



СНЦ "ИНИЦИАТИВА
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Access to electricity in Roma settlements in Bulgaria

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Equal Opportunities Initiative Association,

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Presents a report on
Access to electricity in Roma settlements in Bulgaria

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I. Existing practices regarding electricity supply in the Roma neighborhood in Bulgaria - a comparative analysis of the three electric utilities companies working in Bulgaria: CEZ, EVN and ENERGO PRO.

I.1. Introduction

Energy distribution and supply is provided by three companies in Bulgaria. They divide among themselves the service and distribute it entirely on a territorial principle, i.e. Bulgarian citizens - (the consumers of electricity) are put in a position to have no choice actually in determining the servicing company, because it is predetermined by their place of residence, as follows: in Western Bulgaria electricity is provided by CEZ, on the territory of Northeastern Bulgaria - by Energo-Pro and in Southeast Bulgaria - by EVN.

The Roma minority in Bulgaria represents about 10% of the total population of the country (according to unofficial data) and lives in territorially segregated neighborhoods. Roma neighborhoods are usually placed in the outskirts of the cities, and are characterized by poor infrastructure, high percentage of illegal construction, unclear status of ownership of land and housing and poor quality of all available utilities, including electricity.

The present report aims to summarize the information about the policies and practices of the three companies, operating in the country in comparative analytical order by examining both their good and bad practices, specifically as regards neighborhoods, inhabited exclusively by Roma. The aim is to analyze the situation and practices that lead respectively to improve or impair access to electricity and improving or worsening the quality of consumer service in these areas. The report contains information on the power supply in Roma neighborhoods, identifies problems and their consequences, vision and development plans of the particular company (if any) and possible approaches to solutions of the said problems.

The report reviews the existing practice of judicial authorities and the *Commission for Protection against Discrimination*, as the body required to ensure equality (including in the cases of use of services) in cases, related to the problems of power supply in the Roma neighborhoods and the attitude of the companies (the suppliers) to Roma people (the users).

Finally, the report reflects the opinion and views of Roma consumers on the quality of electricity supply, which is offered to them, views on the problem of ensuring

equality in their capacity as consumers and the discriminatory treatment of the supply-ing companies to them, as well as their opinion on possible improvements of the current situation.

To achieve these goals the team of "Equal Opportunities Initiative" Association explores territorial units, located in areas serviced by these three different companies, namely the following:

1. Roma neighborhoods of: "Fakulteta" in Sofia, "Gizdova mahala" in Dupnitsa, "Predel mahala" in Blagoevgrad and the territory of the Roma neighborhood in the town of Samokov - all these are serviced by CEZ;

2. Roma neighborhoods of: "Maksuda" in Varna and the village of Kamenar (Municipality of Varna) - all these are serviced by ENERGO PRO;

3. Roma neighborhoods of: "Stolipinovo" in Plovdiv and "Lukovitza in Peshtera" - all these are serviced by EVN.

The surveyed areas were selected in order to give an overall picture of the policies, practices, achievements and problems in the field of energy supply at specific Roma neighborhoods in the country. A great deal of attention is paid to the need to compare the Roma neighborhoods of the territory of each of the companies and to find out if there are any differences in provided service between large urban slums and small neighborhoods in cities of medium type. For the purpose of the study information, both from users of energy services and from the supplying companies themselves, as well as from other stakeholders - NGOs and local authorities in their respective territories, was collected and presented.

I.2. Situation in Roma neighborhoods, identified problems and their consequences

Overall picture

For the collection and analysis of information, the research team conducted interviews with Roma users from the targeted Roma neighborhoods on the base of pre-prepared questionnaires. Between 15 and 18 users were interviewed in each of the target areas with balance as regards the gender of the respondents. A produced and approved methodology was used in preparing the questionnaires for conducting interviews for the purpose of the report. By introducing questions general information about the general situation in the neighborhoods was gathered. With subsequent targeted questions, information was collected on consumption of electricity from a consumer perspective.

From the results of the interviews one may have the impression that Roma in Bulgaria as a whole prefer living in a community (neighborhoods with predominantly Roma population), pointing out that this is because the people in the Roma neighborhood normally know most people around and feel more secure for themselves and their children, than outside the neighborhood. In this respect, most of the respondents said that especially in recent years they feel uncertainty when they are

outside the Roma neighborhood, feel threatened because of prejudices against them in Bulgarian population, shared cases of ethnically motivated violence and discrimination and feared including of incursions of nationalist groups. Roma **opined** that in their neighborhoods there is no crime in large sizes, which increases their sense of security when they are in their neighborhoods. During the interviews only cases of pilferages were shared, which, according to respondents, are a normal phenomenon in every location. Due to the above, most respondents indicated that they are satisfied with the fact that they live in a Roma neighborhood and prefer not to move to another area. However, all respondents noted the lack of access to services that are generally available in the areas where the big percentage of the population are members of the majority (health services, sanitation, energy, etc.).

Regarding the supply of electricity, the interviewed shared the following information: the inhabitants of the Roma neighborhoods are perceived as **scrupulous consumers** of utility services (including electricity) and **cover their obligations** to their suppliers **promptly**. It was pointed out that the Roma neighborhoods were the first places where companies-suppliers of electricity have replaced the electricity measurement devices with electronic ones. Electronic measuring instruments allow for the remote recording, interruption or restoration, so when a second unpaid bill is at hand, the power supply will shut down automatically. Therefore, many of the respondents said that electricity bills are paid with priority, since almost all households in Roma settlements use only electrical appliances for everything: heating, lighting, cooking, laundry, use of devices for entertainment and work like TVs and computers etc. As a consequence, it is important to them to have permanent access to electricity and they strive to maintain good relations with suppliers of this service. Roma people have expressed outrage of the fact that despite the theoretical and practical impossibility to use electricity with more than one unpaid monthly bill, from within the society the idea that they use electricity without paying for it still manifests itself.

Most of the respondents said they believe **that bills are not always prepared correctly**. To illustrate this problem, they give examples of inconstant payment amount in a same household, using a same appliance in two different reporting periods (but in a same season), which are unexplainably characterized by a drastic difference in the accounts.

Much of the respondents said that the **quality of the electricity is not constant**. They believe that there are periods in which the supply voltage is lower than legal-ly required, which leads to damage of household appliances, accidents and other unpleasant situations from which they are the losers. According to the interviewed P.P. from "Predel mahala" in Blagoevgrad it is very often the case that electricity voltage does not exceeding 160 volts, while the statutory minimum is 220. In addition to the damage to equipment, this leads to the need of using it twice as long to finish a certain work.

According to the users, **accidents in Roma neighborhoods happen relatively more often** than in non-Roma neighborhoods. Accidents in Roma neighborhoods are removed only by employees of the energy company, when affecting the network

outside the home, and only by private repairing groups, when an accident affects the internal network.

By comparing the quality of the network in their neighborhoods with the quality in areas with Bulgarian population, the users in Roma neighborhoods believe that **supplying companies do not invest enough**. It is believed that in Roma neighborhoods the network and facilities are not consistent with the actual number of users, which in turn leads to congestion and disruption of the supply of electricity due to accidents.

Roma consumers of electricity from CEZ

Respondents in the regions of CEZ said that according to information that the company itself provided them with, **the repair services operate in Roma neighborhoods within the working week only**, at the hours from 9 a.m. to 16 p.m. They share their dissatisfaction with this by focusing on the fact that in the surrounding areas, inhabited mainly by Bulgarian population, the same services are at hand twenty-four hours and seven days a week.

According to Roma people in these areas **bills for consumption are higher** compared to the bills that are paid in other areas of the city.

In their view a lot of **paid additional paid services** related to access to electricity **are not provided on time and adequately**. For example the interviewed B.I. of the "Fakulteta" district in Sofia showed documents, which shows clearly that she paid a fee for opening a new user and has covered all costs associated with this activity. In her supplier contract it is stipulated that accession will happen within 45 days of signing it, but during the interview 18 months had passed without the service being completed.

The interviewed ones shared reluctantly, that in order to reduce their electricity bills, some of them resort to illegal actions - **manipulation of measuring devices**. The interesting thing is that since their electrometers are installed in closed panels, mounted on poles high above the ground (between 6 and 12 meters, depending on the living area), they can be reached with special "lifts"¹ of the electricity provider only. According to the users, involved in the **illegal activities are also people from the energy company itself**, as there is no way one can get to the electrometer, apart from using the specialized cars stairs of the company-supplier. Furthermore, these meters are electronic and only a specialist could perform some manipulation with them.

The interviewed ones shared that in their opinion it is a problem that their measuring devices (**electrometers**) are placed at heights of **6** (Dupnitsa and Blagoevgrad) or **12** (Sofia) meters high and are therefore **inaccessible for visual inspection**. Consumers are aware that such a practice exists only in their and other Roma neighborhoods, while in areas, inhabited by ethnic Bulgarians, this is not so. They consider this practice as **discrimination on ethnic grounds**. The inaccessibility of the electrometers does not allow daily power consumption control by consumers. They think that this

1 Staff cars with moving ladder, belonging to the Companies - suppliers.

is one of the reasons for the relatively large monthly bills.

Another important problem for consumers is that they **do not receive** the required by legislation in the country **payable notices** (invoices) because the companies-suppliers do not issue them for users in Roma neighborhoods. It turns out that the Roma consumers become aware of the size of their monthly bill at the moment they are going to pay at the cash register of the company. Subsequently it often turns out that at the time of payment the user does not have the required amount and can not pay his/her bill in full. This leads to disruption of supply, which in turn leads to payment of a surcharge to recover the energy supply after payment of the amount due.

The respondents in the Roma neighborhood in the town of Samokov say that for many years the company has tolerated **mediating the relationship with each customer** by "appointing officers-collectors" from the Roma neighborhood itself. These "officers" defined the monthly fee for each user and committed interruption of electricity for non-payment themselves. The users said that they did not receive any documents for the amounts paid. This practice was overcome not until the last year with the efforts of local NGOs which advocated before the local administration for adopting a decision of the Municipal Council of Samokov to sign rental contracts with citizens who had illegally built houses on municipal land, on the basis of which the company revealed the individual lots.

The respondents share the concern that it is likely that some of the people in the neighborhood **to stop paying** their bills not because they want to, but because they **can not afford it** (cases of amounts of several thousand lv. for one household were cited from "Faculteta" district) or disagree with the accuracy of reporting, but can not ask for verification before payment of the sums as they were informed by employees of the company that only a subscriber without obligation to the company may check whether the condition of the electrometers is good or bad.

The respondents from the regions served by CEZ believe **that the attitude towards the Roma consumers is different, less favorable** than in other areas of the cities. Many examples were given: untimely removal of accidents, placement of measuring devices in high panels, big delays in the implementation of regulated activities, incorrect attitude in search of information, lack of access to information, etc.

