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Analysis on Anti-Discrimination and Equality Bodies

June 2015

Questionnaire

The EU Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (the so-called Racial Equality Directive) requires Member States to designate a body or bodies for the promotion of equal treatment irrespective of racial and ethnic origin. However the Directive leaves Member States with a wide degree of discretion with regard to how the Equality Bodies should be set up and operate. This leads to a wide diversity as regards the Equality Bodies and its practices as well as the degree of awareness and trust in these organisations that civil society and the target groups have.

The Equality Bodies can play an important role to promote equal opportunities and tackle the discrimination that many Roma people face by providing independent assistance to victims of discrimination, conducting independent surveys on discrimination and publishing independent reports and making recommendations on issues relating to such discrimination. Their contribution as regards the implementation of the National Roma Integration Strategies could be also valuable.

Against this background, ERGO Network aims to analyse the functioning of the Equality Bodies and their role in the promotion of equality and the fight against discrimination of the Roma community in the countries covered under its Framework Partnership with European Commission’s Directorate-General Employment (Czech Republic, Bulgaria, Hungary, Romania, Slovakia, and France) and Spain. The Fundación Secretariado Gitano will get in charge of coordinating the analysis.

This questionnaire aims to serve as basis for the process of gathering of information, which will be divided into two phases:

- **Desk research (first phase).** Based on the analysis of relevant (un)official documents and resources done by the partners of the Roma Civil Society Working Group.
- **Field research (second phase).** Based on a more qualitative analysis of resources as well as on information gathered through interviews to the Equality Bodies and other relevant stakeholders.

The questionnaire provides some guidance on whether the questions could be addressed in the first or the second phase, although this will largely depend on each country. Building upon the information collected, a synthesis report will be drafted by the Fundación Secretariado Gitano in cooperation with ERGO Network Secretariat. This report will be complemented
with a selected number of case studies illustrating experiences that include interesting elements and/or that could be inspiring for others. These case studies will also aim to prove the need for EBs to invest into the redress and reporting mechanisms for Roma people facing racism and daily anti-Gypsyism.

**Questionnaire**

1.1. About the National Equality Body structure, role and competences

**Equality Body(ies) in your country** (please specify the name and the website for further reference):

- Official name in English: Commission for Protection Against Discrimination (CPD)
- Official name in Bulgarian: Комисията за защита от дискриминация (КЗД)
- Webpage: http://www.kzd-nondiscrimination.com

**Setting up process**

**Desk-research:**

1.2. When and how was the Racial Equality Directive transposed into national law? (please specify the laws, regulations and/or administrative provisions adopted to comply with the Directive)?

Bulgaria officially joined the European Union on January 1, 2007. As part of the pre-accession process, the country had to transpose all the EU-directives, including the Racial Equality Directive.

The supreme source of anti-discrimination law in Bulgaria is Article 6 Paragraph 2 of the Constitution which states: “All citizens shall be equal before the law. Neither abridgement of rights nor any privileges whatsoever shall be admissible on the basis of race, nationality, ethnic identity, sex, origin, religion, education, convictions, political affiliation, personal and social status, or property status”\(^1\).

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\(^1\) Constitution of the Republic of Bulgaria: Available in English at: http://www.vks.bg/english/vksen_p04_01.htm
Margarita Ilieva, a legal expert of the European Network of Legal Experts in the Non-discrimination, lists the primary sources of the national legislation in Bulgaria through which the Racial Equality Directive is transposed:

1) **Protection Against Discrimination Act**, into force from January 1, 2004, last amended on April 7, 2015. A civil law that covers the most grounds for discrimination in Bulgaria has a universal material of scope and introduces a ban on eight forms of discrimination:
   a) Direct discrimination
   b) Indirect discrimination
   c) Harassment
   d) Sexual harassment
   e) Victimization
   f) Incitement
   g) Inaccessible environment
   h) Racial segregation

2) **Integration of Persons with Disabilities Act**, into force since January 1, 2005, last amended on November 28, 2014. A civil law that solely covers the ground of disability and has a universal material of scope. This law introduces a ban on the following forms of discrimination:
   a) Direct discrimination
   b) Indirect discrimination
   c) Reasonable accommodation issues
   d) Employment

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3 Available in Bulgarian at: <http://lex.bg/laws/ldoc/2135472223>.

4 e.g. public employment, private employment, access to goods or services (including housing), social protection, social advantages, education

5 available in Bulgarian at: http://lex.bg/bg/laws/ldoc/2135491478
e) Education
f) Infrastructure etc.

3) Ordinance No 4 on Planning, Implementing and Maintaining Buildings in Accordance with the Requirements of an Accessible Environment for the Population, including People with Disabilities, into force since July 14, 2009, last amended on July 15, 2011\(^6\). An administrative law that covers only the disability as a ground for discrimination and as a material scope has infrastructure and architecture. In general this ordinance is directed towards the establishment of positive measures for people with disabilities.

The main, instrumental legal provision for non-discrimination in Bulgaria is the Protection Against Discrimination Act (PADA). PADA was adopted by the Bulgarian Parliament on September 16, 2003. This decision was published in the Official State Gazette on September 30, 2003, and it entered into force on January 1, 2004.

The main aim of the adoption of PADA was to answer the requirements of the EU Directive on equal treatment in employment and occupation (2000/78/EC of 27 November 2000) and the so-called “Racial Equality Directive”: the Directive on equal treatment between persons irrespective of racial or ethnic origin, (2000/43/EC of 29 June 2000).

Since its adoption in 2003, the PADA has been amended 19 times\(^7\). These constant changes signalize that the compliance with the Racial Equality Directive at the national level is a continuous and time-requiring process. The last amendment (at the time of writing the current publication) is from 7 April 2015 and concerns two points\(^8\).

The first and the main one is the burden of proof, which, before the amendment, was entirely on the claiming side: (Art.9): ‘In proceedings for protection against discrimination, after the party claiming to have been discriminated against, produces (presents) facts from

\(^6\) Available in Bulgarian at: <http://lex.bg/en/laws/ldoc/2135639181>

\(^7\) The dates of the amendments up to April 7, 2015 can be seen on the top of the Bulgarian language version of the Act, available at <http://lex.bg/laws/ldoc/2135472223>

\(^8\) Ilieva, Margarita and Tisheva, Genoveva, News Report, European network of legal experts in gender equality and nondiscrimination, April 28, 2015
which an inference that discrimination is at hand can be made, the respondent party has to prove that the principle of equal treatment was not breach.

The second amendment (new subsection 17 in § 1 of the Additional Provision) is concerning those who have changed their sex and because of this, might be victims of discrimination: ‘Within the meaning of Art.4 section 1 [listing the protected grounds] the ground of ‘sex’ also includes gender reassignment cases’.

1.3. What are the official documents concerning its creation?

*See above*

1.4. When was the Equality Body established and when did it start its operations? (If there was a significant gap between the transposition of the Directive and the setting up of the Equality Body, please elaborate on the reasons).

In Chapter Three of the PADA, the Bulgarian government envisaged the establishment of a particular structure that to oversee its implementation: The Commission on Protection against Discrimination (CPD). The Commission started its functioning in 2005/2006/to be checked on the interview/. The Internal Rules for its operation were written and published in the State Gazette almost two years after the adoption of the PADA, on July 12, 2005.

The CPD is established as an independent, specialized, quasi-judicial body funded mostly through state subsidies but also from international programs and other, non-specified sources.

The Commission that decides the cases of discrimination consists of nine persons. Five of them are being appointed by the National Assembly and four by the President of the Republic with a four-year mandate. The PADA also describes the manner and the order in which one can complain before the Commission. CPD can initiate a lawsuit on its initiative, but in the best case the only sanction can be fine for the perpetrators: between €125 and €1250 (250 and 2500 BGN).

CPD can come up with opinion, declaration, sanction or recommendation (to ask in which cases what). The Commission has the power to hear and decide on cases of discrimination, to
impose compulsory administrative measures and sanctions for violations, to order an injunction and recovery of the initial situation, make recommendations to state and municipal authorities to stop discriminatory practices and repeal their acts issued in violation of the law (to ask if ever happened, especially with the Media Body), to govern equal treatment, to give opinions on draft legislation for compliance with the legislation, to prevent discrimination, as well as to provide recommendations for adoption, revocation, amendment of laws regarding equal treatment.

A litigant can be either individual or legal entity, and the procedure is free of charge. The burden of proof, so far, before the newest amendment from 2015 mentioned above, was heavily on the litigant. How does the new amendment work?

The mechanism of starting a lawsuit against discrimination is described in PADA. It includes a specialized procedure to complain before the CPD or to initiate a lawsuit before the District Court in the first instance.

The person seeking protection should make a choice which one of the two mechanisms to be used. If chosen the second option, the decisions of the Regional Court can be appealed to the respective District Court.

If discrimination is linked to a particular administrative act, the person may apply directly to the Administrative Court in the respected district or the appeal may be transferred internally between the two courts for solving according to their competencies. The order and the details of the second process, however, are not described in PADA. To ask additionally for the procedure

The Commission provides much faster and free proceedings than the court. In CPD, the maximum period for completion of a case with a decision is within two months while it can take years in courts. CPD either ends the lawsuit with a resolution or appeal before the Supreme Administrative Court, as a last national instance. If the decision of the CPD is appealed, the sanctions imposed on the perpetrator cannot be collected until the final say of the Supreme Administrative Court.
Desk-research complemented with field-research:

1.5. How was the process of setting up of the Equality Body? (e.g. was it a consultative process? Was there consultation and/or involvement of relevant actors, including civil society organizations? Were there relevant difficulties/challenges?...)

Interview to be taken, CPD, NGOs

Type and structure

Desk-research:

1.6. Did your country set up a new structure (body/unit/department) to carry out the competencies assigned by the EU Racial Equality Directive or did it designate existing ones (one or several) to fulfil the functions? Please specify which one(s).

On documents, the CPD was set up in 2004, and it started operation in 2005/6, two years before the official accession to the EU. See 1.4 above

1.7. What are the grounds of discrimination covered?

☐ Only the fields of race and ethnic origin.

