ROMA EVICTIONS AND DEMOLITION OF ROMA HOUSES:
A Sustainable Solution for Roma Integration or a Problem of Roma Discrimination in Bulgaria?

Analysis of the legislation regulating the demolition of illegal housing and its implementation in Bulgaria to identify its compliance with the EU legislation on protection from discrimination on grounds of ethnic origin.
Roma Evictions and Demolition of Roma Houses:
A Sustainable Solution for Roma Integration or a Problem of Roma Discrimination in Bulgaria?

Analysis of the legislation regulating the demolition of illegal housing and its implementation in Bulgaria to identify its compliance with the EU legislation on protection from discrimination on grounds of ethnic origin

Daniela Mihailova
Alexander Kachamov

Sofia, March 2017
ACKNOWLEDGMENTS

Authors
Daniela Mihailova, Equal Opportunities Initiative Association
Alexander Kachamov, Equal Opportunities Initiative Association

This report was commissioned by the Open Society European Policy Institute, under the coordination and supervision of Senior Policy Analyst Violeta Naydenova.

The Open Society European Policy Institute and the authors of the report would like to thank local researchers Diyan Dankov and Desislava Teneva for their input, as well as the Access to Information Programme for their assistance in applying the provision of the Access to Information Act in cases of refusal of municipalities to provide requested public information.

Special thanks to Simon Cox from the Open Society Justice Initiative and Mila Mineva from the Centre for Liberal Strategies for their help, as well as to Alexander Kashamov Junior for the translation of this report to English.

We would also like to thank Nikolay Kirilov from the Roma Standing Conference for critical reading and comments to the report, as well as to Mariana Milosheva-Krushe from CREDA consulting for providing comments, recommendations for improvement of the text and editing work for its finalization.
# Contents

**ACKNOWLEDGMENTS** ................................................................. 2  
**LIST OF ABBREVIATIONS** ...................................................... 5  
**EXECUTIVE SUMMARY** .......................................................... 7  

## I. INTRODUCTION ........................................................................ 10  
1. Research objectives .............................................................. 10  
2. Research methodology .......................................................... 10  

## II. THE HOUSING SITUATION OF THE ROMA MINORITY IN BULGARIA – PROBLEMS, POLICIES, AND CHALLENGES .................. 13  
1. Main problems of the Roma housing situation .......................... 13  
   1.1. General problems of segregated Roma neighbourhoods .......... 13  
   1.2. Specific problems arising from the lack of legal status of ownership of land or buildings .......... 14  
2. Main policies for improving the housing situation of the Roma minority – achievements and challenges ................................................................. 16  

## III. OVERVIEW OF BULGARIAN LEGISLATION REGULATING THE REMOVAL OF ILLEGAL CONSTRUCTIONS .................. 21  
1. General legal framework concerning the removal of illegal constructions ................................................................. 21  
   1.1 Planning and Development of Settlements Act ......................... 21  
   1.2 Territorial and Urban Organisation Act ....................................... 21  
   1.3 Territorial Organisation Act ..................................................... 22  
2. Legalization and tolerance of constructions .............................. 22  
   2.1 Legal framework ................................................................. 22  
   2.2 Authorities empowered to remove illegal constructions .......... 23  
   2.3 Protection from issued orders to demolish illegal constructions ...... 23  

## IV. IMPLEMENTATION OF THE LEGAL FRAMEWORK CONCERNING ILLEGAL HOUSING .................................................. 25  
1. Court practice in cases of illegal construction .............................. 25  
2. Overview of the implementation of the Territorial Organisation Act ................................................................. 26  
   2.1 Implementation of TOA by the Directorate for National Construction Control (until 26 November 2012) ................................................................. 27  
   2.2 Practices of local authorities (November 2012 – 2016) ............... 30  
3. Media coverage ........................................................................... 31
V. CASE STUDIES ................................................................................................................. 34
1. The Gurmen case ................................................................................................................. 34
2. The Varna case ...................................................................................................................... 36
3. Other examples of demolishing Roma families’ sole residences ....................................... 39

VI. COMPLIANCE OF THE ENFORCEMENT OF THE LEGAL FRAMEWORK FOR ILLEGAL HOUSING WITH BULGARIAN AND EUROPEAN LEGISLATION ON PROTECTION FROM DISCRIMINATION ................................................................. 41
2. Domestic legislation concerning the prohibition of discrimination ................................. 41
3. International legal instruments regarding the elimination of discrimination, ratified by Bulgaria ................................................................................................................................. 43
4. Compliance of the established practices for demolition of illegal Roma housing with the norms for non-discrimination adopted in Bulgaria ........................................................................ 44

VII. GENERAL CONCLUSIONS AND RECOMMENDATIONS ............................................... 47
1. General Conclusions .............................................................................................................. 47
2. Recommendations ................................................................................................................ 48
LIST OF ABBREVIATIONS

BHC  Bulgarian Helsinki Committee
DNCC  Directorate for National Construction Control
EC  European Commission
ECtHR  European Court of Human Rights
PDSA  Planning and Development of Settlements Act
TUOA  Territorial and Urban Organisation Act
TOA  Territorial Organisation Act
APIA  Access to Public Information Act
MRDPW  Ministry of Regional Development and Public Works
CoM  Council of Ministers
NSI  National Statistical Institute
NGO  Non-governmental organisation
NCCEII  National Council for Cooperation on Ethnic and Integration Issues
NRISRB  National Roma Integration Strategy of the Republic of Bulgaria
OP  Operational Programme
EXECUTIVE SUMMARY

The report presents the results of research about the legislative framework and administrative practices for demolition of illegal housing in Bulgaria, with a particular focus on segregated Roma neighbourhoods. The aim is to examine the government’s compliance with the adopted national and international norms and principles concerning the protection from discrimination. The research was commissioned by the Open Society European Policy Institute in Brussels and conducted by experts from the Equal Opportunities Initiative Association and Access to Information Programme from January to May 2016.

The methodology involved research into the legal aspects of illegal constructions, and the international and European legal instruments for protection of discrimination adopted by Bulgaria. Furthermore, it looked into the practices of the demolition of illegal housing by screening the Public registry of the Directorate for National Construction Control (DNCC), launching a survey targeting all municipalities in Bulgaria to uncover all illegal housing and demolition orders as well as using fieldwork and case studies.

Based on this, the report draws conclusions about five main aspects:

(1) The practices of demolition of the sole residences of Roma families provide evidence for discrimination on the grounds of ethnic origin and for the violation of the rights of the affected parties:
   • The issuing and enforcement of demolition orders concerning illegal housing affects adversely and disproportionately mainly Roma families. This is in violation of the Race Equality Directive of the Council of the European Union (Directive 2000/43) with respect to “indirect discrimination” on the grounds of ethnic origin.
   • Evidence for that are the findings of the research about the significant percentage of Roma sole residences affected by demolition orders. More concretely, 97% or 500 out of the 514 demolition orders for residential housing issued between 2010 and 2012 by the DNCC concern Roma people’s sole residences; according to the data gathered from 61% of all municipalities in Bulgaria, from 2012 to the present, 89% or 399 out of the 444 demolition orders for residential housing issued by local administrations concern once again Roma people’s sole residences.
   • The administrative practices applied in demolishing Roma families’ sole residences are in violation of the international legal instruments for the protection from discrimination adopted by Bulgaria. There was no discussion with the affected families about the possible alternatives prior to the demolition of their houses nor were they offered adequate alternative accommodation. In fact they were left homeless – without the opportunity to register at a new permanent address. This hinders the issuing of new identity documents and, consequently, their access to basic rights and services.

(2) There is no legal framework for the protection of the affected parties when their fundamental rights to adequate accommodation have been violated, nor is there an opportunity for them to go to court if their rights have been violated.
(3) There is a serious increase in anti-Roma sentiments and actions, defined by the European Commission as “anti-Gypsyism” or “anti-Romanipé”. This often becomes a strong impetus for local authorities to initiate demolition proceedings in Roma neighbourhoods. In many of the examined cases the practice of evicting Roma families intensifies around local election time based on pressure from anti-Roma protests and demands by citizens and political formations, who hold negative views about the Roma. A major obstacle to resolving this problem is the lack of consistent communication on the part of national and local authorities on the objectives of the National Roma Integration Strategy and the benefit of its implementation. There is also a lack of legal sanctions for such anti-Roma feelings and actions under the Protection Against Discrimination Act.

(4) There are insufficient implementation policies aimed at fulfilling the objectives to improve the Roma housing situation, as laid down by the National Roma Integration Strategy of the Republic of Bulgaria (NRISRB). Firstly of all, this is due to the lack of clear responsibilities and outcome indicators, concerning the objective for the necessary legislative amendments with regards to housing. Secondly, it is because of insufficient financing of the NRISRB and lack of support to capacitate the municipalities to develop and implement adequate measures and investments, using an integrated approach in order to resolve the Roma housing problems.

(5) Severe measures such as evictions and demolitions of housing in isolated neighbourhoods not only prevent authorities from finding a sustainable solution to the problems with the Roma housing situation, but they also exacerbate it. When an opportunity for alternative accommodation is not provided, the affected families remain in the same segregated neighbourhoods, living with relatives, and later on building new illegal housing. At the same time, the demolition of Roma houses increases the interethnic tension not only on a local, but also on a national level, which has resulted in anti-Roma sentiments among the majority of the population and a complete lack of trust in institutions among the Roma. When there is a lack of clear support and communication from the central authorities, responsible for Roma integration, the negative sentiments are exacerbated by the predominantly negative media coverage. What is more, the public space is overshadowed by the anti-Roma voice of the nationalist parties and groups, which subsequently shapes the public opinion.

In order to overcome this situation, the report provides the following recommendations:
(1) Legislative amendment in the foreseeable future in two directions: 1/ of the legal framework concerning the legalisation of structurally stable buildings for residential use, which constitute people’s only homes, and differentiation of the rules for dealing with illegally constructed buildings for residential and non-residential use and 2/ incorporate in the domestic legislation the international framework of protection of citizens in cases of compulsory demolitions and/or evictions from their only homes.

(2) Limit the problem by:
a) adopting a moratorium over the enforcement of the already issued orders to demolish sole residences, until the proposed legislative amendments, regarding the opportunities for legalization and the legal framework of protection of the victims, have been developed; and
b) having a stricter control and more proactive actions of municipalities in order to prevent any new illegal constructions in segregated neighbourhoods; this could be achieved in cooperation with NGOs with a view to ensuring Roma community awareness and involvement.

(3) Mid-term assessment of the progress of the NRISRB (2015-2020), and especially its policy priority of improving housing conditions, which should be carried out no later than the beginning of 2018 in consultation with Roma and pro-Roma non-governmental organisations. The assessment should review the mid-term outcomes with respect to the set of objectives towards the desired results. Based on that the national and local strategies and action plans should be updated, including through adequate provision of additional financing and support for their implementation.

(4) Develop an adequate National Communication Strategy for changing the negative stereotypes towards the Roma, with a detailed action plan for each of the priority policy areas of the NRIS. This should also include a specific housing policy equipped with financial resources for its implementation and clear mid-term and long-term indicators to measure progress towards success.