According to users, they are at risk. They think that non-payment of bills and lack of information about the formation of the amounts for final payment leads to a deterioration of relations between suppliers and consumers. However, even in this situation, they pay their electricity bills regularly because they have no alternative for ensuring their lifestyle. Heating, food, hygiene and all household needs depend on availability and quality of electricity.

Consumers believe that in order to overcome the problems it is mainly the company that has to make billing of electricity transparent, to provide accessible information in an understandable way and in summary - be flexible depending on the specific problematic situation. As an example of such flexibility they indicate mostly

the need of deferred payment of the accrued old big debts.

Roma electricity consumers of ENERGY PRO

Roma respondents from both Roma neighborhoods were selected for the study.

In 2008 ENERGO PRO installed in the village of Kamenar electronic electrometers, protected by signal system called "SOT", stating this as an example of good practice. From a consumer perspective, this does not help to resolve **the main issue** in the consumption of electricity - **the high cost of service**. Respondents believe that their accounts are unrealistically high and it is a result of deliberate unfair treatment of the distribution company. The main argument they state is that the accounts have different values each month (throughout the same season) until the power consumption on their part does not change. All interviewees (from the village of Kamenar and from "Maksuda mahala" in Varna) share that they pay high bills - values are ranging between 50 and 120 levs. According to the consumers from the village of Kamenar values of bills have risen sharply after the installation of digital electrometers, protected by the "SOT" security system. According to some previously interviewed consumers the accounts were of the order of 16-20 levs. Some of them accuse the collectors in incorrect calculation of their accounts - they believe that in each calculation the collectors overcharge KWs in order to restore the company's losses from unpaid old debts. However, it is noted that the present situation is better since the electrometers are subject to visual control. According to the users before the new investments - at the time when the meters were posted on poles - the abuses of collectors have been even greater. Some argue that there is a problem with the functioning of the new electronic meters. As they have been explained in the centers for customer service, the new electrometers read even the electricity consumed by light sensors of the electronic equipment, which was the reason for their high bills. They do not accept this explanation as plausible and suspect that the distribution company tries to profit unfairly. According to some of them some of the new meters are set completely intentionally in order to report values higher than actually spent.

Another common problem with the payment of bills referred by consumers is related to some **municipal housing** in which some of the inhabitants live. **The electricity company does not register a change of tenants** and often requires from newly-arrived families the payment of debts in serious dimensions accumulated by previous tenants. The consumers find covering of old debts to be unfair and refuse to accept the proposal of the supplier of deferred payment.

The introduction of digital meters was able to achieve its main goal - bad practices of manipulation of electricity meters in order to reduce the reading were stopped. According to the interviewed ones of village of Kamenar there are no people who illegally use electricity at the moment, which, by the way, is now completely impossible, because of the signal system called "SOT". The introduction of digital meters results effectively in **eliminating the practice families with interrupted power to join the network of their neighbors**, since

handling the network is much more difficult now and the consumed energy in a household- more accurately reported. This forces families which have no electricity to seek alternative ways for lighting and heating.

All people consider **the improvement of the quality of electricity** after the introduction of electronic meter as a positive change. There are no problems with the supply of electricity now, unlike earlier, when everyone complained that irregular voltage damaged their electrical equipment. According to interviewees the problems with the power supply were then at a very large scale. There are no such instances of accidents as were usual before.

A major source of discontent among the respondents is the **attitude of the employees of the company to them as consumers**. The main problem they point out is the lack of information on the practices and policies of the company, as well as the unwillingness of its employees to provide such in direct contact with customers. According to them the introduction of the new electrometers happened without the consent of the people and this is again a practice of the company, which they considered to be unlawful. The interviewed ones express similar disappointment when communicating with employees of the company when they work on the ground in the area. They want and expect employees to provide information on the significance of the values in electrometers, while the practice of the company is to direct them for more information to the centers for customer service. Most of the work of the centers for customer service of ENERGY PRO should be done by phone - receiving messages for emergencies, consultations on outstanding amounts, etc. Roma people, however, have the feeling that they are not paying any attention when talking with employees of the company on the phone. Respondents argue that the company does not send monthly invoices for their duties, and thus consumers do not know how much they due to the very moment of payment at the cash register at the centers for customer service.

Roma consumers of electricity from EVN

Regarding the supply with electricity as a consumer service, respondents shared the following information: for more than twenty years, the consumption of electricity in Roma communities was a major problem. Poor quality of the network has led to constant breakdowns and conditions existed for corruption, both in the process of reporting the amount of consumed energy and in its payment. Collectors were appointed who collected monthly obligations and did not report them to the company. Thus the consumers have collected enormous duties in form of unpaid bills. This led to the decision taken by the supplier company, to proceed to mass exclusions of energy. Subsequently the largest Roma quarter in EVN territory - "Stolipinovo" in Plovdiv, has been placed under electricity regime and power is being supplied only at night. This further motivated consumers to not pay the energy consumed, and ultimately they accumulated debt of more than three million leva for the neighborhood. The situation was regarded as hopeless by both consumers, and by the energy company. Meanwhile the supplied power had been at a low voltage, which led to damages to electrical equipment.

At this stage, however, respondents say that in 2007-2008-2009, as a result of

targeted investment programs of the company - supplier **the electricity network has been completely renovated**. The major problem consumers had has been solved - **meters** that have been placed on high poles in the past, are now put in **panels at a level, allowing visual inspection**. Now residents of the Roma neighborhoods are perceived as conscientious consumers of electricity and **cover their obligations to the provider promptly and on time**. The interviews revealed that the bills are paid with priority, since almost all households in the neighborhoods only use electrical appliances for everything - cookers, washing machines, televisions, air conditioners, heaters, etc., subsequently it is important for them that they have permanent access to electricity and strive to maintain good relations with suppliers of this service.

It should be noted that some of interviewee said that the **bills are not always prepared correctly**, having in mind mainly that, according to the graphs, more energy has been used according to the old ones, which were clock mechanisms. The consumers believe that the new meters are hypersensitive and report consumption even due to vibration caused by public transport. Some respondents, however, continue to believe that the bills for consumption are higher compared to the bills that are paid in other areas of cities.

On the other hand, they say that the power availability is now **steady and with good quality**. They share these are just occasional accidents, mainly as a result of overconsumption. According to the users **accidents are rare and are removed promptly**, usually within a day. They said that when damage occurred it can be fixed only by employees of the energy company, the emergency services working constantly and contact with them being easy.

Users also claimed that as a result of **information campaigns on energy savings conducted by the supplying company**, they already are trying to acquire modern and efficient equipment, leading to the overcoming of the problem of accidental overconsumption.

Respondents express satisfaction with the fact that the company has appointed **Roma consultants**, from among their neighbors, who they all know and trust. According to the users, consultants are qualified to answer any questions about electricity consumption, how it gets documented, ways and places to pay. The consumers welcome the policy and believe that it saves them time, because earlier on any such occasions it was necessary to turn to the Center for customer service, which is not in the neighborhood and thus access to it is not easy.

The consumers expressed satisfaction with the fact that now they **can monitor the performance of the meters, can use the help of consultants to do so and to pay expenses at a cash-desk, opened by company in the neighborhood**.

The interviews revealed that **paid services are carried out promptly and adequately**.

The interviewees expressed satisfaction with the proposed way to

solve the problem with the **accumulated old debts**. To cover them each user pays between 7 and 20 leva per month, along with current consumption. Users find this scheme quite tolerable, although still not aware of how exactly the amount was formed. However, each of them is aware of the amount of old debt and has signed a bilateral protocol. Interviewed in "Stolipinovo" believe that after the change of regime and the restoration of the power the attempts to unlawfully take advantage of the network on their part already do not exist, nor the attempts for illegal consumption.

One interviewee shared his satisfaction with the policy of the company to make efforts to **supply every consumer with a separate electrometer**. In the past favors were made to the consumers who did not possess their own meter, however by sharing with other users they did not know how to divide the monthly bill. This led to unpaid bills and accumulation of debts.

Consumers also express satisfaction with the fact that currently they receive their **monthly bills in writing**, and these are delivered by the Roma consultants. They share that in the past they had the problem of getting information regarding the amount due at the moment they went to the cash-desks.

1.3. Vision of companies - suppliers regarding Roma neighborhoods. Possible solutions/ practices identified

Information generated by CEZ

According to the official statement of the company both in Sofia and in other cities in which CEZ operates, there are certain "problem areas" identified². They are not specified explicitly, however a conclusion can be drawn that in this case a "problem area" serves as a definition of the Roma neighborhoods. The company determines **specific problems** in these areas as such, that they hamper the supply of electricity, among which are the poor infrastructure, the inertial attitude of consumers towards their problems related to supply and payments, the misunderstanding of the actions taken by the company to improve the service and the difficult communication with customers. The problem dates from the labeling of the neighborhoods as Roma. The reasons are defined as "complex", without specification in any way. According to the company, in order to avoid problems, it is necessary to constantly open dialogue with all parties concerned; having the problems defined clearly and concrete solutions should be researched. The agreements reached should be respected by all parties and no one shall proceed with the transfer of responsibilities and guilt. The company however does not share any enthusiasm for the concrete steps taken by them in this regard.

Although in the recent past there was a serious problem with the collection of monthly payments by Roma, the company argues that there is no specific strategy for action on collection regarding the Roma population, and a common strategy for

2 Interview and discussion with Mr. Radoslav Dimitrov, Energy Ombudsman CEZ

"receivable management" is used. This general strategy is, according to the company, "embedded in official documents", but such are not specified. The Company evaluates its actions³ in Roma neighborhoods in the last ten years as successful ones which led to a significant increase in the collection of bills, as well as the quality of the supplied energy and the actual metering. In some areas within the CEZ territory, such as Lom, Samokov and partly Dupnitsa, where the company have information that the consumers are Roma, the collection is significantly lower than the average for CEZ; but in Fakulteta in Sofia and to some extent in the town of Ihtiman - as a result of investments undertaken, the problem with the collection has been overcome.

According to the company the stages of the process of debt collection are several - beginning with phone calls and letters to debtors⁴, later failing to pay to the company, standard commercial practice is to seek assistance from external companies-collectors. To objectify and specify the information we have to note that CEZ **yet manage** to solve the problem of old debts in Roma neighborhoods by carrying out several cessions of debt with a contract concluded with "EOS Matrix". With this contract a significant part of the old bills of customers in Roma neighborhoods in different cities in the country are transferred to "EOS Matrix". Thus at this time these customers are in good terms with the company, i.e. they are not in its debt⁵. When Roma people find out that they no longer have obligations to the company; they apply for a re-connection to the grid. This service, however, is currently being carried out with considerable delays (as concerns the Roma neighborhoods) on the terms designated by the company itself with the so called "General terms", as there are no available free places for electrometers in high boards. It is known, however, that old bills that are not ceded have remained.