☐ In addition to race and ethnic origin, other grounds of discrimination covered by the EU anti-discrimination legislation (i.e. gender, age, sexual orientation, religion or belief and disability). Please indicate which ones.

☐ In addition to race and ethnic origin, other grounds beyond those of the Directive. Please indicate which ones.

☐ In addition to race or ethnic origin (and potentially other enumerated grounds), there is an ‘open-ended list’ or general mention (e.g. ‘any other circumstances’, ‘any other criterion’ or ‘any other status’).
The PADA does not have restrictions on the grounds listed in the RED but instead it covers a broader list of prohibited grounds. Explicitly mentioned are the following grounds with an open end of the list: ‘gender, race, nationality, ethnicity, human genome, citizenship, origin, religion or faith, education, beliefs, political affiliation, personal or public status, disability, age, sexual orientation, marital status, property status or any other grounds established by law or international treaty to which the Republic of Bulgaria is a party’ (Art.4, paragraph 1, last amended January 1, 2005).

1.8. What is the structure (e.g. secretariat, board, working groups, hierarchy...) and composition (who are the members and how are they selected) of the Equality Body?

The Commission that decides the cases consists of nine persons. Five of them are being appointed by the National Assembly, in this number the Chair and the Deputy-Chair and four by the President of the Republic with a five-year mandate. In the election or appointment of the committee members are being followed the principles of balanced participation of women and men and participation of persons belonging to ethnic minorities. The members are not being changed entirely, but continuously, to ensure the transition within the institution and to prevent political interference within the Commissions work, as much as possible (Art.41).

The total staff of the CPD encounters 89 employees, including the nine members of the Commission (as of November 29, 2013)⁹.

Political changes of the members and Parliament disputes in 2008 – to be asked during the interview

Organization chart of CPD Bulgaria

1.9. What is its **geographical scope**? Is it present at regional and/or local level (e.g. through offices, cooperation with other organizations...) or only at the national level?

The CPD is based in the capital Sofia. Although Bulgaria is divided into 28 administrative units – districts, known as oblasti\(^{10}\) the Commission has only 18 regional representatives, due to the lack of budget, in the following districts:

Burgas, Varna, Veliko Tarnovo, Vidin, Vratsa, Gabrovo, Dobrich, Kardzhali, Lovech, Montana, Pazardzhik, Plovdiv, Razgrad, Ruse, Silistra, Sliven, Stara Zagora, Shumen

1.10. Does it count with **services adapted to the target groups** (e.g. in terms of languages or other needed adaptations)?

**?? to be asked**

1.11. Have there been **changes over time as regards any of these aspects**? (e.g. the structure or composition has changed...)

The first nine members of the Commission have worked from 2005 until 2012, exceeding the 5-year mandate. This happened because the Parliament and the President both neglected the selection of new members of the Commission. On July 12, 2012, the members of the Commission are partially changed. According to a member whose contract was not renewed, Mrs. Aneli Chobanova the new selection is against the law. Mentioned motives are: unpaid annual leave, lack of one month's notice of dismissal, other breaches of the regulations, such as lack of legal education and knowledge in the field of human rights of the newly appointed, holding paid jobs or being members of a party leadership, teaching in university which is not allowed etc.\(^{11}\)

In 2008 there is a significant debate in the Parliament whether or not the annual report of the CPD to be approved, as PADA stipulates (the Parliament has to pass the CPD annual report every year until March 31 – Article 40, Paragraph 5, PADA). The motives against are that in the CPD are employed mostly representatives of one of the parties – the Movement for Rights and Freedoms (ДПС) which is perceived by many as the party of the ethnic Turks – the biggest ethnic minority in the country. The CPD was accused of spending many public budgets, and the annual report of the CPD for 2008 was not being approved by the

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\(^{10}\) NUTS3 according to the EU territorial and administrative division, available at https://en.wikipedia.org/wiki/NUTS_of_Bulgaria

\(^{11}\) http://www.bnews.bg/topics-57174
The Council of Ministers, due to the ongoing financial crisis and austerity measures decides to reduce the members of the CPD, from 9 to 5 (2010). Currently, the CPD is operating again with nine members. According to Mr. Mihail Ivanov, one of the people who have drafted the text of PADA, this was revenge against the CPD by Boyko Borisov – a prime minister at that time who has been accused of discrimination by the CPD before.

Desk research complemented with field research:

1.12. About the funding sources (ideally the whole period since the setting up of the EB should be considered. If to answer the questions you consider a different timeframe, please indicate which one):

- Does it count on a separate budget or does it receive money from a department or other part of the government according to its needs?

The CPD is a primary spending budget entity. That means that the Commission’s budget is directly provided by the State budget. To be asked more

- Does the funding come from national government or from other sources?

The CPD is primarily funded by the national government, but also from participation in European and other projects.

- To which extent is it accessing EU funds? To be asked on interview

- Is information about the budget and funding sources publicly available?

Yes, the information with the annual budget is available on the web page, but difficult to understand. However, the budget for 2015 is missing.

- Do the funds allocated allow the EB having the sufficient capacity and independence to meet develop its tasks? To be asked on interview

- Has the budget been affected by the budgetary cuts?

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Yes, according to an interview given to the Bulgarian media by the current Chair of the Commission on August 11, 2015, the budget of the Commission has been drastically reduced in the last years. In 2006, the budget of the Commission was 3.5 million leva while in 2015 is 2.1 million leva\(^{15}\).

1.13. About the Staff: **To be asked on interview for actual data for 2015**

- How many staff persons work for the Equality Body? Please specify if they are specifically dedicated to the tasks of the EB or also to other duties.

Data as of November 2013:

1. Elected under **CPD - 9**
   - 1.1. President - 1
   - 1.2. Deputy Chairman - 1
   - 1.3. Members - 7
2. Administration - **80**
   - 2.1. Secretary - 1
   - 2.2. Financial Controller - 1
   - 2.3. Security of information servant - 1
   - 2.4. Specialized Administration - 52
   - 2.5. General Administration - 25

**TOTAL: 89**

- Are they civil servants?

80 of them

- What is their level of expertise as regards the areas addressed by the Equality Body? (E.g., are they experts in these fields or just civil servants/other professionals without particular expertise that have been allocated these tasks? How many trainings on anti-discrimination have they attended in the last years?) **To be asked on interview**

- Are the terms diverse in terms of ethnic origin, languages...? **To be asked on interview**

- Is the information about staff publicly available?

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\(^{15}\) ‘The boss of the CPD asked the MPs for more money’, 21.05.2015, news.bg, available at <http://news.ibox.bg/news/id_705003633>
The information about the staff is available only for the members of the CPD. The contact information of the administration is under one number and e-mail.

Does the staff assigned allow the EB having the sufficient capacity and independence to meet develop its tasks?

To be asked on interview

1.14. About its independence:

Does the Equality Body have an independent status, i.e. in terms of structure, administrative functioning, and political affiliation? (e.g. are government officials part of the (board of the) institution or have some say in the body’s functioning and activities?), are the premises within government buildings, are the staff persons civil servants?)

According to the Statute of the CPD, the Commission is an independent state agency. Its budget, however, is being voted by the government. The members of the Commission are also suggested and voted by the Parliament and the President: an act that could additionally politicize and might prevent the actions of the Commissions members against the politicians of the day, if the latter are found guilty of discrimination. Indicators for whether or not the CPD is politically dependent can be the number of cases against politicians (especially from the ruling parties), the number of own-initiative cases (members of the CPD have the right to start a lawsuit on their own initiative. However, in such cases they cannot judge, but their colleagues are the one to decide) and the transparency of the CPD funding and administration in general.

Currently, those selected from the Parliament are:

Anna Vladimirova Strashimirova, Chair (proposed by PG PP "GERB")
Baki Hasanov Huseynov, Deputy Chair (proposed by PG "Coalition for Bulgaria")
Atanas Georgiev Mussorliev (proposed by PG PP "Ataka")
Kemal Eyup Adil (proposed by PG PP "Movement for Rights and Freedoms")
Sabri Saliev Ahmedov (proposed by PG PP "GERB")

Presidential quota:

Ivailo Savov Stefanov

13
Regardless of whether it has an independent status, is the Equality Body able to function independently (please base the answer on recent political appearance of Equality Body and its position toward sensitive issues)

The question of whether or not the CPD can function independently is controversial to answer. In 2009 accused of discrimination was the ex-mayor of Sofia and current prime minister of Bulgaria, Boyko Borisov. The reason was calling all the members of the Bulgarian Socialist Party ‘immoral’. While one could argue that the CPD has been working properly on this case, other could say it has been used for the political purposes of the ruling at that time Bulgarian Socialist Party.

Other cases that are widely known are against the abbot of the Troyan Monastery, Bishop Theodosius for disposse sing people with disabilities from the monastery and proclaiming them for "sinners" and "cursed" (2008); against the Bulgarian Telecommunication Company for employing only servants under the age of 30 and dismissing its older personnel (2011); against the TV presenter Yuliyan Vuchkov for hate speech against LGBT people (2012), the journalist Martin Karbovski for an article expressing hate speech against women (2012) and Ani Tsolova and Viktor Nikolaev for discrimination on ethnic ground and particularly against Roma (2015).

Clear information on how many cases are on the ground of ethnic/Roma discrimination, including cases of multiple discrimination, is missing. To be asked on interview

Here is some statistics for the period 2006-2009 about complaints on the ground of ‘ethnic discrimination’, submitted by Bulgarian Roma Citizens

FIRST CHAMBER OF THE CPD
2006r. – 54% of the total number of complaints and generated files are from Bulgarian citizens of Roma
2007r. – 38% of the total number of complaints and generated files are from Bulgarian citizens of Roma
2008r. – 17% of the total number of complaints and generated files are from Bulgarian citizens of Roma
2009r. – 13% of the total number of complaints and generated files are from Bulgarian citizens of Roma

MEMBER CHAMBER OF THE CPD (for cases of multiple discrimination)
2006r. – 4% of the total number of complaints and generated files are from Bulgarian citizens of Roma
2007r. – 15% of the total number of complaints and generated files are from Bulgarian citizens of Roma
2008r. – 19% of the total number of complaints and generated files are from Bulgarian citizens of Roma
2009r. – 11% of the total number of complaints and generated files are from Bulgarian citizens of Roma

1.15. **General assessment on the EB(s) structure, role, and competencies**
(e.g. do the current structure, role and competencies allow the EB(s) act efficiently? What changes would be needed to improve it?)