(5) Adopt measures to enforce the decisions of the European Court of Human Rights issued against Bulgaria, concerning the protection of citizens of Roma ethnic origin in case of a threat to remove their sole residences.
I. INTRODUCTION

1. Research objectives

This report presents the results of research conducted by the Equal Opportunities Initiative Association, in consultation with experts from the Access to Information Programme, in the period January – May 2016, commissioned and supported by the Open Society European Policy Institute, Brussels. The research aims to analyse the domestic legislation and the legal and institutional framework concerning illegal construction in Bulgaria, and to examine the way this is implemented in terms of demolition of illegal housing, with a particular focus on Roma settlements. The analysis aims to identify:

- to what extent the evictions and the demolition of sole residences which have been deemed illegal are equally applied to citizens of Roma and non-Roma origin;
- to what degree the existing norms and practices of demolishing sole residences correspond to or contravene the principle of non-discrimination on the ground of ethnic origin, which is present in Bulgarian law, as well as in European law ratified by the Republic of Bulgaria;
- to what degree these practices contribute to sustainable solutions of the problems with the housing situation of the Roma minority and to implementing the long-term Roma integration strategies and policies adopted by the state.

The analysis, conclusions, and recommendations of the research are directed at:

- the Bulgarian administration and legislators, as well as non-governmental organisations and the media – in order to facilitate the discussion and the search for sustainable solutions to the problems with the Roma housing situation without violating international legal provisions ratified by Bulgaria, as well as the domestic legislation on non-discrimination and the policies for integration of Roma;
- the Bulgarian judiciary – to provide proof of the discriminatory character of the actions taken against the Roma in the area of housing and the need to amend the existing practices;
- the international institutions which have the authority to influence the improvement of the situation by means of the law, such as the European Court of Human Rights (ECtHR), or by means of administrative sanctions, such as the European Commission (EC).

2. Research methodology

The research is based on the use of mixed methods, which include:

(1) Documentary research of the main laws and legal-administrative frameworks in Bulgaria, regulating the removal of illegal housing;

(2) Review of the administrative practices of implementation of the Territorial Organisation Act (TOA) with respect to orders for the demolition of illegal housing. The study compares the total number of demolition
orders concerning residential buildings, against the number of orders issued for such buildings which are located in Roma neighbourhoods. This involved the following methods:

2.1. Study of the Public Registry of the Directorate for National Construction Control (DNCC) - to review its practice with respect to identified illegal construction in Bulgaria in the period 1998-2012 (when DNCC was the competent authority dealing with illegal construction, including housing). The DNCC’s public registry has been active since 2010 and accessible online on the institution’s webpage. The registry contains information about the type of illegal construction and its location. Due to lack of data on the ethnic origin of the affected persons, the research of the public registry was complemented by identification of the location of the constructions designated for demolition (whether they are predominantly in Roma neighbourhoods), as well as by local visits and meetings with those affected.

2.2. Review of the local authorities’ administrative practices for the period from November 2012 to the present (when the power to issue demolition orders for illegal housing was transferred to the mayors of municipalities, or to district mayors in cities with district division).

- Due to lack of statistical data at national level regarding such administrative actions, the information for each locality was gathered by a survey using the provisions of the Access to Information Act (APIA). The APIA survey was conducted in the period January-end of March 2016 and was sent electronically to the mayors of all 265 municipalities. The submitted APIA applications contained inquiries as to whether the relevant municipality issued orders under the procedure of Art. 224 of the Territorial Organisation Act (TOA), as well as to whether these orders (if issued) concerned buildings for residential or non-residential use.

- By the 31st of March 2016, 162 municipalities, or 61% of the total number of municipalities in the country, had responded to the APIA survey. The responses contained information concerning the number of issued demolition orders for illegal constructions by each municipal administration; the type of construction based on its use – residential or non-residential; and the location of the constructions. In most cases the municipal administrations also presented copies of the issued orders to remove illegal constructions.

- The identification of the ethnic origin of the inhabitants was done by using the information about the location of the buildings subject to demolition orders (whether they were in ethnically isolated neighbourhoods), as well as by field visits of the research team in the following municipalities: Tundzha, Omurtag, Chirpan, Muglizh, Pazardzhik, and Blagoevgrad.

(3) Research on media articles on the problem with illegal constructions in the period 2012-2014, with a particular focus on cases concerning the sole residences of families of Roma origin. The aim of the media research was to validate the findings of the study of the DNCC public registry and of the APIA survey conducted in municipalities (by confirming the information through another source – media articles), as well

---

1 According to APIA, the document with which information is requested is called an application. The interested parties submit the application and choose the form in which the requested information should be provided, as well as its volume. The authorities are obliged to respond within 14 days. Refusals by the authorities are subject to appeal under the procedure of the Administrative Procedure Code before the relevant administrative court.
as to gain an insight into how the problem was interpreted and how public opinion on it is being shaped.

(4) Research and overview of the effects of removing illegal housing through six case studies and examples. The cases are significant due to the high level of media coverage which resulted in strong negative reaction from the public; as well as being cases on which the legal team of Equal Opportunities Initiative Association has worked or is working by providing representation to the affected persons before Bulgarian courts and before the European Court of Human Rights (ECtHR).

(5) Documentary review of Bulgarian and European legislation concerning protection from discrimination and analysis of the extent to which the researched judicial and administrative practices adhere to this legislation.
II. THE HOUSING SITUATION OF THE ROMA MINORITY IN BULGARIA – PROBLEMS, POLICIES, AND CHALLENGES

1. Main problems of the Roma housing situation

1.1. General problems of segregated Roma neighbourhoods

According to the National Statistical Institute (NSI) data from the latest population census of 2011, the Roma population amounts to 325,343 people or 4.9% of the total Bulgarian population; according to unofficial data from studies by NGOs and the Council of Europe, the number of Roma is 700,000-800,000 people, or more than 10% of the country’s population. People of Roma origin live in all parts of the country, but the majority are in the Montana Region – 12.7% and the Sliven Region – 11.8%, followed by the Dobrich Region – 8.8% and the Yambol Region – 8.5%. According to the census, 55.4% of the Roma live in cities and the rest live in villages.

Both in cities and in villages the Roma live in settlements, separated from other neighbourhoods. The spatial separation of housing and the expanding segregated Roma neighbourhoods are considered an extremely serious problem in different studies and national documents connected to the integration of the Roma population. This growing segregation is both an outcome of the increasing social exclusion of Roma people, and also a catalyst for the aggravation of this process.

The separated neighbourhoods appear as early as the 19th century and their further development is related to the policies of resettlement of the Roma in the peripheries of towns and villages during different periods of the country’s history.

The expansion of the segregated Roma neighbourhoods intensified considerably after 1989. With the restructuring of the economy, the Roma were among the first to drop out of the labour market and many of them who used to live in other residential areas had to leave their homes due to lack of resources and return to the Roma neighbourhoods. According to existing surveys, while in 1980 49% of the Roma were living in segregated neighbourhoods, during the first decade of the 21st century three quarters of the Roma population were living in segregation. The segregation of neighbourhoods drastically reduces the

---


5 Promoting policies for overcoming the territorial isolation of Roma. January 2016-August 2017. Working paper of a study within a project of CEGA Foundation (Bulgaria) and Union Romani (Spain) with the financial support of Rights, Equality and Citizenship Programme of the European Union (JUST/2014/DISC/AG/8155)
access to social and health services and lowers the quality of education in Roma schools, which, in turn, is a cause of unemployment and poverty in the long run.

Over the past 20 years the situation in the segregated Roma neighbourhoods has been steadily deteriorating and is characterized by poor or missing infrastructure, poor public transport, insufficient access to public services (electricity, water supply, sewage, street lighting, and garbage collection), and lack of development plans, as well as of opportunities for legal construction. The per capita living space of Roma is far less than that of the rest of the population – around 10 sq. m for the Roma compared to 25 sq. m for the rest of the population. Construction in segregated Roma neighbourhoods is of a much higher density, and the per capita living space is considerably less because Roma tend to have larger families, even though this tendency has been diminishing in recent years.

Illegal construction and the lack of control or regulation in most Roma neighbourhoods is a serious obstacle to the implementation of policies for improvement of their infrastructure. There are no accurate statistics concerning the number of illegal houses in Roma neighbourhoods. According to some studies, they comprise more than one quarter of all housing in Roma neighbourhoods; but according to others, this assumption falls far below the actual number.

Over the last decades both the central and local administrations have failed to develop an adequate policy to address illegal construction in Roma neighbourhoods. The Roma are allowed to build and their constructions are only deemed illegal once they have been completed. This usually happens in response to complaints from citizens, and not because there are regular and timely checks on the part of the local authority.

The fact that most neighbourhoods are not regulated prevents their inhabitants from acquiring the necessary construction documentation. In addition, unofficial data show that the majority of them do not own the land on which they build. Without legal regulation it is as if these neighbourhoods do not exist, and municipalities are not allowed to use their budgets in order to improve public services in them.

1.2. Specific problems arising from the lack of legal status of ownership of land or buildings

On the basis of the fieldwork conducted as part of this research, we found several types of situation regarding the legal status of ownership of land or buildings, which exist in all segregated Roma neighbourhoods. Due to the lack of accurate official statistics, it is not possible to state what proportion of housing in Roma neighbourhoods is affected:

- There are only very few cases where the ownership has been legally certified both in terms of the land and in terms of the building;

(Forthcoming).

6 Ibid.
• There are many cases where the land has been purchased informally (not via the established legal route) – the owners do not possess the necessary documents to prove their ownership to other persons or to the local/central authorities;
• There are many owners of legally regulated land who build homes with no regard to legal-administrative procedures, which renders the constructions illegal and, therefore, subject to demolition;
• There are many cases where the houses have been built on public land or on private land belonging to other persons, which exposes the inhabitants to the risk of being evicted and the building demolished without any compensation;
• There are many cases where buildings have been built on owned land prior to 31 March 2001, which makes them eligible to obtain a status of “tolerance” based on the Territorial Organisation Act (TOA) 7;
• There are a few inhabitants (tenants) of public housing in Roma neighbourhoods – with proper tenancy agreements and paying rent regularly;
• There are, however, many public housing inhabitants who do not pay their rent regularly and, therefore, face the risk of having their tenancy agreements annulled by the relevant municipal administrations.

The lack of legal status of ownership of land or buildings gives rise to the following problems:
(1) All forms of unspecified legal status of ownership of land or buildings carry a risk that the buildings will be removed or the residents evicted;

(2) Unspecified legal status is an obstacle to the provision of public services, such as public utilities – electricity, water supply, sewage. Every company that provides public utilities has legally specified requirements that have to be met in order to open a user account. Illegal constructions cannot satisfy these requirements which in turn make it difficult for their inhabitants to acquire access to the utilities.

(3) Unspecified legal status is an obstacle to the registration of ownership with the relevant municipal territorial agency and to registration in the territorial registry;

(4) Unspecified legal status is an obstacle to transactions to transfer ownership, as well as to taking out a mortgage on the property, or to obtaining other loans.

Accumulated years of failure adequately to address the common problems of segregated Roma neighbourhoods and non-compliance with procedures, both by inhabitants and by local authorities, have led to chaos in the housing situation of these neighbourhoods. At this stage even the limited legislative means to address the illegal housing problem are not being used by the inhabitants of segregated neighbourhoods

7 According to § 127 of TOA, constructions built before this date and adhering to construction rules are recognised as tolerable, which means they cannot be removed, they can be the subject of a legal transaction, and they require compensation in cases of compulsory purchase.
due to insufficient legal knowledge and experience of the necessary procedures. The problem is exacerbated by the lack of capacity of local authorities to assist the Roma community in legal proceedings and in finding ways to give the inhabitants stable legal status.

2. Main policies for improving the housing situation of the Roma minority – achievements and challenges

The ‘Framework Programme for Roma Integration’ adopted by the Council of Ministers (CoM) of the Republic of Bulgaria in 1998 included the goal of improving the housing situation of the Roma as a priority for the first time. The ‘National Programme for Improving the Housing Conditions of Roma’ was adopted as part of the National Housing Strategy in 2004, as a result of Bulgaria’s involvement in the Decade of Roma Inclusion.

