that out of all 6080 orders for removal only 530 of them concern unlawful constructions occupied by Roma communities.

In the context of the aforesaid, we would like to draw your attention to the fact, that when initiating proceedings for removal of unlawful constructions, the competent administrative authority does not take into consideration the origin and the ethnicity of the offenders, but only seeks compliance with the national legal order established in the public interest. The Directorate for National Construction Control is requested to implement all enforceable orders for removal of unlawful constructions, **regardless of their location and ethnic origin of the perpetrators**. Thus the allegations on intentional and discriminatory treatment by the Bulgarian authorities are completely groundless and obviously not supported by evidence.

In conclusion we would like to clarify, that both executive authorities and the citizens should not allow illegal behavior, aiming at non-compliance with and negligence of the current legislation. Such a behavior reflects negatively on the achieved disciplining effect of the Law and creates conditions for legal violations. In this context, the Bulgarian authorities firmly reject the allegations of "forced evictions" and do not accept the assertions of intentional

premeditation in the implementation of the established legislation, such as the legal actions to remove the unlawful settlements of [REDACTED] and others. We consider the submitted information as incorrect and aiming at disrepute and derogate the authority of the executive power of the Republic of Bulgaria in the proper performance of its functions and responsibilities given by the Law.

In conclusion, we would like to point out that the recent events in Garmen are related to certain social problems on local level exacerbated by the worsening economic situation rather than as a general negative trend of anti-Roma attitudes and action rising within the society. Steps have been taken to address them within the existing institutional framework. The anti-Roma rhetoric used by some of the participants in the protests is only one of the many different interpretations of the events and their origin in the course of the on-going intense public debate on the issue. On numerous occasions, including in public statements related to the afore-mentioned events, Bulgarian authorities have condemned such rhetoric and have continuously warned against the use of hate and discriminatory speech of any kind in public discourse.

Last, but not least, it is important to highlight that the Republic of Bulgaria has achieved a progress in its policy on the integration of the minority groups, incl. Roma communities but challenges remain. However, efforts should persist and Bulgaria is committed to pursue a better perspective for its Roma population based on the rule of law, democracy and human rights.