Practically, CPD cannot actually follow if perpetrators are implementing the given recommendations. For example if there is a missing special infrastructure for invalids, and the CPD comes out with an opinion that within a specified period the error must be corrected, and adequate access for disabled must be provided, then the only way the violators to be punished would be if the claimant complains again. The CPD does not have the mechanisms to check if the recommendation is implemented or not. Practically, this makes the anti-discrimination body of Bulgaria not effective enough. There is needed a mechanism that to ensure (through bigger sanctions, more employees, more judicial power or other), that the recommendations of the CPD are followed within the prescribed period.

Another element that would motivate more people to seek justice and to initiate cases against the discrimination is changing the policy about the remedies. Currently, if one is found guilty of discrimination all the sanctions are going into the state budget but not to the litigant. The plaintiff receives only moral satisfaction. Changing the policy in a way that those who are harmed are literally compensated can catalyze more people to look for their rights and to initiate lawsuits.

**Competences**

*Desk-research complemented with field-research:*

1.16. Does the Equality Body have competencies in the areas required by the EU Racial Equality Directive (Article 13), namely:

- Providing independent assistance to victims of discrimination in pursuing their complaints about discrimination
Yes, through its regional representatives, (Article 47, Section 9, PADA)

- Conducting independent surveys concerning discrimination
  - Yes, (Article 47, Section 10, PADA)

- Publishing independent reports and making recommendations on any issue relating to such discrimination
  - Yes, (Article 47, Section 11, PADA)

1.17. Does the Equality Body have any other competence beyond those specified in the Directive? (e.g. advise government on new legislation or implementation issues, litigation, redress, sanctions, fines, psychological support, integral assistance, follow-up of cases...)

Yes: (Article 47, PADA): The CPD advises government on new legislation or implementation issues; informs the public through the media on the current provisions on protection from discrimination; exercises other powers as provided for in the Rules of Organization and its activities.

Activities

Please answer to these questions only if the EB is covering fields other than the ones of racial and ethnic origin. Please do not focus on the activities related specifically to discrimination on race and ethnic origin (these will be covered in section) but just on the general activities of the EB. The aim will be to review whether the general activities developed (addressed in this section) are also developed in relation to racial and ethnic origin (addressed in section 3).

If the EB only covers the areas of race and ethnic origin, you do not need to answer to these questions, just answer to questions in section 3.

Desk-research complemented with field-research:

1.18. What type of activities does the Equality Body carry out to fulfill its competences?

   Examples of activities include:

- Providing information about the existence of anti-discrimination laws and the possibility to take legal action to seek remedy or compensation for an act of discrimination.
- Directing people who experience discrimination to an organisation/institution that could help them.
- Helping people who experience discrimination to come to an amicable settlement/mutual agreement (mediation) with the discriminators. To be asked
- Giving legal advice and representation to people who have been discriminated.
- Conducting independent surveys on discrimination.
Publishing independent reports.
Making recommendations on any issue relating to discrimination.
Undertaking information campaigns targeting the general public.
Providing support to employers and service providers on good equality practice.
Others

2. National Roma Integration Strategies (NRIS) and Equality Bodies (EBs)

Desk-research:

2.1. Is there any mention about the Equality Bodies in the National Roma Integration Strategy (NRIS)? Please specify.

The NRIS 2012-2020 mentions the CPD twice in its text – pages 1 and 18. On the first page is written that the current NRIS is in compliance with the texts of several institutions, including the CPD. On page 18 the CPD is mentioned as a partner of the National Council for Ethnic and Integrational Issues - the latter being a main institution responsible for the Roma integration on the fields of ‘Culture and Media’.

Field research:

2.2. To what extent was the Equality Body involved in the drafting of the NRIS? (e.g. is there any mention to its involvement in the Strategy? What was its real involvement? What is considered sufficient?)

To be asked Amalipe, Lalo Kamenov

2.3. To what extent is foreseen its involvement in the implementation phase? (e.g. are there any measures that rely on the implementation by the EBs? Has the EB been involved in any of the measures already implemented? Is the foreseen involvement considered sufficient?...)

To be asked Amalipe, Integro

2.4. To what extent is foreseen its involvement in the monitoring and evaluation phases? ((e.g. is there any mention to its involvement in the Strategy? What is considered sufficient?)

Amalipe

2.5. How is the relation with the National Roma Contact Point (NRCP) or other bodies in charge of the implementation of the Strategy foreseen?

- No relation at all
- Informal relation. Please specify in which cases or provide some examples.
Cooperation in specific cases or fields. Please specify in which cases or provide some examples.

The formal framework for cooperation. Please describe it.

Other.

2.6. General assessment of the involvement of the EB.

2.7. Any suggestions for improvement.

3. Capacity and potential contribution of Equality Bodies in tackling the discrimination faced by Roma

Field-research:

The Factsheet “Equinet’s Work for the Rights of Roma People” identifies a number of areas in which the Equality Bodies could play a role in tackling the discrimination and social exclusion experienced by many Roma people. This section aims to identify to which extent the EBs in your countries are fulfilling this potential role and what has been their contribution. Please comment and give examples on each of them:
3.1 Developing a body of experience and expertise on discrimination and social exclusion of Roma

Please comment and give examples on each of the fields

- In general terms, does the Equality Body have experience and expertise on discrimination and social exclusion of Roma?
- Does the Equality Body develop materials to share this experience and expertise, e.g. reports, awareness raising materials and good practice guides, findings, guidelines, campaigns, advice to policy makers and legislators...
- Does it follow the cases of discrimination against Roma in the media, including social media? How?
- Does the Equality Body record the complaints/cases of discrimination identified/dealt with (both those received from the victims or those identified by the Equality Body itself)? If this is the case, how does it gather the information (e.g. database, templates...)? Is the information broken down (e.g. by grounds of discrimination, the field of discrimination, gender...)? If possible, please provide some data.
- Are the data and other relevant material available to the public (through the website, annual report or upon request).

3.2. Offering a safe space for Roma people to assert their rights and assisting individuals facing discrimination

- Does the Equality Body have a strong mandate to assist individuals facing discrimination?
- Is Roma familiar with the Equality Body? (e.g. do they know about their existence?, are they aware of the services provided?)
- Are they likely to turn to the Equality Body in case of discrimination?
- How does the EB reach the potential victims, including those that may be more difficult to reach (e.g. in more isolated or segregated areas, in irregular situation...)?
- How does it address the issue of underreporting?
- Does it address collective cases or only individual ones?
- How does it deal with the complaints brought by the victims to them? Please provide some information about the process.
- What type of assistance does it provide to victims?
  - Advice and assistance
  - Integral accompaniment until the end of the process
  - Support of complainants in judicial or administrative proceedings
  - Redress to the victims
  - Other
- What other competences does it have?
  - Delivering decisions on discrimination cases? If this is the case, are they legally binding?
  - Imposing sanctions, including fines and ‘soft’ penalties (e.g. public apology or publication of its decision). Please specify which ones.
  - Investigating complaints of discrimination and compelling compliance with their investigations (e.g. recommendations, mediation, present observations to the courts)
  - Other
- How are the cases of discrimination reported recorded?
- What are the main challenges faced in this area? What are some of the options used to address them?
- Please specify the main areas of discrimination.
3.3. **Promoting awareness-raising and training among Roma**

- Does the Equality Body develop awareness-raising and/or training initiatives aimed at improving Roma’s understanding of the protection against discrimination and the available remedies?
- Does it develop human rights training and awareness raising material that could help in making NRIS effective?
- Are these initiatives developed in cooperation with Roma communities and (pro) Roma civil society organisations?
- What is the impact of the actions they are undertaking?

3.4. **Providing guidance to relevant actors in the fight against discrimination (e.g. employers, police forces, lawyers, teachers, media...)**

- Does the Equality Body cooperate with relevant actors in the fight against discrimination in order to promote equality and help them develop anti-discrimination policies and practices? Please specify which ones.
- What type of initiatives is it developing? Please specify for each type of initiative which are the target groups and examples of initiatives.
  - Providing guidance and practical information on equality and non-discrimination
  - Promoting sharing of experiences and good practices
  - Providing trainings
  - Providing tailored support
  - Other

4. **Relation of the Equality Bodies with Roma communities and (pro) Roma civil society organizations**
* pro-Roma organizations includes any organization, including generalist organizations, working for the promotion of the Roma community.

**Field-research:**

4.1. What is the relationship between the Equality Body and the (pro) Roma organisations?

- No relation at all
- Informal relation. Please specify in which cases or provide some examples.
- Cooperation in specific cases or fields. Please specify in which cases or provide some examples.
- Formal framework for cooperation. Please describe it.
- Other

4.2. Is there any involvement foreseen in the work of the Equality Body? (e.g. participation in the development of materials and initiatives) Is this involvement actually happening? Please comment and provide examples.
4.3. Are initiatives foreseen to make the EB more visible and accessible for (pro) Roma organizations?

4.4. What is the relationship between the Equality Body and other organisations working in the field of anti-discrimination (i.e. those working on other grounds of discrimination)? Is there any good practice of the Equality Bodies (those in charge of discrimination based on racial or ethnic origin or others) that could be useful as regards discrimination on racial and ethnic origin (and especially related to Roma ethnic origin)?

5. Equality Bodies and antigypsyism

Field research:

5.1. Does the Equality Body tackle the anti-Gypsyism in their work? Please specify
5.2. Does it have a record of cases of anti-gypsyism?
5.3. Were there cases on anti-Gypsyism taken up by Equality Body?

Колко пъти се е самосезирала комисията? Каква е процедураната по самосезиране? - КЗД
http://www.parliament.bg/bg/parliamentarycommittees/members/2082/steno/ID/3183

1.1. How was the process of setting up of the Equality Body? (e.g. was it a consultative process?, was there consultation and/or involvement of relevant actors, including civil society organisations?, were there relevant difficulties/challenges?)