In principle, the company does not tolerate the practice of "deferred payment", but in cases where it was agreed on, it usually offers the consumers scheme payment of 40% of the obligation as down-payment and reschedule of the rest in equal monthly installments within three to six months. Having in mind that some of the bills are about more than two thousand leva, this scheme appears troublesomely impossible to obliged consumers. To avoid creating new obligations, the company claims that it uses practices as active communication with customers, phone calls, reminders, SMS notifications (after registration) and ultimately - power outage. Restoration of supply after a break is done after payment of the amount due and charge recovery. In terms of additional and/or future efforts in this regard the company believes that

3 Here we have in mind the placement of electrometers in Roma neighborhoods in high panels, and replacement of measuring devices with electronic ones, allowing remote reading, disconnection and recovery.

4 The emphasis here is put on the fact that as regards Roma neighborhoods such practices occurred not very efficient as Roma used primarily prepaid mobile cards, which they often changed without informing the company, and letters to those users are not usually used due to refusals of the postal serves to deliver them.

5 It is necessary to note here the complete absence of information to the consumer indebted for these cessions, and that they have no longer obligations to CEZ, but have become debtors of another company whose business is specialized in debt collection. This lack of information has led to widespread delusion among Roma people that CEZ has committed 'remission' of their debts. The indebted users themselves became aware of the fact that have no longer obligations to the electricity company accidentally and usually when they go to check the size of their duties.

all major stakeholders should take action. On the other hand, the company draws attention to the fact that they have made significant investments to improve the network in areas with concentrated Roma population and by "significant investment" they have in mind two things: 1/ the placement of electrometers with remote read-ing, disconnection and inclusion, which leads to better collection of current monthly obligations and 2/ installation of high boards for electricity measurement devices, which leads to improving the safety of the network. Currently the investment program is continued with the replacement of existing electronic meters with new models, as it has been reported that the new technology will allow placement of additional devices in the homes of consumers which will allow monitoring of the performance of high electric current⁶.

The research team sought specific information about the **collectability of receivables** from the neighborhoods "Fakulteta", "Gizdova mahala" and "Predel mahala" for the last twelve months, as well as data collection in rates and in comparison with other areas. The firm has not shared specific information and the summary answer is that as a whole, collection from Roma neighborhoods is lower, but interestingly in "Fakulteta" and in other areas where "intelligent management" is the chosen means collection is higher. The reason for the lower tax take shows economic weakness and instability of the Roma population in terms of the general financial crisis and disorganization as well as insufficient attention to the deadlines established for payment. Another specific reason articulated by the company is that a number of customers join the network unlawfully and therefore for certain periods they are using energy without paying. As regards the allegations of users that their bills are overstated and that they are relatively higher than the bills of such households in Bulgarian quarters, the company said that it cannot summarize information, which shows that consumption in Roma neighborhoods is higher, as it is individual for each household indicator, so it is neither possible nor correct to compare arbitrary different bills. Furthermore, the company informs that it does not use information campaigns on ways of saving energy, specifically targeting the Roma population. The company shares information about the difficult access of the company's employees to specific places in the Roma neighborhoods, and again states the poor infrastructure and the rapid escalation of tension among the population in the presence of the slightest problem. This leads to the need for cooperation from both the local administration and by working in the area civic organizations. The latter was done by a company, and it welcomes the results achieved so far from collaboration, however without citing specific examples.

As a service provider, the company states that it considers all its customers equally. Concerns are raised, however, that the attacks on the network and illegal connections done with the intent of reduction the reported margin of energy, are more common in Roma neighborhoods, including "Fakulteta", "Gizdova mahala" and "Predel mahala." To tackle the problem, the company uses continual checks and actions "in accordance with the General Terms." The company's management does not consid

⁶ In practice, such additional devices are not installed in any location, as the company did not provide for such, and as it seems - does not intend to do so, as the preliminary study indicated that the price of the device (which has to be paid by a user) would be impossible to cover for users from Roma neighborhoods.

er the placement of measuring devices on an inaccessible height as a discriminatory practice. On the contrary, it is deemed to comply with the requirements of the General Terms. The company avoids dialogue on possible changes to the requirements for connecting consumers to overcome the problems in this area, typical of Roma neighborhoods - not enough places for new meters.

The vision of ENERGO PRO

According to Energo-Pro, the problems with the Roma are the same as the ones with all other clients, who do not respect the conditions of the General Terms for the supply of electricity. According to the company in the customers who do not pay are concentrated predominantly in Roma inhabited areas. The company stated that they are trying to pay special attention to these clients, focusing on what is most problematic for them - contractual relations, dealing with most of the documents and the different requirements that these have. This is done in order to facilitate these customers as much as possible, however, according to company policy, without affording for any special preferences. This is not seen as a special strategy, but rather as part of the company's efforts to keep uncollected receivables to the lowest possible level in time of global crisis. In terms of the specifics of work in Roma neighborhoods, the company shares following experience: Energo-Pro has service centers for customers in nine regional cities in the territory in which it operates. It has not appointed special officers on the ground to work directly with Roma in Roma neighborhoods. Most of the problems that Roma have, according to the company, need to be addressed in the centers for customer service, since the employees there are adequately trained to explain to them what the procedures are. The company determined that the source of the problem is that a large part of this population is illiterate and every question must be explained in minute detail. The company attempts to work with local governments, recognizing that in smaller settlements, when people have a problem, they usually go to the mayor. Therefore, the company provided information materials in the municipalities. Such, however, are not available directly in the Roma neighborhoods.

The company experienced difficulties in direct communication between the employees and customers, and has a practice that all employees who work directly with clients undergo several training sessions each year. Trainings are structured differently, mainly conflict management and conflict situations. However, according to the management of Energo-Pro, it cannot be stated that Roma clients create more problems than ethnic Bulgarians; on the contrary - Roma who come to the customer service centers with different problems are quite conscientious and, in many cases easier to work with. As a result, the company - supplier does not believe that special training and preparation for work with clients from the Roma neighborhoods is needed.

Among the most significant problems in the provision of services in Roma neighborhoods, the company lists: non-payment of consumed energy and the problem of unclear status of ownership of land and legality of buildings belonging to consumers. Over the years electric meters were connected contrary to current regulations; in most cases before purchasing the right to use network from Energo-Pro. Because of this parts of the meters are and the com-

pany does not know whether the owner of the property still lives there and owns the electrometer. The company has no information regarding changed owners of property, whether there is a new property built or an old one is being succeeded, because it is an obligation of the customer to inform the company after a change of ownership, whether on the basis of sale or inheritance. This issue was to be tackled by the company - supplier in Kamenar. It was found that there are many properties that do not have any documents - the buildings have been built illegally. There are cases where the houses were built by the municipality, but residents have no documents to prove it. According to the legal requirements a building must be legitimate, in order to be connected to the electric network, but in the Roma settlements the situation is reported as more specific. The company is currently trying to work with the municipality to at least settle the status of legal structures in order to acquire paperwork and bring them into the database. At this stage the company does not have accurate information about the number of lots illegally connected to the network. It is known that the technicians, who work on the ground, have some idea, but it is regarded as not concrete. However, there are many cases where no information is available at all. Mostly referring to households without electricity, some are connected directly to the network, while others bypass the meter and consumption is left unrecorded, invoiced and asked due from the customers. Illegal connections are a serious problem and the company seeks to identify and break them, because it is in its commercial interest. Finding of illegal inclusions is the responsibility of Energo-Pro Bulgaria - Networks.

In terms of manipulating equipment, the company does not consider that there is a massive problem. In Kamenar the company installed new panels, which, by law, are capable of being monitored by consumers, as these have windows and are set at human height. They are also equip with sensors and connected to an "alarm" which would alert when an encroachment occurs. The company notes that the consumers have taken some time to get used to the new meters and their alert and security systems. The company hired a security firm, which in turn appointed persons from local population, who are responsible for security. The practice is reported as successful, at least in terms of technical preservation of measuring instruments. According to Energo-Pro, responsibility for existing problems lies on both sides - the supplier and the consumer. It is recognized that most of the problems are inherited and very old, as there are outstanding unpaid bills, most of which from 1990 and later, and in 2002 to 2003, there were problems with manipulated meters' reading, according to consumers. They refused to pay these and accumulated large unpaid amounts. Customers are responsible when they do not comply with their obligations under the General Terms of Contract: registration of change of principal owner or payment of consumed energy. The company is accused that it provides energy with lower voltage in the Roma area, but believes that this is due to excessive and illegal connections.

Practice in Kamenar: The idea for the realization of the project dates back to the spring of 2008, after the identification of concentrated attacks on facilities, including accessions to air cable network. Energo-Pro is working on an option to reduce the losses for the company network. The company argued that the investment project was preceded by an information campaign - meetings were held with the municipality and the mayor of the village Kamenar;

As well as with the majority of the Roma population in the local school, in order to inform the public about the obligations between supplier and consumer; furthermore users had the opportunity to share their problems - inscriptions, lack of documents of ownership of the property. The meeting was attended by representatives of the "security firm". As a result of these actions, each party has agreed to try to help and resolve the problems. Employees at the Center for customer service in Varna were instructed to pay more attention to these customers, in this way attracting them as regular customers and payers. The technical part of the work involved the installation of new panels with protection and renewal of the air cable lines. This reduced losses and opportunities for manipulation. As a result of these actions progress is clearly visible by the significant reduction of losses in this area, although not all customers are registered as of yet.

Overall, the company is satisfied with the investment. It assessed the practice of putting the meters in places accessible for visual inspection and considers that this reduces the physical attacks on facilities and increases customer confidence. When the project was realized, the current topic became the need for **dissemination** of information materials, but after consultation with the local administration the company decided that since the majority of customers are illiterate, the use of information materials is not the most efficient solution. However, these were created and distributed in the municipality's premises and centers for customer service, where each customer, if desired, may familiarize himself with prior and additional information about the various procedures and services. However, it was judged that it is not very efficient to print informational materials for mass distribution. Regarding the relationships with Roma customers Energo-Pro considers that it is necessary to motivate clients re to be prompt and on point. The company considered that the technical improvements in Roma neighborhoods contribute to better relations with customers, as they make manipulation with the network significantly more difficult - the facilities are controlled, there is security and the overall sense in the air is that illegal connections do not go unpunished, which quashes the majority of desire for such acts.

