



# HELSINKI COMMISSION HEARING

UNITED STATES COMMISSION ON  
SECURITY AND COOPERATION IN EUROPE

## Testimony :: Rumyan Russinov

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Commission on Security and Cooperation in Europe

Testimony of Rumyan Russinov

"Human Rights of the Romani Minority"

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### INTRODUCTION

#### Basic Historical Facts about Roma

Today, between 800 000-1,000 000 Roma people or 10%-12% of the country's population live in Bulgaria as an ethnic minority group with a distinct culture and language. First settlement of Roma on today's territory of Bulgaria is believed to have occurred in 13-14 century and since that time Roma have always been part of Bulgarian national history. Despite this fact their experience through history and to date has been and remains the experience of an alien people. What marks the situation of Roma in past and present times is negative prejudice and intolerance on part of the majority population and discriminatory treatment on part of the state, resulting in exclusion of this minority group from mainstream society.

In the 20th century Roma have been subjected to discriminatory treatment both as a result of the enactment of specific legislation and as a result of unwarranted practices of denial by public officials. Large parts of the Roma people had been disenfranchised by the adoption of amendments to the Election Law in 1901, which banned non-Christian and nomadic Roma from voting. Under Bulgarian communist rule, Roma have been victims of forced assimilation. In the 50s and early 60s with the explicit purpose to "bulgarize" people of non-Bulgarian ethnic origin, Bulgarian government enforced several regulations, which obliged Roma to change their Turko-Arab names and take up Slavic names instead. This policy culminated in the mid 80s when the government carried out the most massive operation of forcible change of the non-Slavic names of Bulgarian citizens of Turkish and Roma origin. Over the period of communism, and particularly after the prohibition of the nomadic life of Roma by a government decree from 1958, the Roma people have suffered gross suppression of their identity by infringement of the right to speak their mother tongue at public places, the right to association, the right to publish and disseminate information in their mother tongue, etc.

#### The Situation of Roma in the Post-communist Period

In the past ten years of democratic development Roma people in Bulgaria were confronted with a new wave of discrimination and violence. Numerous cases of violence against Roma by public officials and private persons have been documented by the Bulgarian based Roma rights advocacy group Human Rights Project and international human rights organizations. In the period of transition from totalitarian to democratic rule, characterized by a crisis in public morals and institutional instability, the Roma community has become a target of the scapegoating reflexes of society. A number of surveys on the inter-ethnic relations in Bulgaria conducted in

1992, 1994, and 1997, have shown high levels of negative attitudes and social distance towards Roma, which are comparable to the levels of negative prejudice and social distance of white Americans in the Southern US states towards the Black people in the 50s and early 60s. Racial stereotyping of Roma in the public space singles them out as inferior, prone to crime, and disastrous for the prosperity of the country. Press accounts of the ethnic origin of the suspects or perpetrators of crime, when they had been Roma, reinforce the criminal stigmatization of Roma and have made legitimate the term "Roma criminality". Criminal statistics, published in the media, presenting a biased and manipulative "evidence" of the high rates of crime among Roma, only hardened the stigma. Prejudice and hatred have fostered a climate of insecurity for the Roma, who are targeted by racially-motivated violence and acts of collective retribution on part of the majority community. In many cases Roma victims of violence have been confronted with indifference on part of the law enforcement organs and have been denied protection by the law.

On April 18, 1996 a group of young people, who had been notorious in their locality for racist attitudes and behavior, attacked a Roma man, Anguel Ivanov, and caused his death by repeatedly stabbing him with a knife. The criminal investigation into the murder case has not been concluded as of January 2000. In another case on June 15, 1999 Nadezhda Dimitrova, 33, was beaten to death by a group of schoolboys, who had recognized that she was a Roma and attacked her at a playground near their school. The criminal investigation into the murder case has not been concluded as of January 2000.

Racially-motivated violence on Roma is being committed not only by private persons or groups but also by public officials. Endemic practices of torture and ill-treatment of Roma by police officers stand out as the most serious human rights problem in Bulgaria. Physical abuse, including arbitrary use of fire arms by the police, has resulted in deaths of Roma and serious injury. Violence against Roma by law enforcement officers is compounded by a pattern of discrimination of Roma in the judicial system and impunity for the perpetrators of crimes against Roma. Complaints of Roma for police abuse are as a rule turned down by prosecutors. Where criminal proceedings had been instituted, they had been biased and did not lead to indictment of perpetrators from the police.