The Commission for Protection against Discrimination (CPD) is an independent state body for prevention of discrimination, protection against discrimination and ensuring equal opportunities.

CPD is a specialized equality body under the anti-discrimination law of the European Union\(^1\), established and operating in accordance with the Paris Principles\(^2\) and Recommendation № 2 of the European Commission against Racism and Intolerance (ECRI) of the Council of Europe. As a unique national anti-discrimination body, the Commission is an active member of the European Network of Equality Bodies EQUINET, whose members include 36 related authorities of all Member States. At the same time, in view of its specific competences, the Commission for Protection against Discrimination is designated as a national point to contact the Bureau for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (ODIHR/OSCE) on cases related to hate crimes. In 2011 CPD was accredited before the United Nations as a national institution for human rights protection and received the status ”B”, to respond to the Paris Principles.

CPD was established by the Protection against Discrimination Act, currently Protection from Discrimination Act (PfDA) promulgated in issue 86/State Gazette, 2003, effective as of 01.01.2004. Information about the legislative procedure can be sought from the authorities involved in the legislative process.

1.2. When the Commission started its functioning?

\(^2\) Resolution 1992/54 of the Commission on Human Rights, United Nations, now Council of Human Rights to the UN.
The Protection from Discrimination Act (PfDA), which entered into force on 01.01.2004, transposes the main achievements of the European Union law (acquis communautaire) in the field of prevention and protection from discrimination:

Equal treatment for men and women with regards to access to employment, vocational training and promotion, and working conditions (Directive 76/207/EEC\(^3\), amended by 2002/73/EC\(^4\)), Directive 2000/43/EC on equal treatment between persons irrespective of racial or ethnic origin, Directive 2000/78/EC on equal treatment in employment irrespective of religion and belief, age, disability or sexual orientation and Directive 2004/113/EU on equal treatment of women and men in the access to and supply of goods and services.

The law, according to the requirements of the European Directives, provides for and regulates the functioning of "an independent specialized state body for prevention of discrimination, protection against discrimination and ensuring equal opportunities" (Article 40, paragraph 1, PfDA).

The Commission for Protection against Discrimination consists of nine members, five of whom are directly elected by the National Assembly and four are appointed by the President of the Republic. In the selection procedure of the parliamentary quota, the National Assembly shall elect a Chair and Vice-Chair of the Commission. This happened for first time by decision of the 39th National Assembly taken on 13.09.2005. The institution of the President appointed by decrees №176, №177, №178 and №179/19.05.2005 the 4-member president-quota representatives in CPD.

The current composition of CPD-members was selected by Decision of the 41st National Assembly from 12.07.2012 and President Decrees №272, №273, №274 и №275 from 13.07.2013 (promulgated in State Gazette, issue 55/2012).

1.3. What are the grounds of discrimination covered?

- Only the fields of race and ethnic origin.
- In addition to race and ethnic origin, other grounds of discrimination covered by the EU anti-discrimination legislation (i.e. gender, age, sexual orientation, religion or belief and disability). Please indicate which ones.
- In addition to race and ethnic origin, other grounds beyond those of the Directive. Please indicate which ones.

\(^3\) Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions

In addition to race or ethnic origin (and potentially other enumerated grounds), there is an ‘open-ended list’ or general mention (e.g. ‘any other circumstances’, ‘any other criterion’ or ‘any other status’)

The Commission shall examine cases on all the grounds of discrimination, which include "race" and "ethnicity". In art. 4 para. 1 of PfDA are listed 19 protected grounds of discrimination, but it is also explicitly stated that discrimination is prohibited on any other grounds established by law (such as the conditions laid down in Art. 8, para. 3 of the Labour Code: "union affiliation", "differences in contract term and duration of working time", "skin color") or in an international treaty to which Bulgaria is a party (such as "health", "language" and so on). The range of protected by law grounds in the Bulgarian anti-discrimination legislation is non-exhaustive.

1.4. CPD can come up with opinion, declaration, sanction or recommendation. Could you give examples in which cases is what?

The powers of the CPD are defined in the PfDA which envisages, besides the judicial, also special, and administrative in their nature, legal proceedings for protection from discrimination. Conduct of the proceedings shall be assigned to the Commission, which, pursuant to Art. 47 PfDA:

"...
1. establishes violations of this or other laws governing equal treatment, the offender and the person concerned;
2. orders prevention and cessation of the violation and restoration of the original position;
3. imposes the envisaged sanctions and implements administrative compulsory measures;
4. gives obligatory prescriptions to comply with this or other laws governing equal treatment;
...  
6. makes suggestions and recommendations to state and municipal authorities to stop discriminatory practices and repeal their acts issued in violation of this or other laws governing equal treatment;
...
8. give opinions on draft legislation for compliance with the legislation to prevent discrimination, as well as recommendations for adoption, revocation, amendment and supplement of legislation
...
10. conducts independent surveys on discrimination;
...
11. publishes independent reports and makes recommendations on all matters relating to discrimination;
...
"
According to the above mentioned article 47 and the provisions of PfDA regulating proceedings before the Commission, the equality body decrees judgments that (art. 65 of the PfDA):

"…

1. establish the infringement;
2. establish the offender and the person concerned;
3. determine the type and the amount of the penalty;
4. apply coercive administrative measures;
5. found that there was no violation of the law and dismiss the appeal …"

Decisions of the Commission for Protection against Discrimination are mandatory and come into effect when: not appealed on time; the complaint is not upheld; the decision confirms an agreement reached by the parties (Art. 69, PfDA).

Article 82 para. 1 PfDA provides that "those who do not implement a decision of the Commission or the Court given under this Act, shall be fined from 2,000 to 10,000 lev, unless subject to a more severe punishment".

The Commission is authorized to exercise control over the effective implementation of the coercive administrative measures application (Art. 67, PfDA).

1.5. How do the new amendments to the Law from 2015 work? (burden of proof)

The two texts (the previous version and the amended version) differ in the terminology used. The burden of proof is on the claimant to provide evidence, based on which can be made a conclusion (according to the old text), or suggestion (according to the new text) that there is a discrimination. In this case, with this shift in terminology, the proof of burden is already on the plaintiff. These terminological changes on the way of identification of discrimination did not influence much the work of the Commission in practice due to the fact that this amendment was necessary to comply with Article of Directive 2006/54 concerning the burden of proof. This was already applied in the previous period of change, under the principle of conforming interpretation, according to which the provisions of national law should be interpreted in light of the Allied sources of legislation, in this case - of the anti-discrimination directives.
As for the PfDA-amendment concerning the extension of the definition of discrimination based on the ground of "sex": CPD received only one complaint concerning the equal treatment of citizens who changed their sex from 2011. In the judgment about this case the CPD has taken into account the requirements provided by the European sources of legislation, i.e. we have already been following these lines and this was just a formal amendment of our PfDA, so it can better transpose the international equality legislation.

1.6. What is the structure (e.g. secretariat, board, working groups, hierarchy...) and composition (who are the members and how are they selected) of the Equality Body?

Members of the Commission for protection against discrimination:

The Commission consists of nine people, including at least four lawyers. The National Assembly elects five members, including - President and Vice-President of the Commission and the President of the Republic of Bulgaria shall appoint four members of the Commission.

The mandate of the Commission is five years. In the election or appointment of the CPD-members are followed the principles of balanced participation of women and men and participation of persons belonging to ethnic minorities.

According to the Rules of Organization and Operation of the Commission for Protection against Discrimination, in its activities the Commission for Protection against Discrimination is assisted by an administration which consists of: secretary, general administration, specialized administration, financial controller, information-security employee.

The general and the specialized administration are organized into directorates.

Notably, CPD has its regional representatives who support its activities. In 2014 there are 23 offices spread in the district-centres (there are 28 districts in Bulgaria). In each office is envisaged there to work one regional representative. On practice, the working regional offices in 2014 were 16. General administrative function of the regional representatives is receiving and recording of complaints from citizens living on the respective district territory.

In recent years, the Commission for Protection against Discrimination established a practice to recruit trainees under employment programs, both at the headquarters of the authority (Sofia) and in some regional offices.
1.7. Does it count with services adapted to the target groups (e.g. in terms of languages or other needed adaptations)?

The Commission provides an assistance and support to the both sides in the process. This assistance is limited by the principle of equality of arms, applicable to adversarial proceedings, and such is the specialized proceeding for protection from discrimination. There are cases of assisted persons having any knowledge of the Bulgarian language; the Commission has materials in foreign languages and Braille (acts, studies, reports). The proceeding, however, is held in Bulgarian language (Art.70, par. 1 PfDA; Art.14, par.1 Code of Administrative Procedure). Art. 51, para. 1 PfDA requires the originator to submit a written complaint or signal. In case they are written in a foreign language, they shall be accompanied by a translation into Bulgarian. In the proceeding it is possible to use a translator and interpreter respectively.

1.8. Have there been changes over time as regards any of these aspects? (e.g. the structure or composition has changed...)

The composition and structure of the CPD are altered by the creation of the Commission to date. In July 2012 with President Decrees and election by the National Assembly was defined the second composition of the Commission. There were originally formed six special three-member permanent, meeting compositions as cases of multiple discrimination are examined by the five-member Panel of and in case of necessity be formed and AD HOC stock. Subsequently, there was a restructuring and currently the permanent panels are five.

As for the administration, despite the answers in 1.6 and 1.10 and the rules of organization and operation, in addition to their edits from 2008 and 2013 can be said:

The Commission's administration was changed. To the existing directorates 'General administration', 'Specialized administration', and 'Finances and accountancy' was added one more and today these are:

1) 'General Administration'
2) 'Specialized proceedings, analysis and prevention'
3) 'Regional representatives'
4) 'Finances and accountancy'

'Regional representatives' directorate used to be part of the 'Specialized administration' and now this is a directorate on its own. In Directorate 'Specialized proceedings, analysis and prevention' was preserved unit 'Specialized proceedings', and the functions with regard to relations with third sides...
(other national or international institutions or organizations), European projects and participation in working groups were given to the newly formed unit 'Analysis, prevention and international cooperation'.