In March 2006 the Council of Ministers adopted the ‘National Programme for Improving the Housing Conditions of Roma in the Republic of Bulgaria’ (2005-2016), which sets specific objectives and indicators regarding the construction of new and the reconstruction of already existing Roma housing, as well as the improvement of the infrastructure of Roma neighbourhoods with financing from state and municipal public funds and from the European Structural Funds.

Currently, the main document that defines the strategic framework and the guidelines for implementation of the policy for social integration of Roma is the ‘National Roma Integration Strategy of the Republic of Bulgaria’ (NRISRB) (2015-2020), adopted by Parliament in 2012\(^8\). Developed in extensive consultation with different stakeholders, including non-governmental organisations, the NRISRB is a much more systematic document which sets new approaches regarding the integration of Roma:

- The strategy applies an integrated targeted approach to vulnerable citizens of Roma background which is developed within the framework of the general strategy for combating and eliminating poverty, but does not exclude the provision of support to disadvantaged persons of other ethnic groups.
- The strategy adheres to international standards relating to human rights and the rights of persons belonging to ethnic minorities adopted by Bulgaria; it is guided by the European Union political framework principles for non-discrimination on different grounds, including ethnic origin, and fits into the context of the development of European policies relating to Roma integration;
- The strategy is guided by the ‘Ten Common Basic Principles of Roma Inclusion’, adopted by the Council of the European Union on 8 June 2009, based on which it aims to promote: the development of constructive, pragmatic, and non-discriminatory policies; affirmative measures and an intercultural approach;

The horizontal aspects of implementation are aimed at integrated management of sector policies, based on good inter-sectoral collaboration, as well as mainstreaming the rights, obligations, needs, and problems of Roma in general government and sector policies. There is also a particular emphasis on the promotion of affirmative action to overcome different forms of inequality in all public sectors, as well as on promoting positive public attitudes towards the Roma community.

Improving conditions of housing and technical infrastructure is among the main policy priorities of NRISRB and of the Ministry of Regional Development and Public Works (MRDPW) as the leading institution responsible for its implementation. The ‘Housing Conditions’ priority accommodates ten objectives/tasks aimed at resolving different aspects of the problems with housing and infrastructure in Roma neighbourhoods. The most important of them, connected with the subject of the present study, include:

• Dispersion of the over-crowded and segregated Roma neighbourhoods by providing new plots for housing construction;
• Regulation of Roma neighbourhoods by developing cadastral maps and cadastral registries, where these do not exist, and by updating or creating detailed spatial development plans for existing and newly-designated zones for housing constructions;
• Improving the technical infrastructure – water supply, sewage systems, street network, public works, etc.;
• Building and providing social housing;
• Provision of appropriate alternative accommodation in cases of eviction of Roma families from homes that they inhabit illegally or in cases when the construction is poor and presents a threat to their health and safety;
• Improving the legislation concerning housing conditions.

Measures for improving social infrastructure for cultural and educational purposes are also envisaged, as well as work with the Roma community in cooperation with NGOs to develop modern behaviour patterns of responsibility and diligence in exercising the right of ownership of real estate.

The approaches to fulfilling the objectives of NRISRB are outlined in the National Action Plans on NRISRB’s implementation which are divided in two periods (2012-2014 and 2015-2020). All municipalities are obliged to and are developing local strategies and implementation plans in accordance with the national strategy and the National Plans for its implementation. This is a precondition for eligibility of the municipalities to participate in Operational Programmes of the Structural Funds related to the priorities of the strategy. The Secretariat of the National Council for Cooperation on Ethnic and Integration Issues (NCCEII) produces annual administrative monitoring reports regarding the implementation of NRISRB based on the progress reports submitted by sectorial institutions responsible for implementing the measures envisaged in the National Action Plan for implementation.
The strategy also envisions the development of a common communication plan to inform the public about the implementation of integration policies. The communication plan has to be implemented by NCCEII, sectorial departments, and civil society organisations.

The adoption of NRISRB and the relevant implementation plans on national and local level is undoubtedly an achievement, which creates a good general strategic framework for overcoming the problems with the housing situation in segregated Roma neighbourhoods. Some positive results have also been achieved, especially through pilot programmes supported with resources from EC’s Structure Funds.

Nevertheless, the monitoring reports on the implementation of the national Roma integration strategy have found a lack of serious progress and slow implementation of the set objectives, especially with regards to the third priority – improving housing conditions. This has been noted both in evaluation reports of the European Commission\(^9\) and in alternative monitoring reports produced by non-governmental organisations, according to which the progress on this priority of NRISRB has been the most insignificant\(^10\). Based on the administrative monitoring reports on the implementation of the national action plans for the strategy implementation, produced by the Secretariat of NCCEII, noticeable actions and visible results can mainly be registered on pilot projects for construction of public housing in several municipalities, as well as with regards to the social infrastructure objectives relating to education and culture. There are no data for activities associated with other important objectives relating to the improvement in housing conditions, nor is there any explanation concerning delays or difficulties connected with their implementation. This renders the overall implementation of the otherwise good strategic framework of NRISRB fragmented, thus negating one of its strengths – simultaneous optimization of the different measures in their entirety in order to ensure results aimed at long-term and sustained impact.

Some of the main challenges to the implementation of the adopted Roma integration policies relating to the priority of improving housing conditions include:

- There is no practical prioritization of the necessary measures and no clear plan as to the interconnectedness between different interventions, or no vision of how the delay in the implementation of some objectives can reflect on the overall impact of policies concerning this priority. For instance, it is certainly positive that there are pilot programmes mostly for the construction of social housing, and also testing an integrated approach, linking social housing with access to employment and education. However, the technological implementation of such programmes takes time, including time for analysis of their impact and effectiveness – what works and what needs to be changed and why. There is no clear policy on the illegal housing in Roma neighbourhoods or what will be done with illegal houses during the period before these pilot programmes yield results. There is also no clear


vision as to how and when these programmes will be extended beyond the pilot municipalities in order to ensure public housing wherever it is needed countrywide.

- There is an objective to amend legislation in order to legalize well-constructed houses, but there are no clearly defined responsibilities and no time frame for this to be achieved. It is noteworthy that the National Plans for implementation of NRISRB for both periods suggest that non-governmental organizations should be responsible for the implementation of this objective and that the necessary resources should come from funds of donor programmes, procured by the NGOs\(^\text{11}\). Consequently, the relevant monitoring indicator measures the number of activities carried out (the number of NGO studies) instead of the results of these activities (the number of relevant legislative amendments).

There is no reference to any responsibility of state authorities for the fulfilment of this objective. Non-governmental organisations can contribute with their expertise and can participate in working groups, but they are not empowered to amend legislation.

- There are some positive activities undertaken to amend legislation, but with no follow up which in practice led to no progress towards the objective of synchronizing the legal framework with the needs of the NRISRB. An inter-institutional working group with a temporary mandate was created in July 2012 on the initiative of the chair of the NCCEII following the planned changes in the legal framework in chapter four of the National Action Plan for the implementation of the strategy. Its aim was to develop and propose changes in the legal and methodological framework on the priority policy sectors of the NRISRB. The working group has been established in a frame of the initiative led by the NCCEII. The participating experts from both state institutions and NGOs have been divided into priority sub-groups. The sub-group on housing prepared proposals for amendments within the TOA to secure opportunities for legalization of only homes. However, none of the proposals from the sub-group work have been proposed to Parliament.

- Another important objective set out in the strategy is ensuring appropriate alternative accommodation in cases of eviction of Roma families from homes which are inhabited illegally or which pose a threat to their health and safety. It is not clear how to proceed in cases where the relevant municipalities do not have available social housing or how resources to repair and ensure provision of such housing will be identified. It is also not specified who should exercise control over the adequacy of the offered alternative accommodation, how this control will be exercised, and what the sanctions will be in cases of non-compliance with this objective.

- There are no designated funds for most of the NRIS objectives. The National Plans for the strategy implementation refer to “indicative budgets” of municipalities for most of the objectives. Considering the situation of municipal finance, especially in small and poor municipalities, the main sources of funds for these budgets could come only from EU funded programmes and projects. However, procuring these funds is uncertain and depends on the willingness of municipalities to develop Roma integration programmes, as well as on their capacity to apply successfully for projects. It is unclear whether and how the strategy will be implemented at local level in cases where it is impossible

to procure external programme resources.

• There is no adequate communication strategy on the part of national and local institutions – neither for raising awareness of the issues of housing policy and decisions within the Roma communities, nor for informing the majority Bulgarian population about the possible solutions and the benefits of resolving the housing problems to the entire society. The envisaged communication plan in support of the implementation of the Roma integration policies, including the housing conditions priority, has not been developed systematically and has not been provided with the resources necessary for its implementation. The lack of consistent communication regarding the housing policy in Roma neighbourhoods exacerbates negative public opinion, increases the possibilities for its manipulation by nationalist groups, especially prior to elections, and promotes the growing opposition of the public at large to housing integration policies. In consequence, this makes the implementation of the NRISRB much more difficult at local, as well as at national level.

Some of these challenges have been clearly identified in the EC’s latest report12 of 2016 concerning NRISRB. The report notes the worrying increase in Roma evictions in Bulgaria in 2015, especially prior to local elections. The Commission recommends that the Bulgarian authorities should avoid evictions altogether or that if they do evict it should be “on the basis of a judicial or administrative decision which would also include due guarantees for the evicted persons (offer of adequate alternative accommodation)”. Furthermore, the municipalities should be additionally guided and supported by the national authorities in adopting adequate housing measures aimed at the social inclusion of Roma. The Commission also stresses that the financing and development of detailed spatial planning should be promoted.

III. OVERVIEW OF BULGARIAN LEGISLATION REGULATING THE REMOVAL OF ILLEGAL CONSTRUCTIONS

1. General legal framework concerning the removal of illegal constructions

The legal framework concerning the removal of illegal constructions is part of the legal provisions connected with the planning, organisation, and development of settlements. Over the last 65 years the matter has been regulated consecutively by provisions of the Planning and Development of Settlements Act (PDSA), the Territorial and Urban Organisation Act (TUOA), and the Territorial Organisation Act (TOA), with each subsequent act repealing the preceding one.

1.1 Planning and Development of Settlements Act

The Planning and Development of Settlements Act (PDSA) entered into force in 1950 and repealed a large number of preceding acts and provisions, created in the early years following 9 September 1944. According to Art. 66 of PDSA, constructions built without permission and without the requisite construction papers had to be demolished if they were inadmissible based on the operating provisions. Constructions built with low-quality or inappropriate materials, or in violation of technical rules and requirements, had to be demolished if they were deemed dangerous to use and could not be reinforced.

Constructions in non-regulated areas were subject to demolition, and upon a second violation the land would be confiscated as well, and the executive committees of the People’s Councils could deprive offenders of residence and order their eviction. These draconian measures were complemented by the power to impose a fine of up to 2000 lv in cases of violation of any of the provisions of that act.

This act provided neither legalization nor tolerance procedures for illegally constructed buildings. Nevertheless, the act did not consider the demolition of illegally constructed buildings to be the only available sanction; demolition of the construction was undertaken upon examination of each individual case to establish whether in addition to lacking or having an irregular construction permit, the nature of the construction was also inadmissible under the existing provisions in force. This means that the administration did not proceed to demolish the illegal construction if, despite the lack or irregularity of construction permit, the actual structure of the building proved admissible under the legal provisions in force.