During a police raid in the Roma neighborhood of Pazardjik in February 1997, local residents suffered unwarranted physical injuries and harassment as a result of unlawful use of physical force and auxiliary means. After a two-year-long investigation, the criminal proceedings were terminated by the first instance prosecutor with no indictment of police officers. Upon appeal before the Military Appellate Prosecution Office, the termination decree was reversed in November 1999 as inconsistent with the law and the case was referred back for additional consideration. In another police raid on the Roma neighborhood of the village of Mechka in July 1998, at least a dozen of Roma suffered physical abuse and their property was damaged by the police. The criminal investigation into the case was terminated in March 1999 with no indictment of police officers, whose actions had not been found in breach of the law.

In January 1998 near the town of Kostinbrod, police officers shot dead a Roma man, who was confused with a criminal suspect, who had been traced by the police. The criminal proceedings into the murder case were terminated by the first instance prosecutor leaving the police officers uncharged. After appeal before the Military Appellate Prosecution Office, the investigation was reopened and criminal charges dismissed once more in November 1999 with the arguments that, on the one hand, the actual perpetrator had been unidentifiable and, on the other hand, the police had acted in accordance with the Interior Ministry Act.

In 1999 and 2000 the European Court of Human Rights delivered two judgments on Bulgarian state for sanctioning illegal actions on part of law enforcement officers against Roma people. In the case Assenov and others v. Bulgaria the Court found Bulgaria in breach of Article 3 of the European Convention on Human Rights (No one should be subjected to torture or to inhuman or degrading treatment or punishment.) as it had established that Bulgarian authorities failed to investigate the arguable claims of the victim for ill-treatment by the police. In the case Velikova v. Bulgaria violation of Article 2 (Everyone's right to life shall be protected by law...) and Article 13 (Everyone whose rights and freedoms as set forth in this Convention shall have the right to an effective remedy...) has been found as the Court established that Bulgarian authorities failed to provide a reasonable explanation to the death of a Roma person under police custody and did not conduct a meaningful investigation to identify the perpetrators.

Manifestations of intolerance towards Roma went alongside discriminatory treatment in all social spheres -

employment, education, housing, health care, etc.

Roma were most severely affected by the transition to market economy in Bulgaria. Unemployment rate among Roma, grossly disproportionate to the average for the country, approaches 100% in many areas. Among other factors, discrimination of Roma in employment has significantly preconditioned this disparity. Evidence exists that Roma were not only been the first to lose their jobs when state industries were closed, but also have been refused jobs as their ethnic origin had been recognized by employers. Low level of education resulting from long-lasting discrimination in education, has also reduced employment opportunities.

De facto segregated schools, inherited from the communist system, perpetuated unequal education opportunities and deepened division between Roma and non-Roma. Until early 1990s these schools, which are attended predominantly by Roma, had special curricula, emphasizing the vocational training. Nowadays special curricula have been abolished, however the quality of education in the segregated schools remains exorbitantly low. Attempts of Roma parents to enroll their children to non-segregated schools have commonly met resistance and rejection on part of the school authorities. A particularly dehumanizing form of discrimination has been the practice of sending Roma children to schools for the mentally disabled.

The housing situation of Roma, who, for their largest part live separately from the majority population, is characterized by overcrowding, poor sanitation, inadequate or completely missing water and electricity supply, and lack of infrastructure. The prevailing part of the neighborhoods, inhabited by Roma, are outside the regulation plans of the towns and villages, a fact which has allowed for various abuse on part of the local administration, including destruction of Roma houses.

Low standard of living conditions, poverty and poor education has resulted in a number of health problems, affecting Roma such as higher rate of child mortality and lower life expectancy rate as compared to the average for the country rates. Discriminatory treatment of Roma by the public health services is among the main factors defining the poor health condition among Roma. Apart from being excluded from educational and other health programs, it is not uncommon that Roma are denied medical service or provided with inadequate medical care, resulting in detrimental, sometimes fatal, consequences.