1.9. About the funding sources (ideally the whole period since the setting up of the EB should be considered. If to answer to the questions you consider a different timeframe, please indicate which one):

- Does it count on a separate budget or does it receive money from a department or other part of the government according to its needs?
- Does the funding come from national government or from other sources?
- To which extent is it accessing EU funds?
- Is information about the budget and funding sources publicly available?
- Do the funds allocated allow the EB having the sufficient capacity and independence to meet develop its tasks?
- Has the budget been affected by the budgetary cuts?

Under the PfDA the Commission is a legal entity with a public budget support and headquarters in Sofia. The CPD is a primary budget spending entity, which means that is directly financed by the state.

Notably the CPD budget is decreasing every year - from 100% in 2009, in 2014 it is decreased with 37.1%, while the number of the complaints and signals constantly is increasing - from 299 registered cases in 2009 to 452 registered cases in 2014, i.e. there is an increase with 51%. The systematic reduction of the Commission’s budget leads to difficulties financing its costs and consequently affects the work of the equality bodies (e.g., lack of resources to implement the preventive functions of the Commission).

On the request for public accessibility of the budget and the financial resources: on the CPD web page (http://www.kzd-nondiscrimination.com/layout), are published the annual budget of the Commission from 2009 to 2015.

It is noteworthy that CPD is a successful beneficiary of the projects under the programs financed by the EU. For example, in 2014 were carried out recent activities within the project "Combating discrimination - a just society" in the PROGRESS program of the European Union as well as the project "Strengthening the administrative capacity of the Commission for Protection against Discrimination by
acquiring new skills and knowledge "under the Operational Programme of the European Union" Administrative Capacity ".

In 2015, the CPD project activities carried out within the framework of two projects. The first one is "Strengthening the capacity of penitentiary personnel on prevention of discrimination and respect for human rights through education on European standards", funded by the Norwegian Financial Mechanism 2009-2014. This project is implemented in partnership with the Norwegian company 'Supras' AC.. The second projects "Functional analysis and optimization of the structure of the units of the Commission for Protection against Discrimination" is realized with the financial support of Operational Programme "Administrative Capacity", co-financed by the European Union through the European Social Fund.

1.10. About the staff:

On matters related to personnel structure changes we provide you with a copy of the Rules of Organization and Operation of the CPD, date to 2008 and the Regulations on the structure and activity of our body functioning at present.

○ How many staff persons work for the Equality Body? Please specify if they are specifically dedicated to the tasks of the EB or also to other tasks.

To be double-checked
All they pass training provided under the Administration Act and its regulations.

○ What is their level of expertise as regards the areas addressed by the Equality Body? (e.g are they experts in these fields or just civil servants/other professionals without specific expertise that have been allocated these tasks? How many trainings on anti-discrimination have they attended in the last years?)

All employees are appointed in accordance with the requirements for appointment to any position and with the substantive and procedural requirements of the Civil Servants Act, the Labour Code, the Law on Administration and all relevant regulatory standards. We endeavor to carry out annually a few trainings for the administration.

○ Are the terms diverse in terms of ethnic origin, languages?

The Commission respects the principle of equal treatment in recruitment. In selection always leading are the professional qualities of individual specialists. In CPD, since its inception, there are
employed servants of different ethnicity (Bulgarian, Turkish, Roma). The principle of participation of people with disabilities in the administration of the authority is also met.

- Is the information about staff publicly available?

  Transparency regarding staff is consistent with the requirements of applicable law. Staff data such as structure, size, functional layout and others are published in the annual reports of the Commission's website. All procedures for recruitment follow the requirements for openness and transparency.

- Does the staff assigned allow the EB having the sufficient capacity and independence to meet develop its tasks?

  The performance is optimal, having these structural changes in 2012 and the decreased budget. At the same time we have more signals to work on. This affects the work of the Commission.

- Regardless of whether it has an independent status, is the Equality Body able to function independently

  In December 2011, the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights to the High Commissioner for Human Rights of the United Nations officially accredited CPD as an authority on human rights in accordance with the Paris Principles. The Commission received status "B", which allows it to participate in the work of the International Coordinating Committee and the UN structures for the protection of human rights. The same statuses have the Dutch Equal Treatment Commission and the Centre for Equality and against Racism, Belgium. One of the requirements according to the Paris Principles is independence in the selection and appointment of the Board members.

  The independent character of the institution is guaranteed by:

  1) **Transparency of procedures for the appointment of members of the Commission**;

  From the transcript of the 384th session of the National Assembly of the Republic of Bulgaria held on 12.07.2012 it was apparent that on the occasion of the election of the members and leadership of the Commission for Protection against Discrimination parliamentary groups imported ten proposed projects solutions. Applications are presented in detail during the meeting in the presence of the candidates themselves and voted after given the opportunity to debate.
On the appointment of members of the quota of the President of the Republic of Bulgaria: the President has announced its proposals to representatives of the Commission, guided by the statutory requirements for incorporation of lawyers and the principle of balanced participation of women and men and participation of persons belonging to ethnic minorities. Thus, there is provided a prior notice of nominations. All interested public and NGOs were also invited to send comments and suggestions for nominations for members the Commission.

2) According to PfDA the CPD is a primary budget spending entity;

3) The envisaged by the PfDA mandate of Commission members is 5 years;

4) PfDA bans any member of the Commission of being a member or part of leading entity of political party;

5) According to the PfDA (Art. 46) - Rules for the structure and activity of CPD is being adopted by the body itself.

1.11. Statistics about cases on about complaints on the ground of ‘ethnic discrimination’ for the period 2006-2015. How many of them are submitted by Bulgarian Roma Citizens (by years)?

Over the years, on the grounds of 'ethnicity' were registered the following cases for discrimination as follows:

2006 – 48 files;
2007 – 62 files;
2008 – 47 files;
2009 – 29 files;
2010 – 35 files;
2011 – 49 files;
2012 – 52 files;
2013 – 56 files;
2014 – 53 files;

From 01.01.2015 till 31.05.2015 – 23 files.

In the generated files on the grounds of ethnicity significantly prevalent complaints from the Roma community. They are judged by the first permanent Panel, specialized in signs "ethnicity" and "race" and the extended Panel examining cases on complaints and reports of discrimination on more
than one ground. On some cases there might be formed AD HOC composition formed on a particular case.

1.12. Does CPD help people who experience discrimination to come to an amicable settlement/mutual agreement (mediation) with the discriminators?

Art. 62 PfDA describes the procedure for concluding an agreement. According to par. 1 the Chairperson of the composition of the first open hearing invites the parties to reconcile, explaining in details the benefits of the reconciliation. If the disputing parties agree to reconcile, the presiding judge schedules a conciliation meeting. Agreement may be reached on the whole subject of the dispute or part of it. According to par. 2 of Art. 62 PfDA when conciliation proceedings are agreed between the parties on the basis of equal treatment, the Commission shall approve this is with a decision. In other cases, when the composition determines, it may advise the parties to seek the assistance of a mediator for eventual peaceful resolution of the dispute. Mediation proceedings for protection from discrimination, however, are not explicitly provided, but are being done outside the control of the CPD.

1.13. How many times CPD initiated cases by years and on what grounds of discrimination. Please provide examples related to Roma.

We attached a reference for the cases CPD was an initiator by years

<table>
<thead>
<tr>
<th>Year</th>
<th>File</th>
<th>Decision</th>
<th>Ground</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>140/2006</td>
<td>94/12.11.2007</td>
<td>„personal and social status“</td>
</tr>
<tr>
<td>2007</td>
<td>21/2007</td>
<td>21/25.01.2008</td>
<td>„ethnic origin“</td>
</tr>
<tr>
<td>2007</td>
<td>171/2007</td>
<td>147/23.06.2008</td>
<td>„education“</td>
</tr>
<tr>
<td>2008</td>
<td>4/2008</td>
<td>118/18.05.2010</td>
<td>„sex“ (sexual harassment)</td>
</tr>
<tr>
<td>2008</td>
<td>224/2008</td>
<td>60/10.04.2009</td>
<td>„human genome“</td>
</tr>
<tr>
<td>2009</td>
<td>200/2009</td>
<td>147/15.08.2011</td>
<td>„ethnic origin“</td>
</tr>
</tbody>
</table>
Over the years the Commission has initiated proceedings several times about observed practices of discrimination in our society on the basis of ethnicity. One of the own-initiative concerns the newsletters of the Interior Ministry, which reported the ethnicity of offenders and victims only to persons of Roma origin. By its decision CPD established discrimination and made a prescription the Interior Ministry to stop this practice.

In another decision, after self-referral CPD established discrimination in the actions of a number of traders in Pazardzhik because of their refusal to serve Roma in institutions of these traders. Because of his inaction, there was imposed compulsory administrative measure to the mayor.

Decision on a third file, after self-referral, was to impose sanctions on electronic media for publishing comments with unlimited access directly below news about a crime on a racial basis for failing to take measures to address those who are degrading and mocking with discriminatory content and calls to hatred, hostility and violence against the person, regardless of particular race, ethnicity or group.

Another file formed on the initiative of the commission is about a course of chromosomal diagnosis in the National Genetic Laboratory at "Maichin dom" EAD. It was proven that they collect data concerning the ethnicity of the pregnant woman and her partner, and this is evident from annexed to a copy of the report form (request) for examination. The case claims that this might create preconditions for discrimination on the grounds of "human genome" and / or "ethnicity". In its judgment in the case CPD does not indicate discrimination. In another case formed after self-referral CPD found
discrimination and punished the Center for Emergency Medical Aid in Sofia, who, due to delays in carrying out its activities in providing emergency medical care to the resident of the capital neighborhood 'Faculteta' (predominantly populated by Roma), has caused the death of the patient.

**Other general information**

Commission for Protection against Discrimination (CPD) actively interacts with various national authorities and bodies of international organizations with similar competences or areas of activity. The cooperation takes place in various forms - analytical work; functions related to the status of a national point of contact; initiating and participating in a number of forums; implementation of formal and informal contacts.