1.2 Territorial and Urban Organisation Act

The next act – the Territorial and Urban Organisation Act (TUOA) of 1973 – provides for a procedure for legalization or recognition of tolerance of illegally built constructions. According to TUOA, constructions are illegal when built in violation of operating organisation plans and without approved blueprints and building permits, or in violation of the construction requirements in areas with special territorial protec-
tion. According to TUOA, constructions included within construction borders can be legalized if deemed admissible under the new spatial plans and operating provisions. Constructions which are proclaimed tolerable are:

- buildings and installations associated with the use of agricultural land, including agricultural, warehouse, subsidiary, and irrigation installations and hangars;
- residential buildings for temporary or permanent use by land owners who produce agricultural products, or intended for temporary occupation by persons who have been granted the right to build on forest fund terrains.

The orders to remove illegal constructions or parts of constructions are issued by the Head of the Directorate for National Construction Control or by an official authorized by the latter.\(^{13}\)

1.3 Territorial Organisation Act

In 2001 the Territorial Organisation Act (TOA) was adopted in order to update the legal framework associated with the planning and organisation of settlements, in accordance with the principles of the new Constitution. Along with topics connected with the adoption and development of the so-called general and detailed spatial plans, TOA also establishes the requirements to be satisfied by constructions, as well as the procedures for issuing a building permit.

The act divides constructions into six categories, of which mainly the third, fourth, and fifth relate to buildings for residential use:

- The third category comprises residential and mixed high-rise buildings, public service buildings and facilities with a total floor area exceeding 5000 sq. m or with a capacity to accommodate between 200 and 1000 visitors.
- The fourth category of constructions comprises both residential and mixed medium high-rise buildings, public service buildings and facilities with a gross floor area between 1000 and 5000 sq. m or with a capacity to accommodate between 100 and 200 visitors.
- The fifth category comprises residential and mixed low-rise buildings, summer houses, public service buildings and facilities with a gross floor area not exceeding 1000 sq. m or with a capacity to accommodate up to 100 visitors.

2. Legalization and tolerance of constructions

2.1 Legal framework

The opportunities for legalization of illegal constructions provided by law, have always been limited to a defined period. At present, the Bulgarian legislation does not provide for an opportunity to legalize a construction which has been built in violation of the law. It only provides for the opportunity to grant tolerance

\(^{13}\) According to Art. 158 and Art. 160 of TUOA
status to constructions built without building permits.

Constructions are considered tolerable if they were built before 31 March 2001, do not have construction papers, but were admissible under the provisions operating at the time of their erection or under the TOA provisions. Once deemed tolerable, the constructions cannot be subjected to removal or to prohibition of use. They can be the object of a transaction when issued with a certificate from the empowered authorities stating their tolerance status. The time of building of the illegal construction can be ascertained using all kinds of evidence, admissible under the Civil Procedure Code, including declarations.

Although the legal provision for tolerance recognition does not provide a legal means to invalidate tolerance certificates after they have been issued, such cases exist. An example of this is the Gurmen case, described in more detail in the next chapter of this report, where the mayor issued tolerance certificates for 144 houses, most of which were invalidated after a follow-up check performed by DNCC and, eventually, demolished.

The legalization of constructions (in the short time frames when this is possible) can be achieved following an approval of an investment project via the relevant legal route and after a legalization act has been issued. Neither the proclamation of tolerance, nor the possibility of legalizing illegal constructions is in any way connected with the type of construction or the manner of its use – for residential or non-residential purposes.

2.2 Authorities empowered to remove illegal constructions

Until 2012 the Directorate for National Construction Control (DNCC) was the authority empowered to exercise control over the observance of the Territorial Organisation Act (TOA) and the provisions of its implementation with a view to ensuring safety, security, accessibility, and the other normative requirements pertaining to constructions. DNCC exercised control over the legality of the erection and use of constructions by verifying the legality of the issued building permits for all categories of constructions.

The TOA amendments of November 2012 shifted some of the abovementioned powers from the DNCC bodies to the mayors of municipalities. DNCC lost the powers associated with the issuing of orders to demolish housing for residential use /4-5 category/ and these powers were conferred in their entirety on local authorities.

2.3 Protection from issued orders to demolish illegal constructions

In accordance with Art. 120(2) of the Constitution of Bulgaria every administrative provision is subject to appeal before a court, unless there is an exception. The exceptions from the right to appeal must be clearly
According to the TOA provisions, the affected parties have the right to file a complaint against the relevant order to demolish illegal construction. The appeal is lodged with the relevant administrative court based on the location of the property within a 14-day period counting from the moment when the claimant was presented with the order to remove. The decisions of the administrative courts are subject to appeal in the Supreme Administrative Court whose decisions are final.

Access to court is not expensive, insofar as the court fee to file a complaint to the first-instance court is 10 lv and to the Supreme Court is 5 lv. In these cases, however, the affected parties are not allowed to use free legal aid under the terms of the Legal Aid Act. Professional representation is not compulsory, but the lack thereof considerably diminishes the claimant’s chances for success, given that the administrative body is usually represented by legal experts.

If the demolition order is not appealed or is left in force by the courts with a final decision, the only measure of protection against potential illegal enforcement proceedings, initiated in accordance with the procedure prescribed in the Administrative Procedure Code (APC), is a complaint to the administrative court, which should be submitted within a 7-day period counting from the receipt of the notification about the enforcement proceedings by the claimant. In such cases the complaint does not preclude the enforcement proceedings, but upon request of the claimant the court may impose an injunction within a 7-day period from the notification.

In conclusion to the presented overview of Bulgarian legislation, the current legal order regarding the treatment of illegal construction suffers from the following problems:

- First, it does not envisage any procedure for legalization of already built illegal constructions (with the exception of two time periods of one year after 2001 and after 2012);
- Second, illegal construction is treated in the same way regardless of the type of use of the building, i.e. without differentiating between housing/residential buildings, extensions and superstructures of existing constructions, outbuildings, fences, cable installations, or other secondary and subsidiary constructions.
- The measures of state compulsion in cases of buildings constructed without building permits and construction papers – preventive or sanctioning – do not account for the manner of use of the illegally constructed buildings and for whether they are the sole residences of those affected. The demolition of houses has serious consequences, especially in the absence of alternative accommodation for the evicted families, which in practice leads to homelessness and violation of the basic human rights of those affected.
IV. IMPLEMENTATION OF THE LEGAL FRAMEWORK CONCERNING ILLEGAL HOUSING

1. Court practice in cases of illegal construction

Based on review of relevant data there have been no more than 1000 complaints submitted to courts against demolition orders and against their enforcement proceedings and they do not concern the subject of this research. In accordance with court practice, the status of tolerance of illegal constructions is subject to official examination by the administrative authority responsible for the demolition proceedings, as it constitutes a legally specified obstacle to issuing a demolition order.\(^{15}\)

The main facts examined in this category of cases are connected with the date of construction of the building or with the stability of the construction. There is also an investigation to determine whether the person responsible for building the construction is the owner of the land on which the construction has been built. The date of construction is identified by means of all admissible evidence, including declarations and witness testimonies. To establish the stability of the construction, the judge panels of administrative courts usually commission an independent expert assessment. However, there are many cases where the administrative courts do not commission an expert assessment and other cases where they do so in spite of the fact that given the date of its construction, the building cannot be deemed tolerable or legalized.

Regardless of whether the expert assessment is commissioned on the initiative of the court or upon request from the claimant, the costs for preparing a report are assigned to the claimant. In many cases this creates an insurmountable obstacle, particularly for applicants with low income, which is the case for the majority of the Roma population, as the costs of an expert’s report exceeds the minimum monthly salary in the country.

Research on court practices related to illegal construction shows that courts do not differentiate in their treatment of the demolition of buildings which are their occupants’ only home and the demolition of other illegally built constructions.

In many cases no appeal at all is made against multiple demolition orders for illegal housing in Roma segregated neighbourhoods. The main reason for this is that the majority of Roma do not have the knowledge and resources to procure legal representation to appeal the orders. Legal representation is needed because the procedure is too complicated for lay people and requires legal knowledge. Examples can be found in the case studies in the next chapter of this report. (For instance, in the case studies of Varna and Stara Zagora there were no appeals at all; in the case study of Gurmen there were several appeals which only

\(^{15}\) The status of tolerance arises by law if the substantial legal conditions of §127(1) of ГЗР ЗАД ЗУТ, State Gazette Issue 82/2012 are satisfied.
happened due to the help of the then mayor.) Moreover, the research established that, especially in the case of Varna, the demolition orders may not have been duly delivered to their addressees. Given the fact that 46 homes were demolished, where families with children and people with disabilities lived, the alleged failure to notify the affected families would constitute illegal action resulting in severe consequences for the affected families.

Unfortunately, access to this information was refused by the mayor of Varna Municipality. The reason given for the refusal was the claim by the municipality that the requested information is not public.\(^\text{16}\) The fact that the requested information has still not been provided suggests that the administration of the Mladost District in Varna is being obstructive and does not want the public to know whether the abovementioned affected families were notified in advance about the issued orders to demolish their houses.

The law provides an appeal procedure against enforcement proceedings of illegal construction demolition orders. However, the research found that such appeals are usually not an effective protection measure. The appeal procedure does not apply to all steps of the enforcement process (for example it is inapplicable to the formal invitation for voluntary enforcement, which precedes the forced execution measures) as according to the predominant practice of the courts some of them are subject to appeal and others are not. There are also cases in which compulsory enforcement has been ordered by the administrative authority, which by itself is an action that can be appealed.

### 2. Overview of the implementation of the Territorial Organisation Act

The implementation of the Territorial Organisation Act (TOA) is here reviewed in two parts, each analysing the practices of the relevant competent authorities in different periods:

- The first part of the overview examines the actions of the Directorate for National Construction Control (DNCC) which had the power to issue demolition orders for all types of illegal constructions until November 2012.
- The second part analyses the actions of municipal administrations which after November 2012 were empowered to issue demolition orders to remove constructions of the third, fourth, fifth, and sixth categories, which included residential buildings.

The overview of TOA implementation focuses on neighbourhoods and regions that are known to be inhabited by Roma population. The research compares the total number of houses which were subject to demolition orders for reasons of illegality, with the number of such houses located in Roma neighbourhoods.

\(^{16}\) In August 2015 Equal Opportunities Initiative Association submitted a request under the APIA procedure to the mayor of Varna Municipality. The refusal, signed by the mayor of Mladost District in Varna, was appealed before the Varna Administrative Court with the assistance of Access to Information Programme. The refusal was quashed in part by the court and a cassation appeal was submitted. The case is still ongoing.
2.1 Implementation of TOA by the Directorate for National Construction Control (until 26 November 2012)

DNCC maintains a public registry containing the orders to remove illegal constructions since 2010. It is accessible online on the webpage of the institution and is updated on a monthly basis. The public registry lists the issue number of the order, the type of construction, its location, the actions taken with respect to the enforcement of the order to date, and the date of demolition of the construction (if it has been demolished).

The registry does not contain information concerning the ethnic origin of the affected parties. However, we could determine this accurately based on the registered location of the illegal houses and on our knowledge based on years of legal work in Roma localities. For the purposes of the research, the ethnicity of the affected parties for some of the illegal houses has been also verified by means of local visits.

The first records of DNCC bodies removing illegal constructions date back to 1999. For the period until the end of 2010, data were registered for 900 demolition orders to remove illegal constructions.\(^{17}\)

A statement by the Ministry of Regional Development and Public Works (MRDPW)\(^ {18}\) makes it clear that the total number of demolition orders issued by DNCC is 6080, of which 4530 have been enforced and the illegal constructions demolished, and 1550 have not been enforced yet.