Since many of the customers have old unpaid debts, the company explores ways to deal with this problem. It is known that some of the debts cannot be collected because they are so old that they are time-barred, and thus a different payment scheme must be allocated for. Under the leadership of Energo-Pro, the three most important steps that will help to regulate relations and reduce the problems are: first - to simplify the procedure for registration of every citizen as a consumer; second - for clarifications with an interactive approach - more contact with the local population, as in such cases of closed groups, where it is essential to gain their confidence, so that they can understand what is required of them; and third - investment in the network to ensure power quality, so that the message of the company is: "We provide quality electricity and the only thing we want from you is for you to be loyal customers."

The company claims that it does not divide its clients on ethnic base, because the database does not contain information about user's ethnic group. The company tries to make sure that the staff does not demonstrate to the clients that it makes such a distinction. The company says that in some cases it can be judged that the client is of Roma origin only by the name of the account holder.

Problems are identified in several large districts in major cities, including the "Maksuda". The company maintains that it approaches incorrect Roma payers as all other customers - by sending warning letters, in which they are given all the possible ways in which they can pay; then there are waiting periods for payment, after which the company proceeds to switch the power off. Then, if there is no response from the customer - to pay or request rescheduling, which is a very common practice, the company collects the payments via court procedures. In the case of reactivation, the centers for customer support are prepared - they have protocols for rescheduling - get in touch with customers over the phone and make arrangements concerning the modes of payment. The company does not practice decentralized working in this regard. Department for collections is situated in Varna, whereby in each regional center the company has a center for customer service. Employees of Energo-Pro undergo training for working with clients and work via phone.

According to the company there is no trend to have damaged electricity meters not repaired. Technical control of installed meters is completed in due time. For information the customers use a call center. The company reported that there is no such practice to rely on the assistance and cooperation of NGOs. Part of the reason for this is the well known event in "Vladislavovo" Roma district /in Varna/, which has achieved exactly the opposite effect - people were duped by one of the local leaders, who had intended to mediate rescheduling of payments but promised the people impossible ways of doing this, which were not discussed with the company. Energo-Pro does not give specific information about the amount of debts or changes in the rates of collection of debts in Roma settlements with the explanation that it is company policy.

Vision and plans of EVN to improve the service in the Roma settlements

According to managers and employees of EVN the company covers a territory in which it inherited many problematic areas, mainly previously neglected settlements, where consumers from Roma origin live in concentrated quarters - we're not talking only about Plovdiv, which was known for this problem, but also about Burgas, Yambol, Sliven, Stara Zagora, Perushtitza, Peshtera, Krichim, Brestovitsa, Gradec, Straldzha, Novo Selo. The main problems in these areas have been the poor condition of the network and of the meters, as well as the low collection rate of monthly bills. These problems are seen as inherited - i.e. existing at the time of privatization of the company. Today's owners and managers believe that this is due to insufficient investment opportunities in the past, and the reluctance to tackle problems that obviously require more efforts and perseverance.

In 2007 EVN launched pilot projects to improve the electricity supply in Roma settlements, focusing on Plovdiv, as it has been considered the most risky. Projects were launched in parallel and were implemented in two large Roma neighborhoods - "Stolipinovo" and "Sheker mahala". Subsequently, EVN began implementation of a series of similar investment projects in other cities, within the Roma neighborhoods. Working groups were formed, and they calculated in advance the possible economic efficiency of these projects, analyzed the existing problems (mainly lack of collection, accumulation of

losses, loss of solvent clients) and pre-estimated the appropriateness of the projects. The working groups were consulted by experts from NGOs. Pilot projects included investments in total renovation of networks and equipment; placement of measuring devices in on-ground situated panels, enabling visual control; the appointment of energy consultants of Roma descent and rescheduling of old debts under payment-affordable conditions for consumers.

EVN estimates its actions as extremely successful. In the first place the implementation of the projects has led to a more than 80% monthly collection of the bills for consumed energy, the data showing that for some months the percentage exceeds 90%. For comparison, before the implementation of the project in the "Stolipinovo" district the reported monthly collection was between 2% and 3% of the amounts due. Secondly, the company's losses are lowered to below 7% of the energy consumed. The projects are implemented on the basis of approved investment programs. The main difficulties which the company encountered during the realization of the projects were problems with customers' adaptation to the new way of energy supply and its mandatory monthly payment. The company had estimated these difficulties before the start of the project and overcame them through mass information campaigns, meetings and individual conversations and consultations with consumers. It was estimated that in "Stolipinovo" the electricity consumption was relatively slightly higher compared to other areas in the city. Although in Roma neighborhoods coal was widely used for heating, many households were seen using air conditioning, it was evident that people had no habits for energy saving behavior, and had to be educated. To overcome these problems, the company used combined methods - meetings with consumers, information campaigns and easy to understand written materials, which were distributed by the consultants appointed by the company. The appointed consultants were residents of the Roma neighborhoods. The Company believes that it gradually successfully overcame the habitual practice of not paying monthly bills.

In the course of the implementation of the new program, the main problem was how to proceed with the payment of previous debts. The company offered and considered several socially acceptable schemes - payment of approximately 30 leva per month, or 10% of the average of the last six bills, which again resulted in a monthly payment of approximately same amount.

A major milestone in the implementation of the program was the building of a new network and placement of measuring devices in places accessible for visual inspection by consumers. After the project's realization all electrical panels are placed on the streets, on 1,5 meter from the ground and have windows that provide visibility to the meters. EVN believes that thus eliminates inequalities of Roma users whose electrical appliances were before placed at a height inaccessible for visual control - a situation which could be seen as discriminatory. The Company believes that placing the panels at a level comfortable for visual control is beneficial also to the firemen as the former high panels were unsafe and fire hazard. It was estimated that illegal attachments to the network were also dangerous. Economic assumptions show that the investment is expected to be re-paid within five years period.

The supplementary taxes for re-connection, cut -off and repairs are also aligned in this way, as in the past these were different for high and low electricity panels due to the need of use of lift-stairs for the high electricity panels.

A major obstacle to the realization of the project was the fact that it was not possible to connect to the network all users who apply because of the lack of regulation in the neighborhood and the fact that consumers often do not have the necessary documentation to be registered as new users with separate lots. However, the company seamlessly connects all users - these who identify themselves as owners with notary acts, and these who identify themselves as tenants with contracts, which also complies with the requirements of Regulation for Connection No 6. Attempts have been made to lobby to solve this problem from within its foundation, with proposals for legislative changes that so far have not been successful.

The additional investments of the company to overcome the problems in Roma neighborhoods are worth more than six million leva.

In the course of realization of their projects, EVN seeks the cooperation of local authorities and local civil society organizations. Following this policy in "Stolopinovo" the program is implemented in cooperation with the Municipality of Plovdiv, local NGOs and the appointment of Roma consultants who would assist the customers.

The Company has assessed as economically viable and useful for consumers the disclosure of **cash-desk payments** of the bills within the neighborhood.

EVN uses a security company to secure its facilities in the Roma settlements. Under the agreement with the company, the security firm also appoints guards from Roma origin, who live in the neighborhood. From a financial point of view the security of the panels is the most expensive item of the projects. At this stage, no complaints of attacks on new investments are reported - consumers accept their gains as something useful and are themselves trying to protect them. With the new system the company believes that it is not possible to carry out electricity theft in place, which has often been practiced by consumers in the past.

EVN also implements initiatives to assist customers - as an example a joint initiative with the "Open Society" and "Mikrofond" is cited, where after seeing the needs of the population, to micro-loans were given to consumers in order for them to be able to pay fees for connection to the network.

The company recognizes the need to win back the consumers' confidence which was lost in the past. EVN uses State Agency for Standardization, which at the request of the company has made massive on ground checks on the working efficiency of the measuring devices.

Together with tangible benefits to consumers, the company reported exceptional growth of the collection rate of bills in Roma neighborhoods resulting from the implementation of the said projects.

II. Practice of the Commission for Protection against Discrimination and Court case law in cases related to problems with the supply of electricity in Roma neighborhoods.

II.1. Practice of the Commission for Protection against Discrimination

Commission for Protection against Discrimination is an independent body set up for the application of the Law on Protection against Discrimination in order to protect the right to equality and non-discrimination. The Commission consists of nine commissioners, five of whom are elected by the National Assembly and four are appointed by the President of the Republic. The Commission sits in Panels, which consist of three members - commissioners. The first Specialized Panel of the Commission for Protection against Discrimination examines cases of alleged discrimination on ethnic grounds. In cases of alleged multiple discrimination / based on more than one protected ground / the Commission initiates expanded panels of five commissioners. And finally - in special cases, creates so-called ad hoc panels.

Proceedings before the Commission can be initiated by a complaint from a concerned person or a signal from a third party. Signals can be submitted by legal entities also. The Commission has the right to self-initiate proceeding in cases of violations of the Protection against Discrimination Act.

After initiating the proceedings based on complaint, signal or under its own right, the Commission will study the file, enabling the parties to get acquainted with it and deal with cases in open hearings. By making decisions the Commission shall decide whether there is or there is not discrimination present; if discrimination is established, the Commission has the right to order the defendant to cease the discriminatory treatment, to restore the situation to the state it was before the breach, and to refrain from any violations in the future. The Commission may stipulate fines for offenders, and impose mandatory measures in accordance with the implementation of the Protection against Discrimination Act. Commission decisions are subject to ap-peak before the administrative court.