Roma are also subject to discrimination in the criminal justice system. They are disproportionately represented as inmates in the prisons. Surveys have shown that Roma are more liable to ill-treatment during detention and in the preliminary investigation as well as they are more likely to go to trial without a lawyer. Cases of torture and ill-treatment of Roma in Bulgarian prisons as well as discrimination in the criminal justice system are extensively covered by the report of the European Roma Rights Center "Profession: Prisoner. Roma in Detention in Bulgaria."

Deprivation and exclusion of Roma is also reflected in their under-representation in public life. Roma are not adequately involved in the decision-making processes at both local and central level of government. Currently in Bulgarian Parliament there is only one person, who identifies himself as a Rom. Appointments of two Roma to structures of the central government which took place in mid 1999 have not altered the situation of under-representation of Roma as the positions held by Roma are low and offer very limited powers. Following the local elections of October 1999, where a Roma political party ran for the first time, the prospects for political representation of Roma at the local level appeared to be better. However, despite the fact that in areas with large Roma communities there are Roma mayors and Roma municipal counselors, the problem of inadequate access of Roma to governance remains. Until very recently the Roma people had been ignored as participants in the elaboration of various government documents pertaining to the Roma community and had been merely an object of influence on part of the authorities. Experience has proved that any policies developed without the active involvement of Roma are doomed to a failure.

## PROTECTION OF ROMA AS AN ETHNIC MINORITY IN BULGARIAN LEGISLATION

In general Bulgarian law provides a minimum anti-discriminatory standard, through provisions in the Constitution and several other laws. The principle of equality before the law and non-discrimination is proclaimed by Bulgarian

Constitution, Article 6(2): "All citizens shall be equal before the law. There shall be no privileges or restriction of rights based on race, nationality, ethnic self-identity, sex, origin, religion, education, opinion, political affiliation, personal or social status or property status."

Bulgaria is also a signatory to a number of international human rights treaties, which contain provisions for protection of minorities and protection against discrimination, such as the International Covenant on Civil and Political Rights, International Convention on the Elimination of All Forms of Racial Discrimination, International Labor Organization Discrimination Convention, UNESCO Convention against Discrimination in Education, European Convention for the Protection of Civil Rights and Fundamental Principles, the Framework Convention for the Protection of National Minorities and others. According to Art. 5, para. 4 of the Bulgarian Constitution all international treaties which are ratified are considered part of the domestic legislation and take precedence over those domestic acts which contradict them.

Apart from the constitutional provisions and the international law, there are general anti-discriminatory clauses in several other Bulgarian laws such as the Social Assistance Act, Labor Code, National Education Act, Code of Criminal Procedure, Protection during Unemployment and Encouragement of Employment Act, and others.

It should be noted that regardless of the fact that national legislation contains the principle of protection against discrimination, implementation of non-discrimination law has been almost completely absent from legal practice. Judgments based on the anti-discriminatory provisions have never been delivered so far. Bulgaria has not adopted comprehensive anti-discrimination legislation. Specific legislation to combat racism does not exist either. Racial motivation of crime does not constitute an aggravating circumstance in Bulgarian criminal law. Criminal responsibility for propagating or inciting to racial or national hatred is envisaged by the Criminal Code (Articles 162, 163), however none of the provisions have been enforced in the past 10 years and no sentences for such crimes have been delivered by Bulgarian courts.

Contrary to the obligations of Bulgarian state under some international human rights treaties (e.g. Race Convention), Bulgarian Constitution, which has precedence on international law, prohibits privileges on the grounds of race, nationality, ethnic self-identity, etc. (Art. 6, par. 2). By its decision 14/1992 Bulgarian Constitutional Court ruled that any privilege based on the grounds enumerated by Article 6(2) will be a violation of the non-discrimination principle.

An inadequate legal framework for protection against discrimination and racism exists alongside a vacuum of proactive government policy to eliminate discrimination and establish preconditions for equality of Roma people. There is no structure within the state apparatus which has the authority to effectively combat discrimination. The only existing government structure for minority issues is the National Council for the Ethnic and Demographic Issues (NCEDI). The statute of the NCEDI, formulated by a Decree of the Council of Ministers at the end of 1997, limits its authority to conduct an effective protection of minorities and to implement policies for improvement of their status. The functions of the NCEDI are reduced to coordination and consultation and they preclude executive authority for the implementation of measures related to the observation by Bulgarian state of its international commitments and obligations for the protection of human rights.