As a result of the held activities, the equality body of Bulgaria continues to strengthen itself as a factor in the development and implementation of policies on equality and combating discrimination both nationally and internationally. CPD has proven as a reliable partner in the preparation of the position of the Republic of Bulgaria in connection with the international commitments in the field of human rights.

The sphere of influence of the equality authority includes key topics for Bulgarian anti-discrimination policy, and for a number of international organizations. Besides the issue of Roma integration we also work on the topics of combating intolerance and racism, gender equality, hate crime, immigration and refugees.

**The international work of CPD:**

- Membership in EQUINET – The Commission for Protection against Discrimination is an active member of the European Network of Equality Bodies with headquarters in Brussels. Currently EQUINET includes 42 organizations from 32 European countries which are authorized to counteract discrimination on protected grounds in the capacity of national equality authorities. The cooperation of the Commission within the network takes the form of an intensive exchange of information and participation of representatives of equality bodies in forums organized by the network. On 3 and 4 September 2015, the Commission hosted training for the EQUINET on the implementation of the EU Funds with regards to the equality bodies.
- On the occasion of the Bulgarian Chairmanship of the Council of Europe (11.2015-05.2016) the CPD is planning to organize an international round table 'The norms of the Council of Europe and the activities of the equality bodies of the CoE-member states - towards a social and just society';

- The Commission has a status of observer in the established (Decision of the Council of Ministers № 796/13.12.2013) National mechanism on the human rights, which allows the equality body to contribute to the common position of the state with regard to international treaties and arrangements.

- The Commission has the role of a contact point of ODIHR/OSCE with regards to collection and provision of information on hate crimes. The Commission provides this data annually. CPD has also organized, in collaboration with ODIHR/OSCE a National work meeting for unification of the system for registration and reporting of hate crimes.
2.1 To what extent was the Equality Body involved in the drafting of the NRIS? (E.g. is there any mention to its involvement in the Strategy? What was its real involvement? What is considered sufficient?)

Within the defined by law competence and in the conduct of actions for protection against discrimination, CPD has supported institutionally the taken by the state measures in the short - and long-term programs for Roma integration.

The specialized panels of the Commission contribute to the fulfillment of the requirements for the integration of Roma referred to in the Commission's Communication (COM (2011) 173 final, Brussels, 5.4.2011). As stated in the Communication "First, Member States must ensure that Roma are not discriminated against and treated in the same way as other EU citizens - with equal access to all fundamental rights as enshrined in Charter of Fundamental Rights of the EU".

Regarding the draft of the National Strategy for Integration of Roma and other vulnerable ethnic groups/communities in a similar situation in Bulgaria (2012-2020) and the subsequent updating of the National Action Plan for the "Decade of Roma Inclusion 2005-2015" at Section V "Rule of law and non-discrimination ", the Commission for Protection from Discrimination has proposed to be added the following new items:

1. Approval of the practice of holding periodic independent studies in education, employment, health and access to services.
2. Conducting public policy internships to young Roma in the state administration.
3. Strengthening the preventive work for tolerance through systematic training, together with representatives of regional education centers and school directors.
4. Organization of open receptions of the Commission for Protection from Discrimination in municipalities with compact Roma population.
5. Conducting a national media campaign dedicated to hate speech.

In the updated at the end of the 2011 Action Plan for the National Strategy for Integration of Roma in Bulgaria (2012-2020) and "Decade of Roma Inclusion 2005-2015", the proposals of the CPD are integrated into activities under Priority V "Rule of law and non-discrimination".

Commission for Protection from Discrimination, as an independent specialized state body, works to prevent discrimination, for protection against discrimination and for ensuring equal opportunities. Commission's activities are closely related to the implementation of these objectives in two respects: (1) protection against discrimination with the direct application of the Protection from Discrimination Act, and (2) preventive action.

2.2 Whether and how the EB is involved in the implementation and evaluation/monitoring of the National Roma Integration Strategy?

Each year until 2012 CPD submitted an annual report on its work on priority "Non-discrimination". These reports view and present the activities of the CPD on the ground of 'ethnicity', and specifically complaints and practice with regards to affected persons of Roma origin on the priorities of the National Action Plan on implementation of the Decade of Roma Inclusion (education, employment, health, etc.).

In 2015 the CPD prepared and submitted to NCCEII (National Council for Cooperation on Ethnic and Integrational Issues) a detailed review and analytical report on its activities in priority V of the National Roma Integration Strategy "Rule of law and non-discrimination". In each of the five points, mentioned above (2.1) CPD presented the implementation or the non-implementation for the period 2012-2015. However, it cannot be stated that CPD is implementing a monitoring and I do not think that it would be correct CPD to rule on the assessment of problem on solving and improvement of education, health, besides in the part of unequal treatment in access to education, access to health care and equal treatment and other issues related to different treatment.

2.3 How is the relation with the National Roma Contact Point (NRCP) or other bodies in charge of the implementation of the Strategy foreseen?

The CPD maintain good relation with the NCCEII. During the first mandate of CPD, commissioners have participated in working groups organized by NCCEII. There are some joint initiatives. For example on April 8, 2014, on the occasion of the International Roma Day was organized a National Forum entitled 'Non-discrimination and supremacy of law'. The forum was opened by Maryana Borisova - a Roma intern
at the CPD and the Minister of Justice, Mrs. Zinaida Zlatanova. Participation also took the chair and
deputy chair of CPD, representatives of the National Assembly (Committee on Human Rights and
Religious Affairs), representatives of the Ministry of Education (National Centre for Educational
Integration of Children and Students from ethnic Minorities), NGO representatives active in the field of
human rights and non-discrimination (Bulgarian Helsinki Committee), representatives of the diplomatic
corpus in Bulgaria, citizens, Roma students and many others.

On this forum were discussed the national measures and implemented practices to curb
discrimination against Roma. Another example for the relations between CPD and NCCEII is an invitation
for participation in a seminar organized by the Roma Decade Secretariat in Budapest, dedicated on anti-
gypsyism. Furthermore, the two institutions exchange information, opinions and comments. Example of
an opinion is the one on the development of monitoring indicators for the implementation of the
national strategy for Roma integration.

2.4 Developing a body of experience and expertise on discrimination and social exclusion of Roma.
Please comment and give examples on each of the fields

In general terms, does the Equality Body have experience and expertise on discrimination and social
exclusion of Roma?

The Equality Authority (CPD) is a specialized body for protection against discrimination. As such,
its core expertise is in the area of equal treatment and protection from discrimination. Commissioners,
as well as specialized administration, daily develop and work on practical cases of complaints of
discrimination; decide upon whether there is discrimination or not; conduct studies and pronounce
decisions in cases of discrimination; impose sanctions and coercive administrative measures, prescribe
recommendations and more. CPD has no particular focus for expertise on preventing and combating
social exclusion of the Roma, since CPD is a body to combat discrimination against all vulnerable groups
in all the listed 19 grounds (Art. 4, PfDA). CPD is sensitive to the topic of social inclusion of the Roma
community. Therefore the topics of prevention of discrimination, unequal treatment, harassment and
combating stereotypes and prejudices towards minorities and those belonging to different ethnicity,
have always been part of training and seminar programs, as well as project activities. Furthermore, the
Bulgarian Law for Protection from Discrimination has been recognized by international institutions and
other related to CPD institutions as a very detailed and offering special measures to establish equal
treatment and social inclusion of persons belonging to ethnic or other minorities and groups. In the
conduct of proceedings, in cases involving complaints of discrimination against Roma, it is monitored the compliance with the PfDA and other governing equal treatment.

Does the Equality Body develop materials to share this experience and expertise, e.g. reports, awareness raising materials and good practice guides, findings, guidelines, campaigns, advice to policy makers and legislators...

The CPD develops its own reports. In some cases it cooperates with other entities such as Ministry of Foreign Affairs and the Ministry of Labour and Social Affairs. Often the CPD answers to questionnaires of international or national organizations such as Amnesti international, ENAR, Justice 21, Bulgarian Helsinki Committee and Open Society. The annual report is prepared and submitted to the National Assembly of Bulgaria. In the annual report the management and administration of CPD present information about the practice of the body by areas (directorates) and specialized panels of the Commission. Informational materials, manuals (for work with media, for those working in education etc.) are being developed and published within projects implemented by the CPD. So far CPD has published three compendia with its practice.

Does it follow the cases of discrimination against Roma in the media, including social media? How?

Recently the CPD often receives signals for discriminatory speech against Roma in media and sometimes it starts cases on its own initiative (self-referral). For example, Commissioner of the first permanent specialized panel of the Commission has approached the Commission in connection with the refusal of the mayor of the Kyustendil municipality in Bulgaria to allow the citizens of Roma origin to participate in the voting process. This refusal, (currently to be checked for discrimination), was publicly announced through the media (Case 448/2014). There are also initiated legal proceedings for representatives of parliamentary represented political parties who openly discriminate in their speeches.

Does the Equality Body record the complaints/cases of discrimination identified/dealt with (both those received from the victims or those identified by the Equality Body itself)? If this is the case, how does it gather the information (e.g. database, templates...)? Is the information broken down (e.g. by grounds of discrimination, the field of discrimination, gender...)? If possible, please provide some data.

CPD has an internal system database and filing system. There is also an archive. CPD statistics are annually processed and entered in the annual reports. The database is common, classified into compositions and grounds of discrimination. There is a separate documentation for current proceedings and for decisions of Commission's pannels by years.
Are the data and other relevant material available to the public (through the website, annual report or upon request).

Data on completed cases with final decisions are public. It can be found in the annual report as well as in the public register of the decisions of CPD, available at the CPD-website. CPD can also provide information to persons other than those involved in the process based on the Access to Public Information Act. Furthermore, the CPD provides information to the civil sector in different forms: in writing, interviews and more.

2.5 Offering a safe space for Roma people to assert their rights and assisting individuals facing discrimination

Does the Equality Body have a strong mandate to assist individuals facing discrimination?