The results of the study of the data from the public registry, conducted as part of this research, are summarized in Table 1.

As seen from the table, the public registry provides detailed descriptions of the different types of constructions, indicating the status of the enforcement, i.e. how many orders have been enforced (demolished constructions) and how many are “in process” (the order has been issued, but not yet enforced). The registry does not contain separate categories for constructions for residential use or houses. This type of constructions is registered under the “Other” category, which contains construction falling outside of the above-listed categories. Since the existing search filter on the registry website does not provide the option to search by buildings for residential use, the research team identified those buildings by manually reviewing the individual records of issued demolition orders.

---

\(^{17}\) Pp. 1-60 of DNCC’s Public Registry

\(^{18}\) Published in Statement of the MRDPW concerning the situation in “Kremikovtzi” neighbourhood, Gurmen Municipality, from 11.08.2015 http://www.mrrb.government.bg/stanoviste-na-mrrb-otnosno-obstanovikata-v-kv-kremikovci-obstina-gurmen/
### TABLE № 1 Issued orders to remove different types of constructions

<table>
<thead>
<tr>
<th>CONSTRUCTION TYPE</th>
<th>TOTAL</th>
<th>IN PROCESS</th>
<th>DEMOLISHED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fence</td>
<td>611</td>
<td>72</td>
<td>539</td>
</tr>
<tr>
<td>Balcony</td>
<td>66</td>
<td>15</td>
<td>51</td>
</tr>
<tr>
<td>Cables</td>
<td>533</td>
<td>30</td>
<td>503</td>
</tr>
<tr>
<td>Platform</td>
<td>70</td>
<td>6</td>
<td>64</td>
</tr>
<tr>
<td>Garage</td>
<td>202</td>
<td>22</td>
<td>180</td>
</tr>
<tr>
<td>Pool</td>
<td>67</td>
<td>11</td>
<td>56</td>
</tr>
<tr>
<td>Warehouses</td>
<td>152</td>
<td>9</td>
<td>143</td>
</tr>
<tr>
<td>Office</td>
<td>39</td>
<td>7</td>
<td>32</td>
</tr>
<tr>
<td>Shop</td>
<td>87</td>
<td>9</td>
<td>78</td>
</tr>
<tr>
<td>Summer kitchen</td>
<td>80</td>
<td>6</td>
<td>74</td>
</tr>
<tr>
<td>Hotel</td>
<td>19</td>
<td>3</td>
<td>16</td>
</tr>
<tr>
<td>Reorganisation</td>
<td>230</td>
<td>46</td>
<td>184</td>
</tr>
<tr>
<td>Reconstruction</td>
<td>50</td>
<td>5</td>
<td>45</td>
</tr>
<tr>
<td>Outbuildings (cowsheds, agricultural, barbecues, etc.)</td>
<td>591</td>
<td>82</td>
<td>509</td>
</tr>
<tr>
<td>Extension (to an apartment, to a residential building, for a bathroom)</td>
<td>561</td>
<td>100</td>
<td>461</td>
</tr>
<tr>
<td>Superstructures of apartments, garages</td>
<td>226</td>
<td>76</td>
<td>150</td>
</tr>
<tr>
<td>Stairs</td>
<td>69</td>
<td>6</td>
<td>63</td>
</tr>
<tr>
<td>Incorporated new construction to existing building</td>
<td>52</td>
<td>0</td>
<td>52</td>
</tr>
<tr>
<td>Shed</td>
<td>305</td>
<td>43</td>
<td>262</td>
</tr>
<tr>
<td>Other</td>
<td>2070</td>
<td>1002</td>
<td>1068</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>6080</strong></td>
<td><strong>1550</strong></td>
<td><strong>4530</strong></td>
</tr>
</tbody>
</table>

*Source: DNCC's Public Registry*

[19](http://www.dnsk.mrrb.government.bg/UI/RegisterDestruction.aspx)
The data from the examination of the information concerning the demolition orders, issued only with respect to buildings for residential use, are summarized in Graph 1.

Graph 1

As can be seen from the graph, 514 residential buildings were designated for demolition by the DNCC in the period 1999-2012. Of those, 201 have been demolished and 313 are in proceedings. These orders have no expiration date and can be enforced at any time. This creates fear and feelings of insecurity for the people affected, as it has been observed that such orders have sometimes been enforced even years later. For instance, some of the buildings destroyed in Gurmen in 2015 had their demolition orders issued by the DNCC in the period May-June 2011.

The research team identified the ownership of the houses designated for demolition, through identification of the location and fieldwork to meet with the affected parties in some of the municipalities. As a result of this examination, it was found that more than 500 out of the total of 514 buildings for residential use, against which demolition orders had been issued, are located in areas with Roma population. As a result, we can conclude that more than 97% of the demolition orders for residential buildings, issued by DNCC in the period 1999-2012, concern Roma houses.

This shows an inaccuracy in MRDPW’s statement that the issuing of demolition orders for illegal constructions does not involve discrimination on ethnic grounds and that “a relatively small proportion of the removed illegal constructions fall within segregated Roma neighbourhoods.” The Ministry supported its statement with the fact that out of 6080 orders to remove “only 530 concern illegal constructions built by citizens of Roma origin”\(^{20}\), but did not take into account the fact that these 530 are precisely the constructions used for residential purposes. This means that in the cases where the constructions designated for

\(^{20}\) Statement of the MRDPW concerning the situation in “Kremikovtsi” neighbourhood, Gurmen Municipality, from 11.08.2015 http://www.mrrb.government.bg/stanoviste-na-mrrb-otnosno-obstanovkata-v-kv-kremikovci-obstina-gurmen/
demolition do not belong to Roma, they are also not constructions designed for residential use.

It should be noted that although in the period 1999-2010 900 demolition orders were issued, in just two years (2011-2012) their number rose dramatically: more than five times. This demonstrates the change in state policy to a stricter and less tolerant approach towards illegal constructions and the research found that this approach has a disproportionate effect on the Roma minority in terms of the demolition of illegal houses.

2.2 Practices of local authorities (November 2012 – 2016)

Following November 2012 the power to issue demolition orders concerning illegal constructions was transferred to mayors of municipalities or to district mayors in cities with district division. Information concerning these orders can only be obtained from the relevant municipal administrations, as there are no records or statistics collected at national level in respect of this administrative action.

The survey was carried out by using the Access to Information Act (APIA) in order to retrieve the relevant information for every location. In January-February 2016, requests were filed electronically to the mayors of all municipalities, i.e. a total of 265 bodies of local government. The submitted requests inquired whether the respective municipal administration had issued demolition orders under the procedure of Art. 224 of TOA, and whether these orders (if issued) concerned housing or non-residential buildings.

The legally prescribed period for response according to APIA is 14 calendar days. By the 31st of March 2016, 162 municipalities, or 61% of the total number of municipalities, had responded to the filed applications. 48 of the municipalities stated that they had not issued orders to demolish illegal constructions, including houses. The responses of the remaining 114 municipalities, which had issued demolition orders, state the number of illegal construction demolition orders issued by each municipal administration; the type of construction based on its use; and the location of the constructions. In most cases the municipal administrations also presented copies of the issued demolition orders.

Some of the responses contained information regarding the location of the properties, on the basis of which it is possible to draw conclusions concerning the ethnicity of the owners. In cases where such information was not provided, the research team verified the housing owners' ethnicity by local visits.

The representative character of the survey (162 municipalities or 61% of all municipalities in the country) make it possible to sketch an overall picture based on the answers of participating municipalities:

- Out of 162 municipalities, 114 stated that they had issued demolition orders for illegal constructions. They had issued a total of 2000 such orders in the period December 2012 – March 2016. Most of the targets of the demolition orders issued by local administrations were cable installations, agricultural facilities, garages, fences, pavilions, sheds, and building extensions.
• Many of the municipalities had issued orders to remove “aerial cable network” whose owner was unidentified; the affected people living in the vicinity had been warned.
• The number of orders concerning housing was smaller. Out of 2000 orders, 1556 concerned non-residential buildings, and 444 concerned housing.
• The research team identified that out of the 444 orders concerning housing, 399 demolition orders (or 89% of all orders concerning housing) affect Roma families’ sole residences. The identification of the residents’ ethnicity was carried out on the basis of the houses location (in cases where the houses designated for demolition were located in Roma segregated neighbourhoods), and verified by means of local visits in some of the municipalities.
• The review of the obtained information shows that many of the demolition orders for illegal houses were issued in response to complaints from citizens and following a check by the municipal administration, after which a document was issued and delivered to the affected parties in accordance with the legally prescribed procedure. This means that the initiative to demolish illegally constructed houses did not come from the municipal administration, but of individual citizens. The local authority did not act proactively, but reactively in these cases.
• The dates of enforcement of the mass orders concerning Roma housing show that the demolition and eviction of Roma families from their homes coincides in time with election campaigns or their preparation. Usually the demolitions are carried out in response to anti-Roma protests organized by nationalist parties and political groups, which exploit everyday scandals and conflicts and escalate them to mobilize anti-Roma sentiments among the majority population, leading to demands for Roma to be banished from neighbourhoods and cities.
• The demolition orders which were appealed in court make up an insignificant proportion of the total number of issued orders. The main reason for this is that the Roma do not have the knowledge or resources to procure legal representation in order to appeal the orders. Representation is needed because the procedure is complicated and requires legal expertise.

3. Media coverage

The research team analysed media articles from the period 2014-2016 on the topic of illegal construction and the effect of the abovementioned administrative practices on the Roma minority. Through the media analysis, information was generated concerning issued orders to demolish illegal constructions, including those which were already executed, which concerned citizens of Roma ethnic origin. This helped confirm the findings acquired by other research methods.

The analysis shows that print and electronic media operating on local and national level have published information regarding the demolition of houses in 21 neighbourhoods in total, located in fifteen municipalities in the country. In the case of five of the municipalities, the articles only note that there have been enforced demolition orders, but they do not specify how many. These five municipalities are Sliven, Kazan-
In the remaining ten municipalities the media report a total of 696 orders to demolish illegal Roma housing. The data concerning the distribution of these orders across the ten municipalities are presented in Graph 2.

**Graph 2**

As seen from the graph, the highest number of issued orders to demolish illegal houses is in Sofia (156), followed by Stara Zagora (144), Plovdiv (130), and Gurmen (102). The number is lower in Burgas (50) and Yambol (36), and in Samokov and Haskovo there are only reports of single cases. All 696 orders to demolish illegally constructed houses owned by Roma (including the enforced ones) that have been reported by the media are part of the total of 900 demolition orders to remove illegal housing issued by DNCC or by local authorities.

The analysis of the information available in the media once again confirms the conclusions of this research that the majority of orders to demolish illegal housing concern Roma houses. On the other hand, it also shows that the media are particularly interested in reporting cases concerning the issuing of orders to demolish illegal houses built by Roma, as out of 899 such cases identified by the research, 699 or 77.7% have been reported.

It should be noted that the information is usually presented in negative light by the media. The articles and media reports use generalisations which lead to the conclusion that Roma build without complying with construction rules or the country’s legislation, thus usually causing a negative reaction from the public and exacerbating the already existing discriminatory attitudes of the majority. Usually Roma are depicted as people who do not respect the public order and the established rules.
It is rare to find media publications which attempt a more serious analysis of the housing problems resulting from years and years of unsuccessful policies and practices or the lack thereof. The affected parties’ opinions are seldom presented accurately. The media tend to show emotional outbursts of those directly affected by the demolition, rather than the constructive opinions for example of non-governmental organisations, which can present the issues in more depth.

Comments from individual citizens in all media articles, as well as debates in social media concerning the housing problems in Roma neighbourhoods are extremely negative and usually written in the language of hate and ethnic intolerance.