Since its creation in 2005, the Commission for Protection against Discrimination has been addressed by a series of complaints and signals concerning allegations of ethnic discrimination, performed by companies - suppliers of electricity. The signals and complaints, as well as the work of the Commission in these cases, has outlined two main problems concerning the issue of unequal treatment of users of Roma ethnic origin by the electricity distribution companies and their discriminatory practices:

II.1.1. The “collective sanction” practiced by the electricity companies towards Roma electricity consumers living in segregated neighborhoods, which amounts to unlawful less favorable treatment:

A common practice of the electricity distribution companies is the treatment of Roma as a group of users, there is a clear lack of individual approach and, as a consequence, sanctions that affect consumers simply because they live in a Roma neighborhood. The most common cases of sanctions for uncollected debts for consumed electricity in the Roma neighborhoods is the practice of interruption of power or the establishment of a power regime. In the normal case of non-payment of consumed energy the companies initiate a break of the defaulting consumer from the network. In Roma settlements however, practices of cut-offs of entire group living in a particular area /or placing it under the energy regime/ are the norm, and the penalty applies to all consumers living there, regardless of whether they are regular payers or not. In reality a case of imposing electricity regimes in Roma neighborhoods, where regular payers were affected because of unpaid bills of their neighbors, proceedings were initiated before the Commission for Protection from Discrimination, under a signal by a civic organization⁷. The civic organization complained that the respondent company discriminated on ethnic ground against Bulgarian citizens of Roma origin living in this part of "Stolipinovo" neighborhood in Plovdiv, which is populated mainly by Bulgarian citizens of Roma origin. In delivering electricity to regular customers of the company /i.e. regularly pay their electricity consumption/ less favorable conditions are visible compared to regular customers of Bulgarian origin living in other parts of the city. In 2002 an electricity regime was established for this area, which affected regular payers alongside consumers with unpaid bills; unlike the Bulgarian parts of the city where individual disconnection of power supply applies to defaulting consumers only. The author of the signal asks the Commission to pronounce the described practice as discriminatory treatment on the ground of ethnic origin or possibly on the ground of personal status, to impose sanctions and coercive administrative measures against the respondent company and to order the termination of the infringement. The respondent company challenged the signal. It recognized the fact of the introduction of an electricity regime for all consumers in this part of the city; as well as the fact that in the rest of the city power is cut off for irregular consumers only. The company however objected that this practice amounts to violation of the principle of equality. The Respondent denied that the limited power supply is connected to the ethnic origin of consumers and stated that consumers are not divided by ethnicity, race or other characteristics; and are divided into regular, i.e. those who pay their bills for consumed electricity, and irregular, i.e. those who do not pay regularly or have never paid for the consumed electricity. In the opinion of the respondent company the limited power supply was not fact onto itself, but rather a result of measures taken by the management of the electricity distribution company. According to the company these measures were taken because of the inefficiency of individual suspension of

⁷ Case № 10/2006 of First Specialized Permanent Panel ended with Decision № 58 of 29.11.2006 on the same.

electricity supply, accumulated old debts, low collection rate, poor infrastructure, manipulation of commercial metering devices, and the absence of a culture of consumption and payment of consumed electricity. The respondent company acknowledged that there are instances of correct consumers in this region who are subjected to limited electricity; however it insists that this is not based on their ethnicity, as the company did not lead statistics on the ethnicity of users. It is rather the due to the lack of technical capability to ensure continuous power supply to the correct consumers in this part of the neighborhood while in the same neighborhood other consumers must be taken off the grid. The Commission's study found that the limited power supply is a fact in this part of "Stolipinovo" neighborhood for all users irrespective of whether they are correct or incorrect and currently 52 prompt consumers in the segregated territory are subjected to this regime, which clearly puts them at a disadvantage compared to loyal users of areas and neighborhoods with mixed ethnic composition of the population or predominantly inhabited by consumers from Bulgarian ethnic origin. Their position / belonging to dutiful consumers from the segregated areas of the neighborhood of Roma descent/ appears to be less favorable, as they pay their electricity consumption /just like consumers in other parts of the city/, but the electricity company does not fulfill its obligation to them to provide uninterrupted electricity supply under art. 3, para. 1, pt. 2 of the Common Conditions of Contracts for the Sale of Electricity. It is clear that if a citizen of Roma or Turkish origin, who is a loyal user, leaves the segregated parts of the neighborhood and goes to live in other non-segregated area of the city, he will not be subjected to limited electricity. By the same logic if a citizen of Bulgarian ethnic origin moves to live in the segregated part of the neighborhood, he could be subjected to the same limited power supply due to racially motivated segregation. All points discussed leading to the conclusion that the introduction of limited power supply is a direct result of segregation in this part of the city. The Commission accepted the argument of the respondent that lack of payment for the consumed energy inevitably leads to losses for the company. The electricity regime aims to minimize the losses, which amounts to pursuit of a legitimate aim, but the limited power supply as a tool to achieve this goal in this case is not the appropriate and necessary measure. It affects the legitimate rights to uninterrupted electricity of correct users in the segregated territory. The foregoing means that limited power supply in segregated territories, entered into by the electricity company, constitutes indirect discrimination against dutiful consumers of electricity on the ground of ethnic origin within the meaning of Art. 4, para. 3 of the Protection against Discrimination Act and violation of Art. 37 of the same. Discrimination is indirect because seemingly neutral practice is introduced, based on a legitimate objective, but the means to achieve it are neither appropriate, nor necessary. The later constitutes a violation of Art. 37 of the Protection against Discrimination Act, since the respondent company supplies and sells electricity to consumers of a segregated territory at less favorable terms. The less favorable conditions of supply of electric energy are visible in the fact that the Company failed to fulfill its obligation to ensure uninterrupted power supply to correct consumers. The Commission found that the expression of discrimination constitutes an administrative offense under Art. 78, para. 1 of the Protection against Discrimination Act, which violation is punishable by a fine of 250 to 2,000 leva. The offense is committed in the course of the work of the company

and pursuant to art. 24, para. 2 of the Administrative Violations and Penalties Act, liability for the infringement lies with the leaders of the entity which committed the infringement. Considering the provisions of art. 27 Administrative Violations and Penalties Act, the penalty is to be determined taking into account the seriousness of the offense, the motives for it, mitigating and aggravating factors and property status of the offender. In the present case, the Commission considered that each of the legal representatives of the company should be fined to the maximum amount in accordance with the provision of Art. 78, para. 1 of the Protection against Discrimination Act. Justification for this was given in the fact that since the infringement was very serious only the maximum penalty would achieve the objective of general deterrence. According to the Commission the seriousness lies with the fact that the persons concerned are forced to live in inhuman conditions and humiliation. The Commission ordered the respondent to cease the violation and imposed compulsory administrative measures, ordering the respondent to in the future refrain from committing similar offenses on the territory of all regions in the Republic of Bulgaria where the electricity company supplies electricity. It also prescribed measures to remedy the situation and prevent similar violations in other places, where the respondent company works by ordering officials and legal representatives of the electricity company to provide continuous power to all loyal customers of electricity regardless of ethnicity. On the basis of the Commission's decision, measures for the implementation of the recommendation should be taken within one month after notification for the decision, which means that under Art. 67, para. 2 of the Protection against Discrimination Act the respondent company is required to report in writing to the Commission the measures taken for the implementation of the administrative enforcement measures. The above means that the Commission for Protection against Discrimination considers the limited power supply in segregated territory, as introduced by the electricity company, **to constitute indirect discrimination on the ground of ethnicity** against dutiful consumers of electricity, within the meaning of Art. 4, para. 3 of the Protection against Discrimination Act and a violation of Art. 37 of the same.⁸

II.1.2. The practice of electricity companies of placing measuring devices on high boards for Roma consumers, living in Roma settlements:

It is a practice of the electricity companies to place the measuring devices of Roma consumers living in Roma settlements in high panels, which are at the boundary

⁸ The decision was declared void by Decision № 7811 of 19.07.2007 on case № 1048/2007 of Supreme Administrative Court, Fifth Division, upheld by Decision № 375 from 10.01.2008 on case № 10291/2007 of the Supreme Administrative Court, five member jury - II college.

of their property and do not allow visual control of the commercial metering of consumed energy. Outside Roma neighborhoods such practices do not exist.

In connection with this practice, the Commission for Protection against Discrimination received a signal from a member of the Municipal Council of the town of Lom, on which the Commission launched proceedings⁹. The signal stated that the respondent company, in carrying out its work to distribute and supply electricity, had discriminated against Bulgarian citizens of Roma origin, living in the town of Lom, and had delivered electricity to those consumers under less favorable conditions: The electricity measurement devices of the consumers in the Roma neighborhood were installed outside the property boundaries, in boards, placed at a height of 5 meters, a height that does not allow users to visually monitor their electricity consumed energy and to plan their family bud-get; while in other areas of the city, populated mainly by citizens of Bulgarian origin, electricity measurement devices are installed either inside consumers' homes or on the premises of the property, being placed in boards at height 1.40-1.60 meters, allowing visual control of consumed power at any time. The author of the signal asked the Commission to identify a violation of Art. 37 of the Protection against Discrimination Act, to identify the committed discrimination, to impose sanctions, to order cessation of the violation and to prescribe for the electricity devices to be placed in such a way so as to allow for visual control of the consumed electricity. The respondent company fixed the electricity measuring devices in this area of the city at such a height as a measure to ensure the safety, life and health of citizens, to prevent attacks on measuring instruments and to prevent the illegal joining to the electricity transmission grid. The parties do not dispute the fact that the area in question is inhabited mainly by Roma citizens. Is not disputed and the fact that electricity measurement devices are in-stalled there in high boards, while in other areas of the city are fitted to the property boundary. It is not disputed as between the parties that the height of 4.5-5 prevents visual control users should have over the electricity measurement and thus becomes an obstacle for planning the family bud-get of consumers **and an obstacle to control by the users of the veracity of measuring devices as reported by the employees of the company**. These obstacles do not concern the consumers whose meters are installed at a height of 1.40-1.60 meters. The first group of consumers can control the electric meter readings only by special equipment that the electricity company could provide within three days after a written request of the subscriber. According to Art. 120 of the Energy Act the electricity used by consumers is measured by commercial measurement

⁹ Correspondence №15 / 2006 First Specialized Permanent Panel ended with Decision № 44A of 16.10.2006

devices, owned by the company and located in or on the boundary of the consumer's property. Locations for the placement of the commercial metering devices are regulated by the provisions of Art. 28, para. 5 and par. 6, and Art. 29, para. 1 of *Ordinance № 6/2004 on the Accession of Producers and Consumers of Electric Power Transmission and Power Distribution Networks*. But even if there was no legally specified height for the installation of measuring instruments, different treatment of users in this respect is unacceptable, since this would infringe the principle of equal treatment. In our case the facts show that electricity measurement devices in Roma neighborhoods are mounted at a height of 4.5-5 meters because of the ethnicity of people living in those areas of the city. It therefore means that these consumers are put in a disadvantageous situation, based on their ethnic origin. The respondent company legitimates its position that electricity meters in these areas are mounted on a greater height, with no consumers' access, by stating that it is done so in order to prevent attacks on the commercial metering devices and to ensure the safety, life and health of citizens. However, the Commission pointed out that there is no evidence that this measure applies only to the individual offenders and perpetrators of these crimes. Subsequently, the Commission accepted that the introduction of the measure in neighborhoods populated by Bulgarian citizens of Roma ethnicity gave way to the public impression that only Bulgarian citizens of Roma origin commit such offenses or that all Roma steal electricity. This later led to correct consumers of Roma origin being publicly discredited. The electricity distribution company asserts that the measure is a **neutral practice, which aims** to terminate the violations done in relation to commercial metering devices, diversion of electricity and illegal connection to the network. However, the Commission points that even if the goal of ensuring the safety of life and health of people and to protect measuring devices and network of thefts is a valid one, the **means of achieving it /installation of meters at a height of 4.5-5 meters/ are neither appropriate, nor necessary**. In this case, the means are not suitable for the aforementioned reasons, as such measures are not applied individually to specific offenders and but to whole community. The above leads to the conclusion that the installation of measuring devices at a height 4.5-5 meters in neighborhoods populated by Bulgarian citizens of Roma origin, constitutes **indirect discrimination on the ground of ethnicity** within the meaning of Art. 4, para. 3 of the Protection against Discrimination Act and violation of Art. 37 of the same. Discrimination is **indirect** because the introduced **seemingly neutral practice is based on a legitimate objective**, but the means by which to achieve it **are not appropriate or necessary** and put persons of Roma ethnicity at a **disadvantage** position compared with other persons.

