



Comments by the Bulgarian authorities

**with reference to the letter by Mr. Thomas Hammarberg,
Commissioner for Human Rights of the Council of Europe, dated 24 January 2012
(CommHR/SG/sf 002-2012)**

The Bulgarian authorities confirm their readiness to pursue a the constructive dialogue with the Commissioner for Human Rights of the Council of Europe on all issues related to the protection of human rights and fundamental freedoms. In this context the Bulgarian authorities present the following information:

Regarding the child protection system in Bulgaria, , indeed, a ten-year period after the adoption of the *Child Protection Act* is a good time distance to make an in-depth analysis and identify avenues for reform. This was already done by the *State Agency for Child Protection* in 2010 – 2011. On the basis of the various opinions and suggestions submitted, a *new draft Law on Child Protection* has been elaborated, and it is currently subject to wide public discussion¹. Its adoption is foreseen in 2012.

The philosophy of the draft law is based on a clear human rights approach, providing for specific mechanisms and guarantees for each one of the rights of the child, as provided in the *UN Convention on the Rights of the Child*. There is a system of bodies with clearly defined responsibilities, with the necessary procedures and material guarantees, such as family benefits, social services for children, and sanctions for any behaviour which may run counter the rights of the child.

The document takes due account of the modern standards in the field of child's rights protection, including the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.

Special attention is paid to the prevention of child abandoning. An obligation is enforced on all doctors and other medical personnel to report immediately of any intention of a parent to abandon his/her child, so that the social services can undertake adequate preventive or follow-up measures.

¹ The text is publicly available at <http://sacp.government.bg/proekt-na-zakon-za-deteto-komentari/>.

The new draft law explicitly forbids the placement of a child of up to 3 years of age in a specialized institution. This provision is in strict compliance with the *National Strategy entitled "Vision for Children's Deinstitutionalisation in the Republic of Bulgaria" (2010)* mentioned by the Commissioner. It should be emphasised that the *National Strategy* confirms the categorical position of the Government that all child-care institutions must be closed within 15 years and replaced by a network of community-based services similar to a family environment. The closure of institutions for children with disabilities and of medical and social care homes for children aged from 0 to 3 years is prioritised. In the meantime, the conditions in state and municipal child-care institutions are being improved

149 new family-type placement centers will be built, in which up to 12 children will live together with the necessary personnel. 37 day centers for children with disabilities and 34 new centers for social rehabilitation and reintegration will be provided, and there children can spend the day actively, communicating with people. Modern health and educational care will also be provided there. The funds for the project are provided from several EU operational programmes – nearly 80 million BGN for infrastructure, as well as 23 million BGN for sustaining the services. Besides, 5 million BGN will be invested in training, supervision, etc.

The first project for implementation of the Action Plan, entitled "*Childhood for All*", was launched on 2 June 2010. By October 2010, the needs of each of all 1 797 children with disabilities over 3 years of age, placed in 56 institutions (23 care homes for children with mental disabilities, one care home for children with physical disabilities and 32 medical and social care homes) were examined and analyzed. The information has been used to prepare a "Services Map" covering all community-based services alternative to institutional care, to update the care plans intended to stimulate the development of the children according to their abilities, and to prioritize the places and scope of work over the next two years.

To ensure a smooth and adequate transition of the children to the new residential-type services, a detailed assessment will be conducted in 2012 of all care homes for children with mental disabilities. This will include the preparation of an individual plan for the deinstitutionalization of each child according to his/ her needs, requirements and skills.

The data of the *State Agency for Child Protection* shows a clear trend of decrease of the number of children with mental disabilities in specialized institutions. As of June 2011, these are 820 children, primarily of 3-18 years of age. For comparison, one year previously, the number of these children was 941, and two years before – 1006. At the same time, the quality of child care has increased.