The analysis of media articles shows that media interest and the negative reporting of Roma housing problems increase prior to and during election campaigns, as this is the time when the number of orders to demolish Roma houses also increases. As has already been noted, the growing anti-Roma sentiments and actions become the main drive for local authorities to initiate demolition of houses in Roma neighbourhoods. In many of the examined cases the practice of evicting Roma families intensifies during local elections in response to pressure from anti-Roma protests and requests from citizens and political groups with extremely negative attitudes towards the Roma.

This is also confirmed by in-depth studies on anti-Roma sentiments and media reporting\(^2\), which examine the evictions of Roma families in the context of the overall increase of conflicts and anti-Roma speech and hate, especially in recent years. The predominantly negative media coverage is among the leading factors for the rapid growth of already existing anti-Roma prejudice of the general public.

However, an even more serious problem is the lack of consistent communication on the part of the state regarding the objectives and benefits of Roma integration. In the majority of cases, central institutions and local authorities avoid taking measures which would put them in opposition to the anti-Roma views of the electorate. The lack of a clearly-communicated state policy concerning Roma integration (including about the problems and available solutions to housing policy in Roma neighbourhoods) helps confirm the negative image presented in the media. Public opinion is therefore shaped negatively by the voice of the nationalist parties and groups which dominate the media.

---

V. CASE STUDIES

The research team also researched six cases – in the Gurmen, Varna, Burgas, Stara Zagora, Sofia, and Muglizh municipalities – where local governments authorized the enforcement of demolition orders to remove illegal houses in different parts of the country which were Roma families’ only homes. All of these cases are illustrative of the effect of practices concerning illegal housing in Roma neighbourhoods. The media usually cover the demolitions in a way which provokes strong anti-Roma public reaction.

The six cases relate to decisions of the abovementioned municipalities to issue orders to demolish a total of 475 sole residences of Roma families during the period 2011-2016. Of those, 162 demolition orders have been enforced, the houses have been demolished and the evicted people, more than half of whom are children, have not been offered alternative accommodation and have been left homeless.

Some of these cases have been studied in depth in the course of previous work by the legal team of Equal Opportunities Initiative Association to ensure representation for the affected parties before Bulgarian courts and the European Court of Human Rights (ECtHR). Others have been referred to as additional examples which illustrate the effect of demolition practices and evictions of Roma families from their homes.

1. The Gurmen case

The Roma neighbourhood is located in the Marchevo village, Kremikovtzi, in Gurmen Municipality. The neighbourhood accommodates 134 identifiable houses, and the families altogether amount to 850 people, all of them of Roma origin. No less than 350 are children under eighteen, of whom 210 children are enrolled in two of the local schools and 140, aged up to six years old, go to the local kindergarten. All Roma in the neighbourhood are registered as residents of the Gurmen Municipality. Most of them have lived there for more than 20 years, and many were born there.

The land on which the neighbourhood is built is agricultural. In 2013-2014, the management of the Gurmen Municipality decided to organize public tenders for the sale of this land. In the pre-election period the municipality promised the Roma that they would organize three such tenders, but ended up organizing just one. Around ten Roma families, who managed to get their documentation ready for the first tender, took part in it and signed sale agreements with the municipality. They therefore possess written documents stating their ownership of the land. Other families have documents stating that a 15 lv fee for acquiring the requisite documentation for the tender has been paid, but no more tenders were organized. Seventeen such documents were presented to the research team.

Between 14 December 2010 and 15 February 2012 the Gurmen Municipality issued 144 certificates, ac-
According to which the Roma houses were awarded tolerance status within the meaning of TOA. These documents mean that the houses cannot be demolished; they can be the object of transfer transactions and in case of compulsory purchase initiated by the state, their owners have to be compensated.

However, between 22 March 2011 and 23 November 2012 the DNCC revoked 104 of the certificates. In practice, such revocation of the decision of the local authority is in conflict with the legal framework for tolerance of constructions. In 2011, DNCC performed a check, declared 124 of the houses to be illegally built and issued orders for their demolition. Some of the orders were appealed before the Blagoevgrad Administrative Court, but they were upheld. At that moment all demolition orders were final and subject to enforcement.

During the next four years (2011-2015) no actions were initiated with respect to the Roma houses against which the demolition orders had been issued, in spite of the fact that the latter were final. In May 2015, following an everyday accident involving Roma and Bulgarians from Gurmen, the two groups engaged in fight and some people were injured. After the accident, some Bulgarians from the village organized themselves into the so-called Initiative Committee and demanded that the municipal authorities demolish the illegally built Roma houses and banish the Roma from the territory of the municipality. Anti-Roma protests were organized on a daily basis in front of the municipality headquarters and, in the context of upcoming elections, the municipality authorities and DNCC initiated actions for the demolition of the illegal constructions, which were reported by almost all leading media.

On 30 June 2015 DNCC demolished 4 houses; the affected people were not offered alternative accommodation and were rendered homeless. Among them there were at least fifteen children who were left without shelter. The municipality offered to accommodate them in an empty school building in the Osikovo village, but the Osikovo inhabitants organized a protest against this decision in front of the Gurmen Municipality headquarters, which was also thoroughly reported by the media.

On the 13 July 2015 the demolition of another two houses was planned. The two affected families were in a desperate situation, as they did not possess any other accommodation; one family was made up of two parents and six children, one of whom was severely disabled; the other family had two small children, one of whom was again severely disabled, and the mother was in the eighth month of pregnancy. Both families were destitute.

Equal Opportunities Initiative Association filed a request to the European Court of Human Rights (ECtHR) to impose interim measures on grounds of Rule 39 of the Rules of Court. This means that the Court orders an injunction with respect to the enforcement proceedings associated with the demolition of housing. The ECtHR addressed the Bulgarian government with a letter, insisting on the suspension of the demolition of the houses and on the provision of information as to whether the affected families had been offered alter-
native accommodation. The government responded by delaying the procedures. On 11 August 2015 the Ministry of Regional Development and Public Works published a statement on the case, according to which DNCC should extend the term for the enforcement of the demolition orders until 31 August 2015, as the affected people had not been provided with shelter.

On 26 August 2015 Gurmen Municipality officials visited the Kremikovtzi neighbourhood and asked the Roma families to sign a declaration relating to their need for alternative accommodation. The text of the declaration was approved by the Gurmen Municipality on 27 July 2015. When the Roma families inquired about the nature of this alternative accommodation, the officials responded that “they do not have the information yet and this will be decided later.” The Roma families stated that they could not accept an offer for alternative accommodation that does not exist yet. As a result, however, the officials prepared memoranda stating that the Roma had refused to be provided with alternative accommodation. This false information was repeatedly reported by the media, which encouraged the Bulgarian institutions to argue before the European Commission and the ECtHR that they had offered alternative accommodation, but the Roma had refused it.

Immediately after this, the mayor of Gurmen called upon the citizens of Gurmen to shelter the Roma families in their own homes for free, as the municipality could not guarantee them alternative accommodation. The citizens responded to this call by breaking the windows of the municipality headquarters and declaring that they did not want Roma people in their village and the mayor was making them shelter the Roma in their homes. At the beginning of September 2015, the administration proceeded with the demolition of another 5 houses.

Due to the failure to provide adequate alternative accommodation, the families evicted from a total of 9 houses in 2015 continue to live in the neighbourhood, at first sheltered by relatives, and later in small houses that they constructed illegally anew in order to have a place to live.

The Roma families living in the remaining 115 houses, against which were issued demolition orders, live in constant threat of being evicted from their homes without being offered alternative accommodation and of their homes being demolished.

2. The Varna case

The Roma neighbourhood Maksuda in Varna has a population of over 25 000 people and is composed of several parts, one of which is called “Dereto.” This part of the neighbourhood is inhabited predominantly by Roma families which moved from the adjacent villages during the 1990s, looking for employment and ways to make a living. The houses are built illegally on land that has been restituted to its previous owners who fought in court to this effect for many years. There are no accurate statistics concerning the number of
houses in “Dereto”, but it is estimated that 1000 people of Roma ethnic origin live there under severe living conditions and in constant fear of their houses being demolished.

As early as 2008, the municipality demolished 4 Roma houses in this part of the neighbourhood and left the families on the street without providing alternative accommodation. The ECtHR is reviewing an application on behalf of the affected families, which has, at present, been communicated to the Bulgarian government\textsuperscript{22}.

The Roma neighbourhood is, in fact, located in close proximity to the city centre and there is a strong interest in investment in the land. In 2014, in connection with a planned construction of a street, the mayor of Mladost District in Varna issued 61 orders to remove illegal housing that constituted only homes of the Roma families inhabiting “Dereto” in Maksuda neighbourhood. None of these orders was appealed before a court.

On 5 August 2015 the Varna Municipal Council adjourned its 42nd session which discussed the draft of the Local Strategy for Roma Integration. Representatives of patriotic political groups interrupted the session with force and even engaged in a fight with the municipal councillors who proposed the Roma strategy. During the campaigning for the 2015 local elections, the so-called patriots categorically proclaimed their opposition to any Roma integration policies and to the adoption of the integration strategy. Based on a proposition of the mayor, the municipal council postponed the strategy’s adoption. In order to appease the citizens, the mayor of the city promised to the municipal council and to the anti-Roma groups present that the municipality would take action for immediate enforcement of the 61 orders issued in 2014 to demolish the sole residences of Roma families in the “Dereto” part of Maksuda neighbourhood.

In March 2016, the mayor of Varna, who was elected for a second term, stated in front of the media that another 154 illegal houses in the Roma neighbourhood Maksuda would be designated for demolition in order to realize his vision for restoring the appearance and spirit of the city centre\textsuperscript{23}.

In August 2016, the municipality proceeded to enforce the issued 61 demolition orders. The Roma families were not even notified of the designated date for demolition of their only homes, which constitutes a violation of the Administrative Procedure Code. Immediately after the demolition was initiated, the Equal Opportunities Initiative Association addressed the ECtHR with a request to impose interim measures on grounds of Rule 39 of the Rules of Court. The ECtHR addressed the Bulgarian government with a letter, insisting that it suspend the demolition proceedings and provide information on whether alternative accommodation had been provided to the affected families. By the time the ECtHR letter was delivered, 46 houses had already been demolished.

\textsuperscript{22} European Court of Human Rights, Application no. 39084/10, Dimitrova and Others v Bulgaria

\textsuperscript{23} http://www.chernomore.bg/obshtina-varna/2016-03-10/v-maksuda-shte-saboryat-oshte-154-nezakonni-kashti
The Bulgarian government responded to the ECtHR’s request by postponing the proceedings with the demolition of the remaining houses. The Roma who were evicted from the already demolished houses were left with no options for alternative accommodation. Several days later, the municipality sheltered some of the families in municipal shelters. This was a temporary shelter and the Roma were warned that they would have to leave within three months.

According to the Bulgarian Helsinki Committee (BHC), “the 20th August campaign constituted one of the most massive compulsory evictions carried out by Bulgarian authorities since the transition to democracy in the country.” BHC also cited official data, according to which in all houses designated for demolition, 520 people were registered with a temporary address (233 of whom were children) and 490 people were registered with a permanent address (211 of which were children). If the habitation density in the demolished houses was the same as the average for all houses designated for demolition, then on 20 August more than 400 people were rendered homeless, of which at least 150 were children\(^\text{24}\).

All affected Roma people were born in the Maksuda neighbourhood and had their address registration with the Varna Municipality. The houses, in which they live, were built more than 20 years ago by their families either on public land, or on land abandoned by its owners. These are their only homes and they have lived in these houses with the knowledge of the municipality for many years. The affected Roma people are on good terms with their neighbours, amongst whom they have lived for their entire lives. Their children go to school in Varna together with other children from the neighbourhood who are their friends.