Installing electricity devices at height 4.5-5 meters in neighborhoods populated by Bulgarian citizens of Roma origin, constitutes a violation of Art. 37 of the Protection against Discrimination Act, since the respondent company supplies and sells electricity to Roma consumers under **less favorable conditions** than to the majority of users. The less favorable conditions of supply of electric energy are expressed in the fact that the commercial measuring devices are installed at a height of 4.5-5 meters, which does not allow visual control over them, compared to other consumers whose meters are mounted at a height of 1.40-1.60 meters. The violation of Art. 37 of the Protection against Discrimination Act is made on the basis of ethnic origin, as the measuring devices are installed at a height of 4,5-5.00 meters in neighborhoods populated with people of Roma ethnicity only, and affected persons are of Roma origin specifically.

The Commission found that in the instant case it must deliver an injunction, and has to impose compulsory administrative measures - the respondent company has to be obliged to refrain from committing similar offenses on the territory of all regions in the Republic of Bulgaria, where the electricity company exercises its activity. The Commission prescribed measures to remedy the violation committed against Roma consumers in Lom and to prevent similar violations in other places, including in the business of the respondent company, ordering the officials and legal representatives of the electricity company to relocate all devices for commercial metering of all consumers regardless of the ethnicity at the height of 1.40-1.60 meters, allowing visual control of these devices.

Based on the decision of the Commission, the measures for implementation of the recommendations should be taken within one month of notification of the decision; at that deadline under Article 67 Paragraph 2 of the Protection against Discrimination Act the company is required to report in writing to the Commission for the measures taken for each location of the areas where the company carries out delivery and sale of electricity.

The foregoing means that the Commission for Protection against Discrimination recognized that the installation of electrical devices at height of 4.5-5 meters in neighborhoods populated by Bulgarian citizens of Roma origin, constitutes indirect discrimination on grounds of ethnicity within the meaning of Article 4, paragraph 3 of the Protection against Discrimination Act and violation of Art. 37 of the same. Discrimination is indirect because the introduced seemingly neutral practice, based on a legitimate objective, is implemented through means, which are not appropriate and necessary and put persons of Roma ethnicity at a disadvantage compared to other persons. Installing electricity devices at height 4.5-5 meters in neighborhoods populated by Bulgarian citizens of Roma origin constitutes a violation of Art. 37 of the Protection against Discrimination Act, since the respondent company supplies and sells electricity to consumers Roma under less favorable conditions than to the majority of users. The less favorable conditions of supply of electric energy are expressed in the fact that the commercial metering devices are installed at a height of 4.5-5 meters, which does not allow visual control over them, compared to other consumers whose meters are mounted at a height of 1.40-1.60 meters¹⁰.

Findings and opinions of the Commission for Protection against Discrimination in relation to above the revised case are used while considering a signal from an individual regarding a similar infringement /placement of measuring devices in the Roma neighborhood to a height of 7 m/ ¹¹. In its decision in that case, the Commission for Protection against Discrimination reaffirms its conclusions from the above-mentioned case, holding that the installation of measuring devices at a height of over seven meters in neighborhoods populated by Bulgarian citizens of Roma origin, constitutes **indirect discrimination on the ground of ethnicity within the meaning of Article 4 paragraph 3 of the Protection against Discrimination Act**

10 The decision was repealed by Decision № 10899 of 07.11.2007 on case № 5/2007, the Supreme Administrative Court, Fifth Division, upheld by Decision № 6238 of 28.05.2008 case № 280/2008 of the Supreme Administrative Court, composed of five members - II college.

11 File № 153/2009 First Specialized Permanent Panel on which the judgment № 244 of 08.11.2010 is issued

and violation of Article 37 of the same. The Commission considered that discrimination is **indirect** because the introduced **seemingly neutral practice is based on a legitimate objective**, but the means to achieve it are not appropriate and necessary and put persons of Roma ethnicity in a **disadvantage** compared to other persons. According to the decision of the Commission the installation of commercial devices at a height of over 7 meters in neighborhoods populated by Bulgarian citizens of Roma origin, constitutes a violation of Article 37 of the Protection against Discrimination Act, since the respondent company supplies and sells electric energy to consumers of Roma origin **under less favorable conditions** than the majority of users. The less favorable conditions of supply of electric energy are expressed in the fact that the commercial metering devices are installed at a height of over seven meters, which does not allow the user to control the device, compared to other consumers whose meters are mounted at height 1.50 m. In considering this matter, further questions arose related to the allegations of the respondent that the signal is inadmissible, since there is neither an active nor passive *locus standi*. The objection of the respondent company of *locus standi* is based on the assertion that the author of the signal has no legal interest, since he is not a client of the respondent company, and that he shows no evidence of his own Roma ethnic origin. The Commission overruled the objection, stating that the person is affected, as far as he is member of a family, which is a user of energy provided by the respondent /where the account holder is the father of the author of the signal/; and also the person clearly self-determined himself as Roma, and the self-determination of every human individual is his sovereign right. The Commission accepted that the ethnicity of the victim does not need further evidence according to the provisions of *Recommendation №8 of 22.08.1990 on the Identification of Certain Racial and Ethnic Groups* and *Recommendation №21 of 08.23.1996 on the Right of Self-determination* of the Committee on the Elimination of Racial Discrimination, established as an agreed international body under Article 8 of the *International Convention on the Elimination of All forms of Racial Discrimination*, adopted by the General Assembly of the UN on 12.21.1965, in force in Bulgaria as from 01.04.1969. The objection relating to the absence of passive *locus standi* is based on the company's claim - that the author of the signal did not take into account the existence of three different companies, which deal respectively with energy distribution, energy supply and operation of distribution facilities and made no distinction between them. The Commission over-ruled the last, although it did not bend arguments for this in its decision. In this case the Commission found that it should deliver an injunction, and imposed compulsory administrative measures - the respondent company has to refrain from committing a similar offense on the territory of all regions in the Republic of Bulgaria, where it exercises its activities in the future. The Commission prescribed measures to remedy the infringement committed to customers in the region and to prevent similar violations in other places, including in the business of the respondent company, ordering to the officials and legal representatives of the electricity company to secure access for implementing visual control on the measuring devices for all users regardless of ethnicity. The Commission has determined that measures for implementation of the recommendation should be taken within one month of notification of the decision, and under Article 67 Paragraph 2 of the Protection against Discrimination Act the company is required to report in writing to the Commission on measures for each location of the areas where the it carries out delivery and sale of electricity.

Moreover, the jury of the Commission, examining the case, held that for the purpose of prevention, it should give mandatory instructions to the respondent: To make sure that the Company's General Terms on the Distribution Networks comply with requirements of the Protection against Discrimination Act, and with Directive 2000/43 / EC. The Commission ruled that the company is to revise its General Terms within 45 days of the judgment and to amend the apparently neutral provision of Article 27, para. 2 of the later, which concerns the use of electricity distribution networks in such a way that it ensures the application of uniform criteria for determining the installation place of commercial measuring devices for all users. According to the Commission the provisions of Article 27, para. 2 of the General Terms of the company creates preconditions for indirect discrimination to clients of the company, within the meaning of Article 4, paragraph 3 of the Protection against Discrimination Act. The Commission accepted as a necessary measure the specifying of the provision in the part concerning "cases that guarantee the life and health of citizens, property, quality of electricity, continuity of supply and security and reliability of the energy system, the commercial metering devices are installed at a place to which access is limited ... ". According to the Commission the meaning of the provision does not clearly and specifically state who the clients that should be subjected to this provision and in which cases are. The later leads to the implementation of the measure even to those who are not the source of the conditions laid down in the provision, which subsequently breaches their right to access and visual control of the devices.

The problem with the placement of measuring devices for users of Roma neighborhoods in high panels is addressed once again to the Commission with a complaint alleging discrimination on the ground of nationality¹². In this case, the applicant claimed direct discrimination against her because the electricity device is placed in a high board, where the law requires its placement in proximity to the property so as to allow visual inspection. The applicant requested the Commission to make a decision in which to give binding instructions to the CEZ "Distribution Bulgaria" /the respondent company/ to change that situation by moving the device. The applicants also asked the Commission to oblige the company to terminate the infringement, as well as to impose a penalty on the company for its unequal treatment of clients. When examining the complaint, the Commission for Protection against Discrimination reaffirmed the principle from the cases, cited above. It is found that the respondent had not provided conclusive evidence on the allegations that the placement of the applicant's device at height of 6 m. is objectively justified, appropriate and legally defined in order to prevent danger to life and health of people, in order to avoid unauthorized access to the grid or in order to prevent losses for the electricity company. The Commission considered that the respondent had not demonstrated that the criteria that are used in this case are objectively justified. The Commission also considered that the argument relied on the possibility stipulated in Article 27, paragraph 2 of the *General Terms of Contract for Use of Distribution Networks* /requirement for providing visual access within three days when requested by the client/ is not sufficient basis for a claim for lack of discrimination. According to the Commission the opportunity given in Article 27, paragraph 2 of the General Terms cannot be justified in relation to the different treatment.