The country-wide inspection in all homes for children with disabilities in 2011 has confirmed that an appropriate feeding regime is already introduced, suitable food being prepared depending on the needs of each child and his/her illnesses. Doctors and a pediatrician consult the inclusion or exclusion of one type of food or another. Functional norms for qualitative and quantitative assessment of the foods have been developed according to the age and weight of the children. As a result of the individual needs assessment and the regular medical check-ups, a positive dynamics is observed in the child development, defined as "critical" - they gain weight,

cases of aggressive behaviour have practically ceased, and the health and emotional condition is improving. The material and sanitation conditions in the rooms and the equipment are within the standard requirements. All homes have auxiliary equipment for children with specific health problems and disabilities.

Since February 2011, staff training has been underway in all 24 care homes for children and adolescents with disabilities in respect of feeding and the intensive interaction method. Experts have also been trained in identifying families' wishes and capabilities to maintain contact with their child. The training aims at developing tools for social workers on parental capacity assessment.

The staff has received training by the "*Lumos*" Foundation (partner on the project "Childhood for all") on intensive communication, feeding and receiving liquids. The staff, children and young people with very limited possibilities for independence are included in the trainings. Specialists are trained for working on Cath Irving Method. Children are divided in groups depending on their intellectual development. Educators and specialists work with them under a schedule. Teams mark positive results from the work on intensive communication and feeding of children. "*Lumos*" representatives periodically perform supervisions and feedback meetings. The staff has also undergone specialized training for raising the quality of social services and individualizing of care.

Bulgaria ratified the *UN Convention on the Rights of Persons with Disabilities* on 26 January 2012. The *National Programme on Guaranteeing the Rights of Children with Disabilities (2010-2013)* was adopted by the Government on 14 July 2010.

Regarding the report by the Bulgarian Helsinki Committee of 2010, the Bulgarian authorities have already presented detailed information on the follow-up activities undertaken also by the Prosecutor's Office to various international human rights monitoring mechanisms. In this instance, it should be stressed that an immediate inspection was ordered by the *Prosecutor General (Order No. 523 of 2 March 2010)*, and it was conducted jointly with representatives of the Bulgarian Helsinki Committee and of the relevant authorities - the *State Agency for Child Protection, the Social Assistance Directorates* and the *Regional Health Inspectorates*. The inspection covered all care homes providing social services to children with physical and mental disabilities. It also involved pediatricians, child psychiatrists and psychologists. In cases where deficiencies were established, with regard to the standards envisaged in the *Ordinance Establishing the Criteria and Standards for Social Services for Children*, mandatory prescriptions were issued for elimination of the violations found. Follow-up inspections were carried out on several occasions to ensure compliance with the statutory requirements.

The data of the *Office of the Supreme Prosecutor of Cassation* shows that the inspections resulted in the institution of a total of 248 pre-trial proceedings. Of these, 178 proceedings are conducted in connection with causing death: two in connection with willful causing of death (Articles 115, 116 of the *Penal Code*) and 176 in connection with negligent causing of death (Articles 122 and 123 of the *Penal Code*); 29 pre-trial proceedings are conducted in connection with inflicting bodily injuries (Article 128, Article 129, Article 131, Article 134 of the *Penal Code*); 16 pre-trial proceedings are conducted in connection with endangering (exposing to danger) helpless persons (Article 137 of the *Penal Code*); 20 proceedings are conducted in

connection with other criminal offences: false imprisonment, leaving unattended, documentary offences etc. The investigations in 34 pre-trial proceedings have been completed, 25 have been terminated, and 8 - suspended. The warrants to terminate and suspend the proceedings are subject to review as to correctness and legal conformity by the superior prosecution office and by the competent court. A sentence of acquittal has been rendered in one of the proceedings.

Apart from the pre-trial proceedings described above, 27 preliminary inspections were conducted. Twenty of them concluded by a warrant to refuse to institute a criminal proceeding, and 11 of these cases were subjected to a review by the superior prosecution office. In 8 case files, the records of the checks were referred to the competent authorities or prescriptions were issued to the competent administrative authorities.

As a consequence of all inspections and assessments, upon the initiative of the *State Agency on Child Protection*, a new system for registration of death cases has been introduced, with amendments both to the relevant Regulation (SG 48/25 June 2010), and *the Law on Healthcare* (SG, № 98 from 2010, in force since 14 December 2010).