The district mayor informed the Roma families on several occasions that the municipality will proceed with the enforcement of the demolition orders and that it had no opportunity to guarantee them alternative accommodation, as there was no available social housing, and there was already a waiting list with at least 700 candidates (all of Bulgarian origin). In front of the media, the mayor openly stated that he has no intention to provide accommodation to the Roma whose sole residences will be demolished.

For the purposes of this report, the Varna Municipality reported that between 2012 and 2016 it has issued 2018 demolition orders, 92 of which concern residential buildings – all 92 are the sole residences of people of Roma origin. Varna is also one of the few municipalities in the country which did not adopt a local strategy for Roma integration due to strong pressure from “patriotic” citizen groups who organized anti-Roma protests and categorically proclaimed themselves in opposition to projects for social housing, as they do not want Roma people in their city\(^\text{25}\). As a result, the Varna Municipality was dismissed as a pilot municipality in a project for social housing construction which, if it had taken place, could have helped to resolve some of the problems with illegal housing in the city.


\(^{25}\) http://www.marica.bg/%EE%F9%E5-%E5%E4%E8%ED-%E2%E0%F0%ED%E5%E0%ED%E1%EA%E8-%EA%E2%ED%0F%2E0%EB-%ED%E0-%EF%F0%EE%E5%F1%F2-%F1%F0%E5%9F3-%E4%E8%E6-%F0%E8-EC%E8-news462268.html
Roma Evictions and Demolition of Roma Houses

3. Other examples of demolishing Roma families’ sole residences

The Burgas case
Around 20,795 people live in the three segregated neighbourhoods of Burgas – Pobeda, Gorno Ezerovo, and Meden Rudnik; 62% of them speak Turkish and do not identify themselves as Roma.

In 2009, 18 houses of Roma families in Gorno Ezerovo neighbourhood of Burgas were demolished. The families, including children and vulnerable people, were rendered homeless. They were neither offered, nor provided with alternative accommodation. Another 17 Roma families in Gorno Ezerovo and more than 21 Roma families in Meden Rudnik were under threat of their houses being demolished, as DNCC had issued demolition orders to this effect against them.

After 2012, the municipality took over the responsibility for dealing with the cases of illegal construction. Based on the information collected for this report, between 2012 and March 2016 the Burgas Municipality issued 200 demolition orders. 111 of these orders concern residential buildings, 105 of which are Roma houses. To date, there are no data regarding the enforcement of these orders which concern Roma families’ sole residences. The remaining 6 houses are owned by Bulgarians and represent villas or summer houses, i.e., they are not the only homes of the owners.

One of the serious effects associated with the demolition of illegal houses, is that the Roma are not only left without a home, but also without an address. Consequently, they are also left without identity cards, since their old addresses do not exist anymore and they cannot be registered to new ones, as address registration is a necessary requirement for issuing identity documents. Without an identity card, it is as if citizens do not exist – they cannot vote, go to a doctor, or gain access to other social services. Those with identity cards registered with their previous address can keep them, as they are valid until the date of expiry. After that, they will be denied the issuing of a new card, as the address no longer exists, and will be left without one. Based on data of BHC, more than 200 people are living without address registration in the “Meden Rudnik” neighbourhood alone.26

Due to failure to provide alternative accommodation, the people evicted from the demolished houses stay in the neighbourhood, as they have nowhere else to go. When possible, they register at a relative’s address and later on build new illegal houses. Details can be found in BHC’s publications concerning the families living in the illegal houses which were demolished in 2008.27

27 Ibid.
**The Sofia case**

In Sofia, there are several segregated Roma neighbourhoods, some of which, such as “Fakulteta”, have more than 30 000 inhabitants and can be considered “a town within the city.”

The Sofia Municipality did not provide the information requested by the survey carried out as part of this research. However, there are many publicly known cases of Roma families whose only homes have become the object of demolition orders. Based on the research of media publications concerning illegal construction in Roma neighbourhoods, the Sofia Municipality has issued 156 orders to demolish sole residences of Roma people.

Based on data collected for the purposes of this research through reviewing requests for legal aid, submitted by citizens to Equal Opportunities Initiative Association, 65 orders to demolish Roma families’ sole residences were issued and enforced in the period 2013-2014. The legal team of Equal Opportunities Initiative Association is currently representing 13 Roma families on cases filed against orders to remove sole residences, issued by the municipality.

**The Muglizh case**

Muglizh is a small municipality located in the Stara Zagora Region. The municipality refused to provide information concerning issued demolition orders to remove illegal houses upon the official request submitted with the survey for the purposes of the present report.

An interview was carried out with the mayor of Muglizh on 16 March 2016, in which he stated that the municipality issued 34 demolition orders in 2012 against Roma families, which were enforced immediately. The affected families, among which there were children and disadvantaged people, were not provided with alternative accommodation. To the present moment, they live in various temporary shelters and many of them do not possess identity papers, as they do not have a permanent address.

**The Stara Zagora case**

In response to the submitted request for information under APIA survey for the purposes of this research, the Stara Zagora municipality reported that in the period 2012 – 2016, 110 demolition orders were issued, 55 of the demolition orders were for houses in the Roma neighbourhood Lozenetz and concerned only homes of Roma families. These 55 orders were enforced and the people were rendered homeless with no offer of alternative accommodation; even the children and the disadvantaged were left without shelter.
VI. COMPLIANCE OF THE ENFORCEMENT OF THE LEGAL FRAMEWORK FOR ILLEGAL HOUSING WITH BULGARIAN AND EUROPEAN LEGISLATION ON PROTECTION FROM DISCRIMINATION


The Racial Equality Directive of the Council of the European Union (Directive 2000/43) prohibits direct and indirect discrimination on grounds of race and/or ethnic origin. The Directive contains definitions of the terms “direct discrimination” and “indirect discrimination”, as well as of the term “harassment” as one prohibited form of discrimination. According to the Directive:

- “direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation on grounds of racial or ethnic origin.” (Art. 2(a));
- “indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary” (Art. 2(b))
- “harassment shall be deemed to be discrimination within the meaning of paragraph 1, when an unwanted conduct related to racial or ethnic origin takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.”

The scope of the Directive explicitly includes the protection of the right to housing: “Within the limits of the powers conferred upon the Community, this Directive shall apply to all persons, as regards both the public and private sectors, including public bodies, in relation to:… access to and supply of goods and services which are available to the public, including housing” (Art. 3(1)(h))

2. Domestic legislation concerning the prohibition of discrimination

In accordance with Art.6(1) of the Constitution of the Republic of Bulgaria, all citizens are born free and equal in rights and dignity. Paragraph 2 of the same article provides that all citizens are equal before the law and no privileges or limitations of rights should be allowed on grounds of, inter alia, ethnic origin. Despite the fact that the Constitution is directly applicable, there is no constitutional procedure for protection against violations of citizen rights protected in the Constitution.
For the purposes of the present report it should also be noted that the Bulgarian Constitution protects the private life of citizens. According to the Constitution, everyone should be protected from illegal interference with his/her private and family life. The Constitution also declares the home of every person inviolable. It should be noted, however, that this protection only constitutes a prohibition to enter the home without the permission of the owner.

The Protection Against Discrimination Act was adopted in Bulgaria in 2004 and amended multiple times in the period 2004-2016\(^{28}\). The act provides a legal definition of the terms direct and indirect discrimination and prohibits every form of discrimination; it envisages the creation of a Commission for Protection Against Discrimination. The act prohibits discrimination on any grounds (including ethnicity) with respect to education, employment, and “other rights”, including “access to products and services”, although the right to housing is not included, which is in violation of the requirements of Directive 2000/43. According to this act, natural and legal persons can complain of discrimination to the specifically created Commission, as well as to courts.

The Bulgarian legislation on protection from discrimination also provides for the opportunity for collective appeals, which can also be initiated by non-governmental organisations, registered as working for the benefit of the public, in cases where there has been an alleged violation of the rights of a group of people. The Commission may enact decisions which ascertain discrimination, prohibit discriminatory practices, and impose fines if the perpetrators broke the law. The Commission has the power to review legal provisions which contravene the prohibition against discrimination encoded in the law and its amendments. The Commission can also initiate investigations on its own initiative.

At the present moment, the Commission for Protection Against Discrimination has not looked at cases of discrimination against Roma with regards to housing policies – either in response to complaints from the public or on its own initiative. Administrative courts have looked at appeals against administrative orders to remove Roma houses, but there have been no judgements so far which declare the demolition proceedings illegal for reasons of discrimination. Courts either reject such arguments or deem them irrelevant to the cases.

3. International legal instruments regarding the elimination of discrimination, ratified by Bulgaria

According to the Constitution of the Republic of Bulgaria, all international legal instruments, ratified in accordance with the constitutional procedure and officially published in the State Gazette, are incorporated into domestic law and take precedence over domestic provisions that contradict them. In accordance with the International Convention on the Elimination of All Forms of Racial Discrimination (ICEAFRD), Bulgaria has the obligation to adopt active measures to prohibit and eliminate discrimination on grounds of (among other things) ethnic origin and to guarantee equality of everyone before the law.

Bulgaria has also signed and ratified the European Convention on Human Rights and Fundamental Freedoms (ECHR) along with its Protocols No 1, 4, 6, and 7. However, it should be noted that Bulgaria has not ratified Protocol 12 (general prohibition against discrimination) of the Convention yet. With the ratification of ECHR Bulgaria accepted the obligation to guarantee the rights, protected by the Convention, without any discrimination on grounds of (among other things) ethnic origin. According to the Court’s jurisprudence, including cases against Bulgaria (Yordanova and others v. Bulgaria), the scope of Art. 8 involves the protection of the right to housing, as part of the right to non-interference with private and family life.

In respect of the state obligations to recognize and protect the rights of minorities, Bulgaria has also ratified the Council of Europe Framework Convention for the Protection of National Minorities (FCPNM). FCPNM includes the obligation for signatories to ensure equality before the law and equal legal protection to minority groups within the respective state-signatory. The Convention prohibits discrimination on grounds of national minority status.

Other important UN documents for ensuring equal rights are the International Covenant on Economic, Social, and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), both ratified by Bulgaria and published in the State Gazette on 20 May 1976.

Other important international documents, ratified by Bulgaria, are: the European Convention for the Prevention of Torture (ECPT), the European Social Charter (ESC), the European Social Charter (Revised) (ESC – R), the Convention against Torture (CaT), and the Convention on the Rights of the Child (CRC).

As already stated in the beginning of this report, the principles and norms contained in these ratified documents have been adopted in the National Roma Integration Strategy of the Republic of Bulgaria (NRIS-RB), which defines the approach and all actions associated with integration policies with respect to Roma. The entire introduction to the strategy focuses on enumerating the ratified international legal documents whose norms and principles should be adhered to in the process of its implementation. It also envisages amendments to the existing legislation concerning illegal construction which would in-
integrate these norms, especially with respect to illegal constructions that constitute the only homes of the affected parties. However, as outlined in previous sections of this report, despite the creation in 2012 of an inter-institutional group to work on these amendments, there has been no practical outcome and the proposals developed by experts have not been presented to Parliament.

4. Compliance of the established practices for demolition of illegal Roma housing with the norms for non-discrimination adopted in Bulgaria

The facts, analysed in this report, show that the Bulgarian administration ignores the requirements of international law, which should be applied in cases of demolition of residential buildings and compulsory eviction of their inhabitants, and which are also incorporated as basic principles in the NRISRB.