Roma and other persons of Bulgarian or other citizenship have the right to approach the Commission and request assistance from CPD for discrimination that occurred on the territory of Bulgaria. There is no special focus on helping specific or particular vulnerable group. However, CPD takes into account the social and living difficulties that representatives of individual target groups meet. Example is Roma communities living in remote, segregated areas and having low level of education. Roma, along with other citizens, are being offered help, envisaged by the law, to complain to the regional representatives of the CPD. In recent years, due to the extensive interactions of the CPD and its regional representatives with local, regional and non-governmental organizations working in the field of Roma Inclusion, the possibilities for information and assistance in case of discrimination against Roma have drastically increased. During general forums, meetings, campaigns, CPD uses the floor to share opportunities for assistance in discrimination against Roma (for example the Youth Clubs of Tolerance of Center Amalipe, student organizations and others). One of the functions of the Commission for Protection from Discrimination, according to the law, is to provide independent and free assistance to victims of discrimination in complaints of discrimination (Art. 47 pt. 9 PfDA.) - Consultation. CPD has the power to prevent and stop the breach and to restore original position (Article 47 pt. 2, PfDA). Experts from the administration of CPD support parties to the proceedings, as far as administrative proceedings permit, i.e. the process has adversarial character and the two sides must be treated equally.

Is Roma familiar with the Equality Body? (e.g. do they know about their existence? Are they aware of the services provided?)

CPD has no such statistics and could not have been informed if any Roma individual is familiar with the Commission and the law. However, raising awareness of the functions and activities of the Commission is our constant activity which we realize through public activities, Internet and by regional representatives of the CPD. Through the whole year we carry out information events, receptions, visits of schools and towns, cities, villages and neighborhoods with compact Roma population. In 2012-2015, the partnership between regional CPD representatives and the Roma community significantly increased through joint activities of Roma youth, students, organizations and clubs and others. Regional representatives of CPD participate in municipal and regional councils on ethnic and integration issues and also work in the field
in settlements in cooperation and assistance of the Roma health mediators and experts on ethnic and integration issues. Regional representatives are often invited to represent the law and the Commission to Roma NGOs across the country. Furthermore, on April 8, 2015 the International Roma Day, nearly all regional representatives in cooperation with other organizations and individuals organize information events with Roma. On December 10, 2014, The International day of protection of human rights, regional representatives organized an open day where invited representatives of different vulnerable groups and ethnic minorities, including Roma.

0 Are they likely to turn to the Equality Body in case of discrimination?

In general Roma are informed but there is a failure to report discrimination of Roma. Probably they are worried to complain and intervene in the process, to participate in meetings and to be witnesses in the course of investigation. Especially in small towns, it is difficult to complain about discrimination from administration, police and employers.

0 How does the EB reach the potential victims, including those that may be more difficult to reach (e.g. in more isolated or segregated areas, in irregular situation...)?

Besides the regional representatives, the CPD had appointed a local independent expert who frequently visited unequal Roma settlements in two districts and several municipalities to assist people and to resolve unequal treatment through direct talks, visits and inspections. The purpose of CPD was to multiply this practice that proved to be a good one. However, due to a drastic reduction in the budget, it is virtually impossible this practice to continue. To improve information provision and mediation at the local level between potential victims and institutions, CPD relies on additional funding through European funds, employers, trade unions, universities and others.

0 How does it address the issue of underreporting?

During consultations regional representatives encourage reporting of cases. However, currently CPD has no resources for in-depth work in this direction.

0 Does it address collective cases or only individual ones?

Art. 47 PfDA allows CPD to look at signal or a complaint about discrimination of a certain group of people. If the appeal is from more than one applicant, and all the applicants are named in it, all of them are regarded as a party in the proceeding and the specialized composition rules on the merits of each of the applicants, but in one solution. This automatically means that for every person is judged whether or not there is discrimination and any interested party has the right under Art. 74 (1) PfDA to claim compensation, under the general rules, against persons/bodies responsible for the damage. There are also cases of uniting the files.
What type of assistance does it provide to victims?

☐ Advice and assistance

CPD provides assisting in the writing of the compulsory information in the complaint/signal in order the complaint to be accepted as a regular one and to initiate proceedings. Along with the signal, there is also a mandatory declaration that is required. Often citizens neglect to fill it, but fellow lawyers remind about it officially in writing or require it on spot so there are no obstacles for launching proceedings and initiating investigation for discrimination.

☐ Integral accompaniment until the end of the process

This is being implemented under the Administrative Procedure Code and the proceeding rules of CPD.

☐ Support of complainants in judicial or administrative proceedings

The unsatisfied side has the right to appeal the decision of the CPD before the respective administrative court, at first instance, and the Supreme administrative court, at second, following the general court proceedings. CPD represents the side in whose favour is the decision of CPD. If it is proven for a Roma, claimant, that he/she has been a victim of discrimination and the other side appeal, then CPD represents the one who was discriminated.

☐ Redress to the victims

The law provides for proceedings where any person who is proved to have suffered damages from infringement of rights under the law on protection from discrimination or other laws governing equal treatment, can claim compensation under the general order against the persons/bodies caused the damages. Chapter 4, unit 1 of PfDA provides the detailed explanation of the legal proceeding in cases of discrimination. The process starts with an initiative document - complaint-signal (for persons or legal entities) or a self-referral report (for a commissioner), order for initiation of proceedings and distribution, by competence, to one of the five permanent panel compositions of the Commission. One of the panel-members is being assigned for a rapporteur. The rapporteur starts a procedure for gathering written evidence needed for full and comprehensive clarification of the circumstances, using servants of CPD or external experts. In the process of clarifying the factual situation, the Commission has the right to require documents and other information from related to the investigation bodies, institutions, etc. When there is a clarification of the circumstances, Rapporteur prepares a report-conclusion and the presiding judge calls the members of the judging composition for a meeting in seven days after receiving the Report. The meetings are open, unless due to the nature of the case, one or both sides in proceedings express wish the meeting to be closed doors, (Art. 136 of the Civil Procedure Code). At the first meeting, presiding judge invites the parties to reconcile (Art. 62). If parties do not accept reconciliation, the procedure continues: opinions, requests, hearing of witnesses until it is considered that the circumstances of the case are clarified. If the Commission decides, there might be
appointed another meeting. The composition closes the meeting and announces the day for pronouncing the judgment.

☐ Delivering decisions on discrimination cases? If this is the case, are they legally binding?

The decisions of the Commission are legally binding. CPD, in its decisions, establishes whether there is or there is not discrimination. The type and the amount of the sanction or coercive administrative measures are specified in the operative part. Commission shall monitor and supervise when and whether the decision comes into force. If the CPD-decision is appealed, CPD should wait for the judgment of the court; if not CPD automatically takes over the control on the implementation of the judgment.

☐ Imposing sanctions, including fines and ‘soft’ penalties (e.g. public apology or publication of its decision). Please specify which ones.

CPD issues mandatory instructions to employers and officials to remove violations of the legislation causing discrimination. CPD stops the execution of illegal decisions or orders of employers that lead or may lead to discrimination and others. Fines vary between 250 and 2,000 lev, and 2, 500 lev if the violator is legal entity.

☐ Investigating complaints of discrimination and compelling compliance with their investigations (e.g. recommendations, mediation, present observations to the courts)

☐ How are the cases of discrimination reported recorded?

Proceedings before the Commission shall be formed if there is an appeal of the persons concerned. Persons concerned might be persons or legal entities, state and municipal authorities, legal entities registered as non-profit organizations and the Commission itself (self-referral).

☐ What are the main challenges faced in this area? What are some of the options used to address them?

The main challenges are in the process of investigation and witnessing. It is assumed that Roma do not feel confident and comfortable to sentence employers or employee of local administrative units. This is what the regional representatives' observations show. Also in the process of proceedings it can be noticed that witnesses are not attending and signals are being withdrawn. It is not a high percentage but it is being observed such a practice. In adversarial proceedings, such as the ones of CPD, it can be said that Roma individuals or organizations face difficulties in proving discrimination based on ethnicity. Another challenge is that CPD physically is incapable to proceed faster, to stay closer to the citizens, to make inspections on spot and to gather evidence. These administrative challenges are mostly due to the lack of budget.

☐ Please specify the main areas of discrimination
Retrospective review of the Commission's work shows that equal access of Roma to education and health services were the subject of proceedings before various compositions of the Commission. In various proceedings for protection from discrimination the commission looked both individual complaints and signals of Roma NGOs about unequal treatment in the exercise of the right to education of Roma children, including complaints about the segregation of schools in cities and towns.

Subject of complaints have been also a failure to provide transportation for taking children from segregated schools in Roma neighborhoods, development of training programs with the participation of municipalities supporting Roma inclusion, training in classes with children of the dominant ethnic group. In making decisions on these complaints, various configurations of the Commission have taken into account the unfavorable situation in which initially were placed Roma children and the need to take special measures to equalize the situation of children at risk. In this regard, it can be pointed out that the Commission, jointly with NGOs, has done a research on school segregation and Commission's recommendations has been given to the Minister of Education for the closure of special schools where there found mostly physically and mentally healthy Roma children. There is found discrimination against Bulgarian citizens of Roma origin in different spheres and areas of the socio-economic and societal life. In recent years complaints about refusal of access to swimming pools, entertainment and pubs etc. are reducing. However, complaints related to access to employment, to exercise the right to work, equal payment and termination of employment have increased. There are cases of unequal treatment in the provision of financial services from banks, as well as in the field of education. There are no complaints from persons of Roma origin about signing children for attending kindergartens. This either means that there is low number of Roma children in these institutions or there is a lack of signaling in cases of unequal treatment.

2.6 Promoting awareness-raising and training among Roma

- Does the Equality Body develop awareness-raising and/or training initiatives aimed at improving Roma's understanding of the protection against discrimination and the available remedies?
- Does it develop human rights training and awareness raising material that could help in making NRIS effective?
- Are these initiatives developed in cooperation with Roma communities and (pro) Roma civil society organisations?