Regarding in particular the children of Roma origin placed in institutions, it will be emphasised again that the enrolment procedure does not require the provision of any information with regard to the ethnicity of the individual child. In this context, attention should also be drawn to *Regulation No 6 (2002)* of the Minister of Education and Science which expressly forbids the enrolment of pupils with normal intellectual capabilities in establishments for children with disabilities. Its implementation is closely monitored by the *Commission for Protection against Discrimination*, together with relevant NGOs. Within this monitoring, various recommendations have been made, and they have led to the adoption of another *Regulation No. 1(2009)* which has strengthened the control over the enrolment process of pupils with special educational needs.

According to the current procedure, a special expert commission considers all applicants in order to ensure that all healthy children, irrespective of their ethnic origin, are sent to general schools. The final list of the children, with special educational needs is approved by the Minister of Education, Youth and Science. Due to these additional procedural guarantees, the number of children with special educational needs dropped by 760. As of September 2010, the total number of children with disabilities who attend special (auxilliary) schools was 1811. The number of the special (auxilliary) schools dropped by 43.

The Bulgarian Government confirms once again its political will for the improvement of the situation of Roma, while also fully acknowledging that there could be no simple or quick solution of these issues. The situation of Roma is not an issue that could be solved in the framework of bilateral or even intra-European relations. It is a matter of enhancing social inclusion and the fair distribution of the burden of responsibilities.

Achieving any satisfactory results could be only a product of a shared effort and proportional responsibility between the Government, the Roma communities and their leaders, and of the NGOs involved in the Roma integration.

The Bulgarian authorities are convinced that this approach does bring progress, which has been recognized, *inter alia*, by the Committee of Ministers of the Council of Europe, in its recent

Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Bulgaria which states that “*Bulgaria has developed a number of programmes focused on the priority areas of education, employment, health care, housing, poverty reduction, discrimination and gender equality, which have improved the socio-economic status and social inclusion of Roma in the society.*”²

In this context, the *National Strategy for Roma Inclusion (2012-2020)* elaborated in line with the requirements of the European Commission and adopted by the Government on 5 January 2012, is an omnibus document, strengthening the comprehensive approach of the whole package of documents that exist in this area (such as *the Framework Programme for Integration of Roma in the Bulgarian Society, 2010-2020*, *the National Action Plan for the Decade on Roma Inclusion, 2005-2015*, *the Educational Strategy for Children and Pupils from Ethnic Minorities*, *the National Programme for Improving the Housing Conditions of Roma, 2006-2015*, *the Health Strategy for Disadvantaged Persons belonging to minorities*, etc.).

The document was prepared through a process wide participation of Roma representatives, through the mechanisms of the Commission on Roma Integration at the National Council for Cooperation on Ethnic and Integration Issues. The draft was discussed first in working groups focusing specifically on measures in six priority areas – education, employment, health, housing, rule of law and non-discrimination, culture and media. Later, discussions were held by the local council for cooperation on ethnic and demographic issues at the various municipalities in Bulgaria. Finally, a national public presentation was organized on 14 November 2011, with the participation of relevant ministries, NGOs, including Roma representatives, researchers and academicians, and representatives of international organizations, such as the European Commission, the World Bank, the UNDP, the Council of Europe, the Organisation for Security and Cooperation in Europe, etc.

The *National Strategy* is supplemented by an *Action Plan* which covers as the first phase of its implementation the measures already approved within the framework of the Decade for Roma Inclusion, 2005-2015. The planning for the second phase (2015-2020) takes into account the Strategy “Europe 2020” approved by the European Council in June 2010. 2015 is envisaged as a mid-term year when the effectiveness of the measures applied within the *Decade for Roma Inclusion, 2005-2015*, will be analysed and eventually updated.

It should also be pointed out that, at municipal level, all decisions pertaining to the situation of Roma, including their housing conditions, are discussed regularly with Roma representatives within the Municipal Council on Roma Integration. As the UN Independent Expert on Minority Issues was informed during her meeting with the Deputy Mayor of Sofia on 6 July 2011, the Municipal Council on Roma Integration held numerous meetings in 2010 and in the first half of 2011 and reviewed specific projects for improving the infrastructure of several districts of the city where Roma live.