According to the international legal norms for protection of human rights, demolition should only be initiated in “extreme circumstances”, after “all available alternatives” have been exhausted. Even then, international legal norms require that certain conditions be satisfied:

• the government should guarantee, before engaging in any planned demolition, that all reasonable alternatives have been exhausted (such as seeking and discussing ways of stabilising the status of those affected) in consultation with the affected parties, in order to avoid, or at least minimise, the need to use force.

• the compulsory demolition should not render people homeless or violate human rights. The central and local governments should guarantee alternative accommodation to the affected people.

• in the rare cases when the demolition is justified (such as when the constructions endanger the life of their inhabitants), it should be performed in accordance with the international provisions on human rights and in concert with the principles of rationality and proportionality. This involves, among other things: consultations with the affected parties; adequate and timely notification of the affected parties about the date of demolition; provision of information concerning the proposed demolition and, if applicable, of information concerning the manner of future use of the land used by the affected parties.

• especially in the cases where those affected constitute entire groups of people, representatives of the public authorities should be present at the demolition; all officials taking part in the enforcement of the order should be identified; the demolition should not happen in bad weather, nor at night, unless this has been agreed with the affected parties; legal solutions should be provided; legal aid should be provided to people who are in need of it, so that they can address the court.

Based on the analysis of the administrative practices concerning the demolition of illegal housing in segregated Roma neighbourhoods, the following conclusions can be drawn:

(1) the orders to demolish illegal houses predominantly concern Roma people’s sole residences.
• In the period 2010-2012, DNCC issued 6080 demolition orders, 514 of which concerned residential buildings. Around 97% or 500 of these orders concerned Roma people’s sole residences.

• Based on a representative sample of 61% of all municipalities in Bulgaria (162 out of 265 municipalities), 2000 demolition orders were issued in total in the period November 2012 – March 2016; 444 out of them concerned residential buildings and 89% or 399 of the demolition orders for residential buildings concerned Roma people’s sole residences.

(2) There is no consultation with the affected families and no discussion of reasonable alternatives, in order to avoid the use of force. In many cases the buildings are demolished without notifying the affected families about the date of demolition. Consequently, the Roma do not even have the chance to save their furniture and belongings; there are cases where people did not even manage to take their documents. All of the above is in violation of the international provisions on protection in case of eviction.

(3) The enforcement of the orders to demolish the illegal sole residences of the affected Roma families renders them homeless and without alternative shelter guaranteed by the administrative authorities, not even for the children and the disadvantaged. In most of the examples presented in this report, alternative accommodation was not provided, and in some cases the local administrations explicitly stated that they will not provide it. The municipalities usually do not have available social housing or shelters to offer. In rare cases, the municipalities provide temporary shelter to the evicted families (usually for 2-3 months) and then the latter become homeless.

(4) The failure to provide alternative accommodation to the evicted Roma families has serious repercussions for them, including the impossibility of obtaining identity papers, due to lack of address registration. In order to be registered at a permanent address and obtain a certificate, the Citizen Registration Act requires a document stating ownership, a tenancy agreement, or at least a proof of opened accounts for utility services. The certificate for permanent registration, in turn, is necessary for the issuing of a personal identity document. Without identity documents, these people are treated as if they do not exist and they cannot have access to basic rights and services.

(5) Currently, in Bulgaria there are only rules regulating the demolition of illegal housing, but no rules concerning the protection of the affected parties. These rules are needed to protect them from violation of their fundamental rights to adequate housing, as specified in international and European law, and to provide them with the right to go to court if their rights have been violated. This legal vacuum leads to the identified practices of rights violations in the area of housing.

(6) The issuing and enforcement of the demolition orders is in violation of the requirements of the European Directive 2000/43 with respect to “indirect discrimination”: the Bulgarian administration uses the TOA provisions when they concern Roma families in a most unfavourable manner, as it is precisely the
Roma who are disproportionately affected by the demolition of houses. The enforcement of demolition orders is in conflict with the prohibition of discrimination on ethnic grounds, specified in European Directive 2000/43, insofar as the Roma become the object of unfavourable treatment based on their ethnic origin, which aims to violate or does violate human dignity and creates an offensive, hostile, disparaging, and humiliating environment.
VII. GENERAL CONCLUSIONS AND RECOMMENDATIONS

1. General Conclusions

As a result of this research, the following main conclusions can be drawn:

(1) A large portion of the Roma population is faced with a constant risk of becoming homeless. The Roma population in Bulgaria amounts to more than 10% of the total population of the country and most Roma live in segregated neighbourhoods, which are unregulated and chaotically built without respect for any procedural rules. There are no accurate statistics regarding the number of illegal houses in the Roma segregated neighbourhoods, but it is estimated that they constitute at least one quarter of all houses in these neighbourhoods. This places a considerable part of the Roma population under constant risk of becoming homeless, as their sole residences are under the threat of demolition.

(2) In many cases, due to the magnitude of the problem and the need for serious investments, local authorities are unable to come up with an adequate solution to the problem. There are no adequate opportunities for alternative accommodation for the affected families, due to insufficiency or lack of municipal social housing. For this reason, demolition orders affecting illegal housing in Roma neighbourhoods, issued in response to requests from citizens, are not enforced for years as the municipalities cannot provide adequate alternatives for accommodation. However, once issued, these orders have no expiration date and can be activated during election campaigns or when there is an increasing interest to invest in the relevant land.

(3) The reviewed administrative practices of demolition of illegal houses in Roma neighbourhoods are in violation of the international legal provisions for non-discrimination, adopted by Bulgaria. In the period 2010-2016, the orders to demolish illegal housing primarily concerned Roma people’s sole residences. Their enforcement was not preceded by discussion of possible reasonable alternatives and the affected families were not offered adequate alternative accommodation. This leads to serious repercussion for the affected families. They are unable to register at a new permanent address, as they are homeless; and if they lack a permanent address, they cannot obtain identity papers, which in turn deprives them of access to basic rights and services.

(4) The existing practices for demolition of illegal Roma houses in segregated Roma neighbourhoods do not contribute for finding a sustainable solution to the Roma housing situation and are in conflict with the long-term Roma integration strategy, adopted by the country. Due to the fact that the affected families do not settle elsewhere and remain homeless, by default they remain in the same neighbourhoods. At first, they stay with relatives and a few weeks or months later they build new illegal houses on the place where the previous ones stood, or within close proximity. Therefore, the state and/or local municipalities spend tax money on the demolitions in vain, and the housing situa-
tion remains disastrous. Moreover, the manner in which the evictions of Roma families are conducted, is in violation of the principles and norms adopted by the NRISRB.

(5) A serious obstacle to resolving the problem with illegal housing in segregated Roma neighbourhoods is the delay in the implementation of most of the objectives under the third policy priority of NRISRB: improvement of living conditions.
A major problem is the lack of visible outcomes under the objective for improvement and amendment of legislation concerning housing conditions, both for creating opportunities for the legalization of sound constructions, and for synchronizing the existing legislation regulating illegal construction with the adopted international legal norms and principles for non-discrimination, ratified by Bulgaria.

(6) Another major problem is the failure to implement the envisaged objective to adopt a systematic communication plan for informing the public regarding Roma integration policies.
The lack of systematic communication on the part of central and local administrations, both with the affected parties and with the majority of the population, exacerbates interethnic tension. It confirms anti-Roma sentiments among the majority population and the complete lack of faith in institutions among the Roma community. Most of the orders for mass demolition of Roma houses were enforced in the period 2012-2016 when there was a clear increase in anti-Roma actions and conflicts, especially during 2014-2015. The passivity of the responsible central administration institutions and their failure to take a stand in relation to the growing number of conflicts and anti-Roma actions, as well as the lack of awareness-raising and information campaigns about the necessity for Roma integration and its benefit to society as a whole, in practice hamper the effective implementation of the NRISRB.

2. Recommendations

In order to overcome this situation, we recommend the following:
(1) Creating an expert working group within the Ministry of Regional Development and Public Works, which should propose adequate legislative amendment within a clear timeframe, allowing for a/ the legalization of soundly constructed buildings for residential use, which constitute only homes, and b/ for differentiation between residential and non-residential buildings in the rules concerning the treatment of illegally constructed buildings. This group should use and further develop the proposals already made by the previous sub-group on housing within the former inter-institutional group for legislative amendments created on the initiative of the NCEDII in 2012. There needs to be a clear commitment by the responsible institutions to finalize the suggestions for needed amendments and propose them to Parliament.

(2) Taking measures to incorporate into Bulgarian legislation the international legal framework for protection of citizens in cases of compulsory demolitions and/or evictions from only homes.
(3) Imposing a moratorium on the enforcement of issued orders to demolish sole residences until the proposed legislative amendments for legalization and international legal protection have been developed and adopted.

(4) Stricter control and proactive behaviour on the part of municipalities in order to prevent new illegal construction in segregated neighbourhoods. For this purpose, with the assistance of Roma and pro-Roma non-governmental organisations, it is necessary to develop an approach that would ensure the awareness and involvement of the Roma community (for instance, by creating initiative committees in Roma neighbourhoods).

(5) Mid-term assessment of the progress of implementation of the NRISRB’s priority of improving housing conditions, which should be carried out no later than the beginning of 2018 in consultation with non-governmental organisations.

The purpose of this assessment is to review what has been achieved with respect to the different objectives in the first two years of implementation of the 2015-2020 strategy: to see what worked well and what did not and why, where there have been delays and what are the reasons for that, to what extent the lack of resources blocks the implementation of the set objectives, and what additional resources can be provided to help with advancement of envisaged measures. It is also important to analyse whether there is a need to develop mid-term and long-term outcome indicators, which will help to develop a system of results-based monitoring of achieved outcomes, rather than only monitoring of completed activities.

In this respect, the following aspects of the NRIS and the corresponding National Implementation Plan are especially important for the mid-term assessment:

- Detailed mapping of the areas with building constructions in Roma neighbourhoods.
- Identification of the buildings, designed for residential use, which are stable in their construction.
- Capacity of local authorities to take measures to raise funds for the regulation of neighbourhoods with concentrated Roma population which should take into consideration existing construction as far as possible.
- Designation of public land for residential use, which the Roma families will be able to purchase, and provision of support for the families with respect to the construction of buildings in accordance with construction rules and norms.
- Taking measures to construct social housing for families that do not have the resources to purchase land and/or a home and to settle them in.

(6) Development of an adequate National Communication Strategy to change the negative perceptions of the Roma, with a focussed action plan addressing key political aspects, including housing policy, provision of financial resources for its implementation and clear mid-term and long-term success indicators.

(7) Adoption of measures to enforce the decisions of the European Court of Human Rights issued against
Bulgaria and concerning the protection of citizens of Roma ethnic origin in cases of threats to remove their sole residences.
The Open Society European Policy Institute (OSEPI) is the EU policy arm of the Open Society Foundations. We work to influence and inform EU policies, funding and external action to promote open societies. OSEPI enriches EU policy debates with evidence, argument and recommendations drawn from the work of the Open Society Foundations around the world and from its own research. The Open Society Foundations work to build vibrant and tolerant democracies whose governments are accountable and open to the participation of all people.

www.opensocietyfoundations.org

Equal Opportunities Initiative Association is established for:
Development of initiatives aimed to strengthen the equal opportunities for the Roma community through implementation of programs for legal aid and legal education; as well as to securing equal opportunities in diverse spheres of public life – education, employment, health care and housing;
Development of initiatives for local development of the Roma community;
Encouragement of mutual cooperation and tolerant relationships between the Roma community and the macro-society.

www.equalopportunities.eu