Bulgarian state is inactive in implementing policies to combat discrimination and manifestations of racism against Roma. Furthermore, public officials refrain from acknowledgement that such problems exist and sometimes actively reject assertions that Roma or any other minority group is subject to unequal treatment. Such behavior, if not justified, is fairly predictable in a social context of extreme antipathy for Roma, where any demonstration of solidarity with their plight could be detrimental to the public image of politicians. Thus heinous acts of racist violence on Roma in the past several years went by without any public denouncement on part of state officials.

THE FRAMEWORK PROGRAM FOR EQUAL INTEGRATION OF ROMA IN BULGARIAN

SOCIETY

On April 7, 1999 Roma organizations in Bulgaria signed an agreement with Bulgarian government over the Framework Program for Equal Integration of Roma in Bulgarian society.

This significant accomplishment of the Roma community has been the outcome of the national campaign "For Equal Participation of Roma in the Public Life of Bulgaria", which had been initiated by the Bulgarian based Roma rights advocacy organization Human Rights Project (HRP) in the beginning of 1998. Within this campaign the HRP in cooperation with other national Roma organizations mobilized over 70 Roma organizations throughout the country for the elaboration of the first political document of the Roma people in Bulgaria - the Framework Program for Equal Integration of Roma in Bulgarian Society. In October 1998 a working group representing Roma organizations in the country undertook to negotiate the adoption of the Framework Program with Bulgarian government. In the following six months Roma representatives and representatives of the governmental National Council for the Ethnic and Demographic Issues were engaged in a debate over the fundamental principles of government policies pertaining to Roma, which disclosed grave controversies in the positions of the two sides. For their part the government representatives produced an alternative to the Roma created document, which implicated minimum responsibility and concrete action on part of the state and was reminiscent of previous programs for the Roma people, developed in communist times. The bone of contention between the Roma and the government has been the issue of acknowledgement and combating discrimination. The proposals for anti-discrimination legislation and establishment of a specialized state body for protection against ethnic discrimination were met with serious resistance on part of the government.

In the end of March 2000 it became obvious that the government will accept the basic principles of the Roma created document. The most successful advocacy campaign for Roma rights in Bulgaria and in the CEE region had been completed with the Decision of Bulgarian government from April 22, 1999 for the endorsement of the Framework Program for Equal Integration of Roma in Bulgarian Society.

The Framework Program received the appraisal of international institutions such as the Council of Europe and the Organization for Security and Cooperation in Europe. In its periodic report on Bulgaria from October 1999, the European Commission defined the Framework Program as a positive act on part of the government towards the solution of the Roma problem in Bulgaria. This estimate was reaffirmed by the Chair of the European Commission, Mr. Romano Prodi, in his speech before Bulgarian Parliament in January 2000.

The adoption of the Framework Program is a serious political commitment on part of Bulgarian government. Ensuing from it is the task of the government to introduce legislation changes, warranting the equality and the protection of ethnic minorities, as well as to undertake action to neutralize the negative effects of discriminatory treatment of the Roma people in Bulgaria in all spheres of social life (see attached the full text of the Framework Program for Equal Integration of Roma in Bulgarian Society). The Roma community in Bulgaria accepted this commitment of the government with the expectation that it will be followed by a consistent and comprehensive policy of the state in this direction.

## IMPLEMENTATION OF THE FRAMEWORK PROGRAM

One year following the adoption of the Framework Program the policy of the Bulgarian state towards Roma people failed to give substance to the commitment for integration of Roma in society, which had been declared by senior state officials. A sharp discrepancy was evident between the official discourse of Bulgarian statesmen, claiming that the Roma problem constitutes a high priority, and the lack of any financial resources from the state for this purpose. Inactivity of the public authorities and their denial of responsibility even in those cases, which did not require financial resources for the work on Roma problems, demonstrated lack of political will within the state for the solution of these problems.