² ResCMN(2012)2 adopted by the Committee of Ministers on 1 February 2012 at the 1132nd meeting of the Ministers’ Deputies

Local authorities in Bulgaria have been implementing urban regulation of residential areas with predominant Roma populations with a view to including new zones for housing development. Funds from the state budget have been allocated for improving the existing and developing new infrastructure in Roma residential areas. Considerable funds are being invested in the rehabilitation and construction of roads, water supply and sewage under the Rural Development Programme, including in areas with compact Roma population.

Regarding property ownership in some neighbourhoods with predominantly Roma inhabitants, it should be noted that the lack of – or the confusion around the ownership of the plots, is a key issue to be solved when it comes to the search for durable solutions. This process has been additionally aggravated in recent years by continuing illegal construction activities linked also to internal migration processes. The local authorities are searching for sustainable options, for example through providing accommodation in municipal social housing, granting construction permits for municipal plots, renting municipal land for symbolic payment, etc.

For example, in 2011, 16 million BGN have been allocated under the *Operative Programme “Regional Development”* particularly for construction of municipal social housing. All municipalities in Bulgaria have been given the opportunity to present specific projects. Finally, the projects submitted by four municipalities have been endorsed and will be financed – Dupnitsa (5 million BGN), Devnya (1, 3 million BGN), Burgas (5 million BGN), and Vidin (5 million BGN). Projects of four other municipalities compete for the spare funds.

Regarding the issue of legalization of settlements, it should be pointed out that in 2004, the law did provide such an opportunity for all illegal constructions conforming to certain basic technical and social requirements. Unfortunately, this opportunity was not fully utilized.

A large part of the buildings occupied by Roma are under a regime of tolerability as long as they meet certain technical requirements. Likewise, municipalities can offer alternative housing only to citizens with proper address registration. There are no legal grounds to demand accommodation in municipal housing for persons who own real estate in other places of residence. Applications from candidates for municipal housing, who comply with the relevant criteria, are processed without any discrimination, including on grounds of ethnic self-identification.

Regarding the perception of the Council of Europe Commissioner for Human Rights of the situation of Roma in the area of education, it is necessary to point out at the very outset that in Bulgaria there has never been a policy of school "segregation" – *de jure* or *de facto* - of Roma children in the national education system. Therefore, the term "segregation" with respect to Roma children in Bulgaria is inaccurate.

It should be also recalled that each pupil or student in Bulgaria receives free of charge textbooks and all required additional material both for pre-school education in public kindergartens and for I to VIII school grades. This is provided for by *Decree No. 104* of the Council of Ministers of 10 May 2003.

The *Ministry of Education, Youth and Science* provides also free transportation for children, including of Roma origin, when they are enrolled in schools outside their residential area.

In this regard, the Bulgarian authorities would draw attention to the conclusions adopted by European Commission on Racism and Intolerance (ECRI) on 5 December 2011, and particularly to the fact that ECRI “*notes with satisfaction*” the measures undertaken by the Bulgarian authorities to intensify the educational integration of Roma children.³

The comparative analysis of the new data against the results of the census held ten years ago does show some progress – the percentage of Roma who have not completed elementary school dropped by 1.4 points, and the percentage of those with secondary education and university degree increased by 2.5 and 0.3 points respectively.⁴ This reinforces the commitment of the Bulgarian Government to continue with its efforts taking advantage also of the lessons learnt in the past 20 years.

One of the good examples in this regard is the Social Inclusion Project which has been under implementation since 2010, and is financed with a 40 million EUR loan by the World Bank. It aims at developing a network of social services to children from economically disadvantaged families, including from Roma origin, thus elevating the quality of child care and encouraging the inclusion of children in programmes for early pre-school education. As of January 2012, the *Ministry of Education, Youth and Science* has signed agreements with 59 municipalities for financing specific projects at local level. 10 more municipalities are invited to join.