12 Case № 258 of CPaD for 2008, Decision № 77 of 06.04.2010.

The Commission took the view that the mere fact that the applicant is obliged to act in order to be given "visual access" represents different treatment. The Commission considered that in this case the unequal treatment is expressed in different conditions to electricity consumers, clients of the respondent living in the neighborhood "Gizdova neighborhood" in Dupnitsa and specifically to the applicant in comparison with other users who have installed meters at places accessible to. The device of the applicant is in the same neighborhood, and she is subsequently served under less favorable conditions. The Commission found a violation of Art. 37 of the Protection against Discrimination Act because the respondent company provides service to the applicant in a disadvantageous way compared to other users who have the possibility of visual control over their electricity meters. The Commission considered that the respondent did not present convincing evidence as to the justification of the placement of the measuring device of the applicant at a height of 6 m. The Commission considered that the company had not adduced evidence in relation to the fact that the device of the applicant should be placed at this altitude, and for what specific reason. The Commission considered that the respondent has not engaged evidence to establish that this is only technically feasible solution to protect the device and for prevention of illegal connections to the network. In connection with the argument of the respondent that the applicant failed to present evidence about her belonging to the Roma ethnic group, the Commission expressed the opinion that in his application the applicant has not stated complaints of discrimination because belonging to the Roma ethnic group, but because of the fact that the that shop she manages is located in a neighborhood inhabited mainly by Roma population and for this reason she believes that her meter is located at a height of six meters, because the electricity meters of all residents in this neighborhood are placed at such a height. The Commission therefore has rendered a decision, where it found a violation of the Protection against Discrimination Act on the ground of "nationality" and established an injunction by imposing coercive administrative measures - the respondent has to cease the violation and to refrain from committing a similar offense in the future. By Decision № 7091/2011 of the Supreme Administrative Court, 7 Panel, the Commission's decision on the abovementioned case was canceled, and the same was returned for reconsideration by the Commission, in accordance with the mandatory instructions of the court concerning the definition of the ground on the basis of which the alleged discrimination was carried out. In a subsequent decision¹³, the Commission determined that discrimination is performed on the grounds of "personal situation".

II.2. Court case law

The Law on Protection against Discrimination allows victims of alleged discrimination to decide at their own discretion whether to address either the Commission, or the court. The possible requests to court include: establishing the alleged discrimination; requiring the respondent to restore the situation to a state before the violation and to refrain from violations in the future and /unlike proceedings before the Commission for Protection against Discrimination/ to rule for

13 Decision № 142 of 30.05.2012 Third specialized staff CPaD.

compensation for non-pecuniary damages resulting from discrimination. Bulgarian legislation allows the court to be addressed not only by the victims of discrimination, but also by non-profit public organizations in cases of alleging violations of the rights of many. For more than a year after the entry into force of the Protection against Discrimination Act the court was in practice the only institution working in the area of application of the law, as the Commission for Protection against Discrimination was constituted only in mid-2005, provided that the law came in force from 01.01.2004. During this time, the court began to create a practice as regards to cases involving alleged discrimination. In this moment there are victims of alleged discrimination who prefer to turn to court because of the possibility to seek compensation for non-pecuniary damages and because of the fact that many of the respondents ignored the requested implementation of decisions of the Commission for Protection against Discrimination.

With regard to the discriminatory practice of distribution companies, the court was addressed and ruled on a series of questions.

II.2.1. Collective sanction by the distribution companies against Roma clients affecting correct consumers.

At the beginning of 2004, immediately after the entry into force of the Protection against Discrimination Act, the Sofia District Court was addressed with an application on behalf of the Bulgarian Helsinki Committee and the "Romani Baht" Foundation - non-governmental organizations registered in the public interest, in connection with the problem of collective sanction by the electricity company in respect of users of Roma origin, where the sanction affected correct clients¹⁴. The applicants put forward the following facts: At 09.01.04, the electricity grid in "Fakulteta" Roma district in Sofia suffered an accident in which an underground cable burned. The result was a power failure in part of the neighborhood, in a section covering between "301"street and "306"street, and "Metohia"street and part "Vuzkresenie" boulevard and "Pavel Shatev" between intersections "Kiril Grigorov" and "D. Papanchev".

Residents in this section alerted the "Romani Baht" Foundation stating that their power supply is interrupted. Emil Yoshev, team member of "Romani Bah", telephoned "Electricity-West" with a request for emergency personnel to be sent and repair the damage. The answer given to Yoshev was that emergency personnel will not be sent as among affected residents are a large number of defaulting debtors to the company. At the same day Emil Yoshev and two representatives of the deprived of power residents met Ms. Nakova M., Head of "Supply of electricity" department in "Electricity-West". On a request made by Yoshev for emergency personal to be sent, Nakova expressly refused, stating that the crash will not be worked on until the company collects the unpaid bills from residents in the area. After that, the two representatives of the residents in the affected area conducted a meeting in the office of K. Parvanov, the head of the company. They were informed that work on the damage will not start before the company collected at least 70% of the amounts owed by residents of the affected area. Until 16.02.04 /date of filing the application/ fault persisted and all residents in the affected area still suffered from lack of power. Deprived were both defaulting debtors of the company, and prompt payers. The correct consumers in the

14 Civil case № 1262/2004, 39 panel, Sofia District Court

affected area were no less than 31 households. The applicants claimed that the failure to deal with the crash of electricity supply is a collective sanction, which does not distinguish between debtors and correct clients. The applicants further claimed that the sanction itself and the subsequent deprivation of power of correct consumers constitute discrimination on ethnic grounds, as it only affects Roma. The applicants noted that in general in the Fakulteta district, where the predominant population is almost exclusively Roma. Plaintiffs also argued that the respondent company does not impose collective sanctions against residents of non-Roma neighborhoods for unpaid bills. The plaintiffs insisted on the fact that the company does not deprive of power correct non-Roma clients because of unpaid bills of their neighbors. They claimed that the company's conduct constituted less favorable treatment of correct Roma consumers compared with correct customers from non-Roma origin. Plaintiffs claimed that discrimination on ethnic grounds is contrary to Art. 4 of the Protection against Discrimination Act. Recalling that pursuant to Art. 9 of the Protection against Discrimination Act, after the party alleging discrimination, establish facts from which it may be inferred that there has been discrimination, the burden of proof shifts to the respondent, who must rebut that assumption, explaining the difference in discriminatory treatment factors and so prove that there is no discrimination in the case. The plaintiffs noted that if the respondent fails rebut presumption created by facts established by them, discrimination should be considered proven. The plaintiffs insisted that the above stated facts on less favorable treatment of correct Roma consumers compared to correct non-Roma consumers are a sufficient basis for finding that there was discrimination within the meaning of Art. 9 of the Protection against Discrimination Act. The plaintiffs asked the court, after verifying the authenticity of the above statement, to find that those acts and omissions of the respondent carried out against correct consumers living in the area affected by the accident in Fakulteta district, constitute a violation of the Protection against Discrimination Act. They asked for the respondent to be ordered to cease the infringement and restore the situation to the state at which it was before the violation, and to refrain from such acts or omissions in the future, which could be found to constitute discrimination. The respondent disputed the claim arguing that the electricity crash was a result of a breakdown, which was due to improper connections to the electricity network, leading to congestion of the network and melting of installations and associated cables. The Company argued that it was done for prevention of possible danger to health and safety, for keeping the integrity of the system and for the prevention of possible significant damage. The Court found during the judicial inquiry present correct Roma consumers in the affected area. In its decision, the court found that in this is a case of indirect discrimination as alleged by the applicants, established by the fact that as a result of the failure of the electrical equipment the electricity had been turned off in the area of the city inhabited by consumers from Roma ethnic origin. The ethnic origin of the consumers in the area was established by questioning witnesses. The Court found that under the European Convention for the Protection of Human Rights unequal treatment is prohibited, as is any discrimination, based on ethnicity.

The Court noted that cases of indirect discrimination do not require a specific misconduct or omission of a legal entity to occur. It is possible that the performance of certain lawful act or of a lawful omission can lead to unequal treatment. The less favorable treatment is determined by comparison. It is necessary to compare two different persons/entities in the same behavior (action or inaction) to determine whether a person is a subject to less favorable treatment or not. The Court found that the facts established in the claim were sufficient for the application of the provision to reverse the burden of proof to apply. The court also considered that the respondent had not demonstrated that they had not committed discrimination. On the basis of this, the court held that this is a case of indirect discrimination. Persons, whom were affected by this indirectly discriminatory behavior, have been placed in a worse position than others. The Court considered that this was done in order to protect their interests and to improve the quality of services rendered. The protection of life and health of citizens done in the exercising of activities and of rights and fulfillment of obligations of the respondent was accepted as **legitimate aim**. The means of achieving that aim were **adequate**, but according to the court, only within 48 hours.

Due to the above, the court recognized that indirect discrimination had been carried out. It should be noted that the court rejected the claim to order the company to terminate the infringement because at the date of the judgment the violation had already been remedied. The Court also dismissed the idea of sentencing the respondent to refrain from such violations in the future, arguing that since the harm had been removed the court had no reason to suspect it will be committed again.

The Bulgarian court has also considered the case of a collective sanction on facts identical to the case considered by the Commission for Protection against Discrimination /discussed above/, namely in relation to the discriminatory use of collective sanction - placing correct users of Roma origin under electricity regime, because they live in a Roma neighborhood¹⁵. The plaintiff asked the court to establish discrimination, and to order the respondent to suspend that discrimination by providing regular electricity; to abstain from further violations, and to pay the applicant compensation for non-pecuniary damage sustained by the offense expressed by: humiliation and insult as a result of unequal treatment on the grounds of ethnicity, everyday household inconveniences sustained by the applicant and his family, leading to emotional distress, and the daily concerns of the applicant and his family for the heating during the winter period, all amounting to 8000 leva.

The Court found that the applicant is a person of Roma origin, a regular payer and was subjected to a regime of power supply because he lived in a Roma neighborhood, where the penalty applies to both correct and incorrect consumers. The Court found that it is inadmissible that the plaintiff, as a regular payer, is to be placed in a situation of unequal treatment purely for the reason of alleged illegal actions of third parties. The Court found that on the basis of the facts, set out by the applicant there is undeniable discrimination under Art. 9 of the Protection against Discrimination Act, places the respondent under the obligation to prove that the right to equal treatment had not been infringed. The Court found that the respondent had not provided such proof.

¹⁵ Decision № 185 from 01.02.2006 on case № 1330/2005 of the Plovdiv Regional Court, VII panel. The decision entered into force.

Therefore this situation amounts to unequal treatment on the grounds of art. 4 para. 1 of the Protection against Discrimination Act. The Court found that the practice described means by which the respondent imposed a penalty on the applicant because of his choice to live at this location /i.e... if you live elsewhere out-side the "neighborhood" and you are a regular payer this sanction will not apply/. The Court also found that as a result of discriminatory attitudes the applicant suffered non pecuniary damages but reduced the requested amount of compensation to 1000 leva. By decision of the Plovdiv Regional Court¹⁶ the awarded compensation was increased to 2000 leva. The decision was appealed by both the plaintiff and the respondent company and the case was heard by the Supreme Court¹⁷. The claim-ant was dissatisfied with the amount of compensation awarded, while the respondent made a complaint about serious violations of procedural rules, unreasonableness and violation of the law and for the annulment of the decision and rejection of the claim filed against the company. The Supreme Court considered that the complaint of the company is unfounded, that it was not proven that the electricity company did not have sufficient information on the ethnicity of their clients, and did not assume ethnicity as a criterion for application of a regulated power supply. The Court recalled that according to Art. 9 of the Protection from Discrimination Act, since the party that claims to be a victim of discrimination establishes facts from which it may be inferred that there is discrimination, the respondent must prove that the equal treatment has not been impaired. For the shifting of the burden of proof it is sufficient for the alleged victim to demonstrate the existence of facts justifying the legal presumption. According to the court, it was undisputed that the plaintiff, who is a client of the respondent company as from March 2002 and is a regular payer, lives in a region, inhabited entirely by Roma ethnic population. It has been shown that he is therefore a victim of the power regime, unlike correct payers with Bulgarian origin, living in other areas. With regard to the cassation appeal of the plaintiff, the Supreme Court considers that, in determining the amount of compensation due, the appellate court did not considered the fact that the exclusion and inclusion of power was not happening at specific hours of the day, therefore creating uncertainty for the consumer and exacerbating negative emotions. In view of this, the fair compensation of non-pecuniary damage suffered according to the Supreme Court amounts to 5000 leva.