Over a period of one year following the endorsement of the Framework Program, there are no concrete actions for its implementation. For the period April 1999-April 2000 Bulgarian government failed to undertake the implementation of any of the tasks, set forth by the Framework Program in the fields of legislation, economic development, territorial and settlement planning, education, health care and culture. Neither had there been any preparatory activities for the implementation of these tasks such as development of detailed plans on each part of

the Framework Program, assignment of concrete responsibilities, etc. No interaction took place between the ministries, responsible for the implementation of the Framework Program, and the group of 24 Roma consultants, authorized by the Roma organizations to develop strategies for the implementation of the Framework Program in cooperation with the respective ministries. The representatives of the ministries - members of the National Council for the Ethnic and Demographic Issues (NCEDI), failed to participate in most of the meetings of the NCEDI at which the Roma organizations discussed the Framework Program, and these ministries practically remained distanced from the process of discussion of the implementation of the Framework Program. The NCEDI, authorized by the government to coordinate the activities on the Framework Program, had been left with an ambiguous statute and without a real potential to carry out the functions assigned to it.

The appointments of Roma specialists to the Council of Ministers and the Ministry of Culture, as well as to several County Administrations, are a positive development as part of the strategy for integration of Roma in the structures of the state administration. In this particular case, however, real participation of Roma in public affairs is unattainable due to the fact that the positions, occupied by the Roma, offer no opportunity for participation in the decision-making process. Most of the Roma, appointed to the structures of the state administration, are not assigned to specific duties - a fact, which renders their appointment a formality. The prevailing part of the appointments of Roma had been made without transparency and without consultations with the Roma community. As a consequence of the one-sided approach of the government there grew mistrust on part of the Roma community towards the people, appointed to represent it, as well as unwillingness for cooperation. Given such public attitudes, further implementation of the Framework Program will be frustrated by serious obstacles.

The Framework Program for Equal Integration of Roma in Bulgarian Society sets forth that the elimination of discrimination against Roma should become one of the main political priorities of Bulgarian state.

Section I Protection against Discrimination of the Framework Program requires the drafting of a law for prevention of ethnic discrimination and for establishment of a state body for prevention of ethnic discrimination. The Framework Program also requires introduction of amendments to a number of laws, which should outlaw discriminatory treatment on ethnic basis. Special focus is laid on the Criminal Code and the introduction of sentence enhancement for crimes against human beings, which are committed with racial motivation.

The legislation changes envisaged in the Framework Program had not been introduced. Bulgarian government failed to observe the one-year term for drafting a law for prevention of discrimination.

In Bulgaria there is no specialized body for protection against discrimination. By the end of 1999 the executive and the legislative organs did not undertake to draft a law for the establishment of such body. In the legislation of the state, apart from several general texts in the Labor Code, Education Act, Social Assistance Act and others, there are no specific provisions forbidding acts of discrimination on ethnic basis as well as mechanisms for imposing sanctions for such acts.

Section II Economic Development of the Framework Program requires immediate action to secure employment for Roma. A special fund with Government participation must be established in order to guarantee Roma employment. This fund should make loans under the condition that these loans are used for employment of Roma.

Over a period of one year no action had been undertaken towards the establishment of such fund as well as towards the implementation of the other actions, envisaged by the Framework Program, to guarantee employment of Roma.

Section III Health Care of the Framework Program requires:

In order to achieve a satisfactory level of a Roma health service it is necessary to:

1. Strengthen sanitary control on the main parameters of Roma housing;

2. Intensify programs for health education and stimulate Roma participation in them.

Over a period of one year no action had been undertaken for the accomplishment of these tasks.

Section IV Territorial Planning of Roma Residential Districts requires:

Amendments should be introduced to the Territorial and Settlement Planning Act in order to overcome the complicated bureaucratic procedure for legalization of housing. This should be followed by immediate steps for legalization of houses in Roma residential districts applying the principle of minimum interference in the existing situation.

The changes to the Territorial and Settlement Planning Act introduced in 1999, did not warrant simplification of the sophisticated bureaucratic procedure for the legalization of dwellings. No attempts for legalization of Roma houses had been made. All over the country continued the tensions related to the existence of Roma neighborhoods outside the regulation plans and in critical condition. In some areas, where Roma neighborhoods border non-Roma neighborhoods, serious conflicts arose due to the refusal of ethnic Bulgarians to live next to the Roma neighborhoods with poor sanitation.

Section V Education of the Framework Program requires:

1. Desegregation of Roma schools
2. Elimination of the practice to send Roma children to be educated in "special" schools for children with disabilities.
3. Counteraction to manifestations of racism in the classrooms
4. Providing the opportunity to study Roma language at school
5. University education for Rom