Since 2010, the *Ministry of Education, Youth and Science* has been implementing a Project “Support for a Full-Day Education of Children in Primary Schools” which provides opportunity for pupils from ethnic minority groups to improve their skills in Bulgarian language, as well as their communication abilities which should lead to better results in school. In 2011, specific projects to this aim have been financed in 88 schools.

Furthermore, since 2009, programmes have been developed, together with the *State Agency for Child Protection*, for pupils and students in risk of dropping out from school. They are implemented in cooperation with the regional inspectorates of education, the municipalities, the school boards and other bodies and organizations. These programmes foresee additional educational options, such as organizing and carrying out individual programs for psychological influence on the student, additional work with the students during classes and holidays, extra-curricular and out-of-school activities tailored to the individual needs and interests of the students, consultations and vocational guidance.

All measures of the Bulgarian authorities aimed at increasing the quality of education are regularly discussed with relevant NGOs. The funds in the 2010 state budget for these activities amounted to 12 million BGN. In addition, *the Centre for Educational Integration of Children and*

³ CM(2012)2 add7

⁴ The data from the census are publicly available at www.nsi.government.bg

Students from Ethnic Minorities cooperates with the Roma Education Fund in Budapest and co-finances specific projects encouraging the integration of Roma children in mainstream education and preventing early drop-outs.

The 2010 *National Classification of Occupations and Duties* includes the position “assistant teacher” developed by the *Ministry of Education, Youth and Science* back in 2003 following a proposal of Roma non-governmental organizations. The assistant teachers facilitate the integration of children and students from ethnic minority groups, including Roma children, thereby supporting the access to education. The monitoring during 2011 of the projects involving assistant teachers has shown notable benefits for the trainees, in particular in an ethnically mixed educational environment.

The *Ministry of Education, Youth and Science* specifically refers to the fruitful cooperation with the Council of Europe, especially under its Pestalozzi Programme, which has contributed to the improvement of the teachers’ qualification and to the inclusion of socio-cultural components in the school plans and university programmes. Since 2010, each school in the country is obliged to draw up an annual plan which is submitted to the Regional Inspectorates of Education and the Ministry of Education, Youth and Science. The Regional Inspectorates of Education have designated experts and tasked them with obligations on the integration of children and students belonging to the ethnic minorities.

In addition, attention is also drawn to the fact that the *Ministry of Education, Youth and Science* has carried out instruction of all directors of all schools and kindergartens in the country in accordance with requirements of the *Protection against Discrimination Act*. Currently, the Regional Inspectorates on Education require that the obligation to prevent any form of discrimination is included in the job description of all teaching personnel.

Referring to the events mentioned in para. 15, it should be noted that they are related to a criminal case on 23 September 2011 whereby a 19-year-old boy died in a road accident in the village of Katunitsa.

It should be stated clearly that all attempts to abuse the tragedy for political purposes were unequivocally condemned by the President, the Prime Minister and the Bulgarian society at large. Political, religious and community leaders across the country and across the political divide reacted. A special session of the *Consultative Council on National Security* was called by the President. Specific steps were outlined aiming at preventing similar events in future, including through further firm and unwavering sanctions imposed on persons for any acts of ethnic or religious intolerance.

The police reacted immediately when public order had been breached both in Katunitsa on the night of the incident, and during the ensuing protests on 23 – 26 September 2011. More than 100 persons were detained, and various charges were brought against them, including for arson and destruction of property, hate speech and ethnically motivated crimes. A number of trials have already concluded and many of the arrested have been convicted.

The police worked actively with the Roma and other communities to prevent further escalation while ensuring that all public gatherings and demonstrations were in line with the effective statutory framework guaranteeing the freedom of assembly in Bulgaria.

This was duly recognised by the Director of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) who in his letter of 9 November 2011, pointed out the following: “...*ODIHR appreciates the clear and unequivocal standpoint of the government of Bulgaria as well as political, religious and minority leaders on the acts of violence that occurred as a result of the Katunitsa incident. The steps undertaken by law enforcement and justice bodies to restore order and prevent interethnic conflicts are welcomed. Prompt action and co-operation with the Roma community following the incidents are crucial in stopping escalation of such tensions*”.