II.2.2. The practice of distribution companies to place measuring devices for Roma consumers at high panels:

Sofia District Court was addressed by application¹⁸ of a group of persons of Roma ethnic origin living in the Roma neighborhood "Filipovtsi" in Sofia who alleged that they have been subjected to discriminatory treatment because their power meters were placed in high boards, unlike meters in other areas of the city inhabited by Bulgarian population. The later also prevents users from performing visual inspection.

16 Decision № 1934 of 24.10.2006 on case No 862/2006 of the Plovdiv District Court

17 Case № 1602/2006, the Supreme Court of Cassation V panel ended with Decision № 1302 of 28.11.2007

18 Case № 21674/ 2003, the Sofia District Court, 24 panel

The applicants argued that the described device protection practice, maintained by the respondent, constituted a discriminatory practice, because it applies to Roma consumers only, and does not distinguish between individuals, but was aimed at the Roma community in the neighborhood as a whole, and is based on the assumption that anyone of them would abuse the system, if they had access to these devices and wires. Applicants put it that in March 2002 the power supply was stopped simultaneously for the whole settlement, as the cable was cut by the company's workers. They asked the respondent to explain why the power had been stopped and the answer of the employees of the respondent was that the company had been experiencing losses from the neighborhood as a whole, because gypsies supposedly steal electricity. The company also stated that it requires at least half of the clients in the area to pay their bills before power is restored. The applicants claimed that they were victims of ethnic discrimination as their treatment depends on their belonging to the Roma community, rather than individual behavior. The applicants claimed that the respondent's discriminatory practice in the provision of services constituted an infringement of the right to equal treatment laid down by Art. 6 of the Constitution, Art. 1 of the Universal Declaration of Human Rights and art. 5 of the International Convention on the Elimination of All Forms of Racial Discrimination as defined in Article 1 of the latter. With the described discriminatory practice the plaintiffs were being treated as people of a lower category because of their belonging to the Roma community and the common prejudices towards it. The applicants asked the Court to deliver a judgment with which to stop the described discriminatory practice, to oblige the respondent to put the meters on the property boundary, and to order the respondent to pay each of the applicants non-pecuniary damages in the amount of 500 leva as they suffered from discriminatory treatment. The defendant challenged the grounds of the claim and the amount demanded for non-pecuniary damages. He argued that the measures were to ensure the safety of residents in the district. According to the respondent the prerequisites to engage the liability of the company were not proven by the applicants. The respondent insisted that the wrongfulness of the act was missing, because all actions by employees of the company were lawful. The Court notes that during the course of proceedings the Protection against Discrimination Act was adopted and entered into force. According to the Court the provisions of this Act shall apply to relations arising after 1.1.2004. However, the Court assumed that the provision of Article 9 of the same, which provides for the shifting of the burden of proof in cases of alleged discrimination, is procedural and refers to all the forms of protection against discrimination. Therefore, according to the Court, it should be applied for the purpose of protection to relations arising in the course of proceedings. The Court found that such practices of placing the panels at a height unreachable for inspection were not done for consumers of electricity of different origin. The plaintiffs established that they are of different ethnic origin, and in spite of being correct consumers they have their measuring devices located at a height of 6 and 11 meters. The Court found that this is a clear cut case of indirect discrimination.. Thus the applicants were subjected to different

treatment, which is clearly less favorable as they cannot conduct a proper reading of the consumed electricity. It is then for the respondent to prove that it was not put the applicants at a disadvantage, that there was a legitimate aim and the means of achieving that aim were proportionately appropriate and necessary. The respondent failed to show this. Led by the above, the Court ordered the defendant to move the boards of the applicants to a place that allows visual inspection, along with paying the amounts of 250 leva for non-pecuniary damage as a result of discrimination on ethnic grounds to each of the plaintiffs.

II.2.3. Practice of distribution companies to offer less favorable conditions to Roma consumers.

R.K.G., a plaintiff put forward in an application¹⁹ stating that he is a Bulgarian citizen of Roma ethnic origin who in 1996 bought an empty yard in Sofia, "Hristo Botev" Roma neighborhood, and commenced legal construction of a three storey building. He maintained that he was trying to connect the building to the electrical network for five years, but the electricity company rejected his claims. He maintained that the workers of the company set the control panel in a board at height of 9 meters, which did not provide visual control at any time as required by Art. 24 of the "General Terms". He made detailed reasoning in support of this argument that the competent officials had refused to include his building in the electricity transmission network on the grounds that he refused to sign an additional agreement, which, according to the applicant, amended "General Terms" to the detriment of consumers and to which he did not consent. The plaintiff stated that the proposed additional agreements amount to direct discrimination based on ethnic origin. Thus, according to the plaintiff, the respondent violated his constitutional rights and legitimate interests. Furthermore the plaintiff maintained that during a period of three years prior to the filing of the application, he and his family lived under extremely harsh conditions due to misconduct and discriminatory attitude of the respondent, and thereabout suffered significant damages, resulting in feelings of helplessness and humiliation.

The Court held that in this case the respondent violated the terms and conditions for connecting consumers to the distribution networks and the rules of the sale of electricity to households. The respondent stated that the measures cannot be regarded as indirect discrimination, as they were appropriate and necessary and are made on the basis of the provision, which is objectively justified by a legitimate aim. The Court found that there is indirect discrimination within the meaning of Art. 4, para. 3 of the Protection against Discrimination Act, whereby the placing of a person at a disadvantageous position on grounds of his ethnic origin is a clear violation. Though seemingly neutral, the practice was judged as neither it being a legitimate aim, nor the means of achieving that aim being appropriate or necessary. The Court did also not share the opinion of the claimant that the established and unequal treatment amounted to direct discrimination. It rather found indirect discrimination, since the respondent's behavior was based on an alleged effort to reduce losses of consumed, but unrecorded and unpaid energy; as well as to ensure the right to health, life and constant power to all. For this purpose the respondent placed in a more favorable position ethnic Bulgarian consumers who were not obliged to sign individual agreements.

¹⁹ Civil case No 1184/2004, the Sofia District Court, 24 panel

This policy of different treatment developed an apparently neutral practice, leading essentially to the application of different criteria based on the above cited ground of art. 4, Paragraph 1 of the Protection against Discrimination Act. The Court found the later as imposing a disproportionate burden on the applicant and as such - illegal. Based on these conclusions, the Court considered that there are grounds for upholding a claim under Art. 71, Paragraph 1 of the Protection against Discrimination Act, and that it should be recognized as established between the parties that making the applicant to accept the terms of individual supplementary agreement to the Terms of "Electric-Distribution" LTD violated the rules of equality and equal treatment of all consumers in the course of delivery of service. The Court also considered that the action brought under Art. 71, para 1, item 2 of the Protection against Discrimination Act is legitimate and therefore the respondent should be ordered to stop making the applicant sign individual supplementary agreements, as well as to ensure the right of access for visual inspection of the applicant according to Art. 24, para. 1 of the General Terms; and to refrain from further violations in the future. And finally, it should be noted that the Court dismissed the claim for compensation for non-pecuniary damages as a result of discriminatory treatment as unsubstantiated, as according to the Court, the applicant has not presented evidences that discriminatory attitudes caused him non-pecuniary damage.

III. The position of Roma as consumers of electricity as public service

During the research the team conducted interviews with ethnic Roma users living in segregated neighborhoods and subjected to various forms of discrimination by companies - suppliers of energy. The questioned Roma stated that the practices of companies associated with the placement of electricity meters in high boards, make them feel discriminated against, excluded from society, and unfairly disadvantaged. Roma consider it degrading and believe that these practices stigmatize them, and furthermore - set the Bulgarian population against them. The later, according to the Roma, arises from the practice of companies to explain the discriminatory practices with the allegations that Roma steal electricity are not used to fulfill their obligations as consumers, which causes further distress among prompt Bulgarian consumers, who end up bearing the financial burden of Roma who have refused to pay electricity. The interviewed cite the media, which constantly make public the statements of the companies - suppliers. Roma believe that companies refer to them as "second-class people." At the same time, Roma consumers complain of daily less favorable in the course of provision of energy, network and operating facilities. Thus, M.D., consumer from Sofia, Fakulteta district, says: "I do not remember ever being late with paying the electric bill. I never had an idea of the ways to use energy and not pay. Why is my meter in the heavens? In the case even a minor accident I have to wait for emergency vehicles to come and restore electricity, while Bulgarian neighbors simply press switches, for they are at hand. It is not uncommon for it to suddenly switch off in cold weather. If it happens over the weekend or during official holiday time, I can wait days for re-connection. Are we animals that we are treated like such?"

User D.E. from the town of Dupnitsa said: "Only we have no electricity ... Across the road, the Bulgarians, everything is fine with them, it is warm... My children are freezing, we cannot dress them in the morning to go to school. And then people say: Roma do not go to school... Gypsies do not pay for electricity. Pay for what? Cold and darkness? ". User C.R. "Predel neighborhood" in Blagoevgrad: "They say: Gypsies steal ... Bags, money, trinkets ... and now electricity? And people do not see what is happening in the big villas of wealthy Bulgarians - they all have "fixed" meters, they are warm and pay nothing... The electricity servants make their meters ... They themselves ... They pay someone to come and "fix" the meter and then - everything is ok. But they need someone to be blame; and easiest of them all are the Gypsies. Still we are considered lower quality people in this country." User S.V. from Varna, "Maksuda": "They want money, what money? Hundreds of leva, as if I have a factory. How am I supposed to have spent all this electricity? I have two bulbs, TV and refrigerator. Woods are our heating ... ". User O.P. Dupnitsa: "They treat us like animals. Our meters - high up - yet we still supposedly steal ... the electric current - it is not strong at all, it took my wife four hours to boil a hen ... ".