Moreover, during a meeting of the Human Dimension Committee of the OSCE in Vienna on 13 December 2011, the activities undertaken by the competent Bulgarian authorities in immediate response to these events were recommended by the ODIHR representative as a good practice to other OSCE participating states that may find themselves in a similar situation.

It should also be added that since 2010, the *Ministry of Interior* has been conducting a joint project with the OSCE/ODIHR on training police personnel to combat hate crimes. This comes to complement the programme “*Police near the Community*” which the *Ministry of Interior* has been implementing since ...

Specialised training in anti-discrimination is provided also by the *Commission for Protection against Discrimination*. A good practice established during the past years, is the Annual Training Conference on Protection against Discrimination organized by the CPD. It targets judges, prosecutors, investigative magistrates, attorneys-at-law, experts from non-governmental human rights organizations specialized in advocacy in the field of protection against discrimination.

Regarding the *Commission on Protection against Discrimination*, it should be pointed out that through the years, it has successfully established itself as a widely recognized anti-discrimination body. The statistics show that the procedure before the *Commission* is the preferred one, probably due to the fact that it is also free of charge (Article 53 of the *Law on Protection against Discrimination* provides that all costs of the proceedings are born by the state budget).

It should be specifically emphasized once again that the reform initiated by the Government in 2009, in order to optimize and strengthen the efficiency of public administration, has no implications whatsoever on the independence and impartiality of the *Commission*. In this regard, it should be pointed out that despite the constraints on the revenues as a consequence of the global economic crisis and the need to maintain strict fiscal discipline, in line with the relevant criteria of the EU, the *Commission for Protection against Discrimination* has been receiving the necessary financial resources to carry out its valuable work. This has allowed the *Commission* to open another local office in 2011, expanding its network of local branches to 18 to cover the overall territory of the country.

The draft law of 2010 mentioned by the Commissioner was never adopted by the Parliament.

The Bulgarian authorities note that the Commissioner takes due consideration of the restructuring of the *National Council for Cooperation on Ethnic and Integration Issues* which has led also to strengthening its administrative capacities. Regarding its composition, it should be pointed out that the membership of citizens' association in the *National Council* (or in the councils at regional and local level) is strictly on a voluntary basis, and is realized in accordance with the clear and transparent criteria listed in the Regulation of the organization and activities of the *National Council*. The administrative bodies responsible for the implementation of the governmental policy for the protection of the rights and integration of persons belonging to minority groups cooperate with the non-governmental sector both through the National Council and through other forms of partnership.

Regrettably, no State is immune to hate crimes. However, as already described above, in the very few incidents which have involved members belonging to religious minority groups in Bulgaria, the Directorate of Religious Affairs with the Council of Ministers has reacted without delay and has alerted the law enforcement authorities. This was also the case with the specific incident with members of the Jehovah Witnesses in Bourgas. It should be stressed that the police reacted immediately and detained seven of the perpetrators. Five of them have already been convicted.

With regard to the incident in front of the "Banya Bashi" mosque in Sofia on 20 May 2011, 2 persons were detained on the spot of the incident, pre-trial proceedings were initiated immediately.

The Prosecutor General has explicitly pointed out the need for strict compliance with the special provisions on "hate crimes" laid down in the *Penal Code*. Namely, Article 162 whose scope was extended in April 2011 (in force since 27.05.2011), clearly states that „ (1) *A person who, through speech, press or other means for mass information, through electronic information systems or in any other way, propagates or incites discrimination, violence or hatred on racial, national or ethnic ground or shall be punished by imprisonment from one to four years and by fine from five thousand to ten thousand BGN and by public reprobation. (2) A person who uses violence against another or damages his property because of his race, nationality, ethnic origin, religion or political conviction shall be punished by imprisonment from one to four years and by fine from five thousand to ten thousand BGN and also by public reprobation. (3) A person who forms or heads an organisation or a group whose goal is the perpetration of the acts under Para 1 and 2 or systematically allows the commitment of such acts shall be punished by imprisonment of one to six years and by fine from ten thousand to thirty thousand BGN and also by public reprobation. (4) A member of such an organisation or a group shall be punished by imprisonment of up to three years and by a public reprobation.*

In addition, Article 163 of the *Penal Code* (amended in April 2011, in force since 27.05.2011) stipulates that "*the persons who participate in a crowd for attack on groups of the population, individual citizens or their property in connection with their national, ethnical or racial belonging shall be punished: 1. the instigators and leaders - by imprisonment of up to five years; 2. all the rest - by imprisonment of up to one year or corrective labour. (2) If the crowd or*

some of the participants are armed the punishment shall be: 1. for the instigators and leaders - imprisonment of one to six years; 2. for all the rest - imprisonment of up to three years. (3) If an attack is carried out and as a result of it a serious bodily harm or death has followed the instigators and the leaders shall be punished by imprisonment of three to fifteen years and all the rest - by imprisonment of up to five years, unless they are subject to a more serious punishment.”

The penal sanctions for offences against national and racial equality show that the legislator treats these offences as presenting a high degree of social danger. Furthermore, the provisions of the General Part of the *Penal Code* expressly state that in determining the penal sanction, the court takes into consideration, *inter alia*, the motives for the commission of the act (Article 54 (1)), including possible racist motives. If it is established that the motivation for the commission of a particular offence is racist, this in all cases is considered an aggravating circumstance.

In the process of investigation the prosecuting magistracy is also required by law to take into consideration cumulatively the social danger of the perpetrators and of the act itself, including motives, causes and *modus operandi*.

Regarding the right to freedom of assembly of persons in Bulgaria who self-identify as Macedonians, the Bulgarian authorities note that the Commissioner himself is fully aware that in 2011, the Committee of Ministers of the Council of Europe closed the supervision of the respective cases with a final resolution, and that the European Court of Human Rights did not find any violation in this regard.

In this context, it should be pointed out that, as confirmed by the Mayor of Blagoevgrad, since 1 January 2009, all the requests for organizing public events by persons self-identifying as “Macedonians” were granted due permission. All of those events were held peacefully, without any incidents.

Regarding the Muslim community, it should be recalled that the dispute was over the legitimacy of the leadership of the Muslim denomination. On 20 April 2011, the Sofia Appellate Court granted registration of the leadership of the Muslim denomination elected by the Extraordinary National Conference. The two Judgments of the European Court of Human Rights of 2000 and 2005, namely “Hassan and Chaush v. Bulgaria” and “The Supreme Holy Council of Muslim Community v. Bulgaria” refer to situations under the previous *Religious Denomination Act* of 1949. The new *Religious Denominations Act* (2003) is in full conformity with core international human rights standards. It should also be noted in this context, that Resolution 1390 (2004) of the Parliamentary Assembly of the Council of Europe expressly emphasized that the law represents an important step towards guaranteeing religious rights and freedoms.

The Bulgarian authorities are pleased that the Commissioner acknowledges the importance of the *Declaration* adopted by the Bulgarian Parliament on 11 January 2012.

Regarding the implementation of the *Law on Political and Civil Rehabilitation of Persons Repressed during the Totalitarian Regime*, it should be underlined that the Central Commission, established under Article 4 para. 3 of this law, examines all applications submitted in accordance with the requirements of the law, in strict compliance with the envisaged procedure.

Furthermore, since 1 March 1999, a bilateral *Agreement on Payment of Bulgarian Pensions in the Republic of Turkey* has been in force. The Bulgarian side guarantees and implements the enjoyment of the rights to a pension for contributory service acquired in Bulgaria of persons who have emigrated to Turkey after 1 May 1989. By virtue of this Agreement, at present Bulgaria pays pensions to some 18 300 persons in Turkey. For 2010 alone, Bulgaria paid to Turkey an amount approximating EUR 22,5 million. The total that has been paid so far amounts to an impressive EUR 210,5 million, and new entitlement holders step forward each year. The obligations undertaken by Bulgaria in accordance with this agreement are unilateral.

Sofia, 14 February 2012