In recent years, our 19 regional offices increased our cooperation with representatives of non-governmental organizations and ethnic minority communities, in particular with organizations aimed at improving the socio-economic inclusion of Roma. To cooperate in the field of awareness and prevention of discrimination, our regional representatives organize open days and other information events, pay visits to employers and workers, local and regional institutions. Regional representatives of the CPD actively participate in the meetings of regional councils on ethnic and integration issues.
Awareness-raising campaigns on the right to equal treatment, the general prohibition of discrimination and legal options for protection against discrimination are part of the functions that implement the regional representatives in the field of equality. Regional representatives introduce regional and local practices of CPD, regulatory and statutory powers to prevent discrimination and to identify and sanction discriminatory actions and practices established in various spheres of public life. This contributes to equal treatment of citizens by the administrative staff in administration, medical services, education and training, provision of social services, access to the labor market, right to equal treatment in exercising the right to work and accessible architectural environment. CPD meets with mayors and deputy mayors to determine the forms of partnership, often through joint events. We are actively working on the promotion of the national policy on non-discrimination, raising public awareness of European and national policies and legal instruments to combat discrimination in education. A number of briefings and presentations in the field of education were held. Work continues with the training module "Lessons of Tolerance" where regional representatives present in schools about the work of CPD. Regional representatives periodically visit educational institutions - primary and secondary schools, where they give presentations using the textbook 'Schools without discrimination'. CPD also works with universities. We provide lectures to students in law, social work, pedagogy and others on 'International and national legal framework for protection against discrimination', 'Mechanism for protection against discrimination - functions and powers of CPD', 'Procedural protection against discrimination in civil and administrative proceedings', 'Initiation of proceedings for protection from discrimination before CPD" and others.

CPD implement information campaigns among local businesses, employers, trade unions, associations of Roma and Roma students to implement the principle of equal treatment to the representatives of ethnic minorities and in particular to representatives of Roma ethnicity. The struggle with the hate speech and intolerance is part of the information campaigns conducted independently and in collaboration with local NGOs (Center Amalipe Veliko Tarnovo and its centers for community development and youth club in tolerance all over the country), Association Integro, Regional Roma Union - Burgas, ROS 'Kupate' - Ruse, Club "Open Society" - Ruse, Club "Young Lawyer" - Ruse, Regional Information Center - Ruse, "Roma Versitas" - Shumen and Blagoevgrad, Association "Roma" - Kavarna, National Network of Health Mediators - Dobrich, Foundation "Helping Hand" - Dobrich, FMS "Progress" - Pazardzhik, "Future" - Pazardzhik, "Sun for All" - Peshtera, Association "Roma" - Septemvri and Rakitovo, "Foundation Mladenovo" - Vidin, "Dzhanglipe" and "Cultural Center - Filchev" - Vidin, "Drom" - Vidin, "Free Youth Centre" - Vidin and others.

During the meetings in schools we discuss the main grounds for discrimination, as well as the causes of inciting hatred and intolerance, deeply embedded prejudices and stereotypes. Young people are primarily interested in the ways in which they could overcome public attitudes towards certain groups of people, as well as ways to prevent discrimination. More than 600 students and teachers took part in more than 300 school presentations. Together with the Roma NGOs 'Amalipe' and 'Roma Versitas', as well as other local and regional organizations, we are organizing November 16 - Day of Tolerance and December 10 - International Day of Human Rights. In the implementation of these joint initiatives and information events and campaigns are involved Roma pupils, students and volunteers, as well as non-Roma.
Under the partnership between CPD and 'Integro' Association in 2014 were held several events. Experts of CPD became trainers in training for young Roma, organized by Integro. The main topics were: 'Protection from discrimination', 'Opportunities for protection under the current legal framework and prospects'. 'Capacity to combat intolerance' and 'Hate speech against Roma citizens' were also part of the program. In the second half of 2014 was co-organized an expert meeting where more than 20 Roma students and CPD-experts could exchange experience, discuss stereotypes and discrimination on the ground of 'ethnic origin', and particularly 'Roma'. On the meeting were reviewed cases where the complainants are Roma. Another meeting between CPD, the Ombudsman, Roma students and NGOs had as a topic 'Hate Speech'.

What is the impact of the actions they are undertaking?

It is hard to assess, but as a result of the increased collaboration with NGO "Integro", CPD had received a significant number of complaints and inquiries. Respectively were formed proceedings concerning mostly negative and discriminatory media representation of Roma that leads to harassment: verbal threats, hate speech, and violation of Roma people dignity. Some proceedings are still in progress, others are given solutions, the last is in the process of appeal, but others have already been confirmed and entered into force. Commissioners were part of a national morning TV show where accused in indirect discrimination against Roma were TV presenters. That was broadly discussed in media.

2.7 Providing guidance to relevant actors in the fight against discrimination (e.g. employers, police forces, lawyers, teachers, media...)

Does the Equality Body cooperate with relevant actors in the fight against discrimination in order to promote equality and help them develop anti-discrimination policies and practices? Please specify which ones.

What type of initiatives is it developing? Please specify for each type of initiative which are the target groups and examples of initiatives.

- Providing guidance and practical information on equality and non-discrimination
- Promoting sharing of experiences and good practices
- Providing trainings
- Providing tailored support
- Other

CPD annually implements projects, trainings and seminars to improve national policy to combat discrimination and promote the principle of equality beyond legislation. The trainings are for the judiciary, lawyers, practitioners, students, trainees, police, media, teachers and other educational servants. During the trainings are considered practical cases.
3. Relation of the Equality Bodies with Roma communities and (pro) Roma civil society organizations *
pro-Roma organizations includes any organization, including generalist organizations, working for the promotion of the Roma community.

3.1 What is the relationship between the Equality Body and the (pro) Roma organisations?

In its strategy CPD has envisaged preventive activities for non-discrimination. These are initiatives for active cooperation with NGOs working in the field of human rights, including representatives of the Roma ethnic group. This cooperation results in partnership projects with preventive anti-discrimination orientation, awareness raising activities and inclusion of Roma representatives in the expert working groups that carry out independent studies (art. 47, p. 10 PfDA). Through independent research in education, the right to exercise work and access to services, CPD identifies specific objectives releasing a special focus aimed at ensuring equal opportunities and non-discrimination of Bulgarian citizens of Roma origin in those areas of social and economic life.

In practices about Roma, with regard to elements of their identity such as a mother tongue, culture and traditions, in the process of clarification of cases are being used proven experts of Roma origin. Research 'Awareness and sensitivity on the subject of equal treatment and tolerance'.

☐ No relation at all

☐ Informal relation. Please specify in which cases or provide some examples.

☐ Cooperation in specific cases or fields. Please specify in which cases or provide some examples.

If necessary experts are being hired in some cases.

☐ Formal framework for cooperation. Please describe it.

No such.

☐ Other

4.1. Is there any involvement foreseen in the work of the Equality Body? (e.g. participation in the development of materials and initiatives) Is this involvement actually happening? Please comment and provide examples.

CPD regularly participates in international and European expert forums. Our partners are European Roma Information Office, Organization for Security and Cooperation in Europe, Fundamental Rights Agency, EQUINET.

At national level CPD realizes joint forums and initiatives. For example with the Bulgarian Association of Lawyers for Human Rights (30/09/2014):


Municipality of Tarnovo (29 July, 2015):

4.2. Are initiatives foreseen to make the EB more visible and accessible for (pro) Roma organizations?

4.3. What is the relationship between the Equality Body and other organisations working in the field of anti-discrimination (i.e. those working on other grounds of discrimination)? Is there any good practice of the Equality Bodies (those in charge of discrimination based on racial or ethnic origin or others) that could be useful as regards discrimination on racial and ethnic origin (and especially related to Roma ethnic origin)?

There is an inter-institutional collaboration with the institution of the Ombudsman which also, similarly to CPD, has a status B for a human rights body. CPD interacts with other equality bodies though EQUINET. In cooperation with other members of EQUINET and the Secretariat of the Network we implement joint forums, seminars, exchange of experience in implementing anti-discrimination legislation. We also work together on challenges; discuss new grounds for discrimination such as intersexuality and others.

5. Equality Bodies and antigypsyism

5.1. Does the Equality Body tackle the anti-Gypsyism in their work? Please specify
5.2. Does it have a record of cases of anti-gypsyism?
5.3. Were there cases on anti-Gypsyism taken up by Equality Body?

CPD functions entirely based on the PfDA but besides this it analyses and cooperates in cases dealing with the so-called 'anti-gypsyism'. So far however, there is no legal definition of the term in Bulgaria and CPD has not done anything in this direction yet. There are registered cases of complaints from Roma that can be defined as 'anti-gypsyism' but these are registered as discrimination on the ground of 'ethnicity'. The number of files where it was established harassment, incitement to discrimination, persecution. Art. 4, Paragraph 1 of the Additional Prescriptions of PfDA explains what harassment is: Harassment is any unwanted conduct on the grounds of Art. 4. Para. 1, expressed physically, verbally or otherwise, which has the purpose or effect of violating the dignity of a person and creating a hostile, offensive or intimidating environment. We cannot say precisely whether certain cases are 'anti-gypsyism', but there are on-going and finished proceedings based on the ground of 'ethnicity'. Citizens complain that they have been discriminated or threatened, harassed based on their belonging to the Roma ethnic group.
Daniela Mihaylova is legal director of the Bulgaria-based organization Equal Opportunities Initiative Association, where she works on programs related to Roma rights, equal access to justice and public services, and the prevention of rights abuses. Daniela has fifteen years of professional legal experience in the field of Roma rights and equal opportunity, with particular expertise on anti-discrimination and human rights law at the national and international levels. She has extensive experience litigating cases related to rights protections that are mandated by the European Convention on Human Rights and the Bulgarian Protection Against Discrimination Act, conducting policy research, and participating in cross-border exchanges concerning the Roma in Bulgaria and in Europe. She received her law degree from Sofia University. As a PILnet International Fellow, Daniela developed a project to develop a street law clinic in law schools that would educate non-lawyers about their legal rights.

1. What should be changed in the current legislation with regard to protection from discrimination in your opinion?

In my opinion the Bulgarian Protection from Discrimination Act (PfDA) is a comparatively good text. The grounds for discrimination are well listed and defined. It is also an unexhausted list with grounds for discrimination, and i.e. it gives the freedom to add new grounds such as 'inter-sexuality' etc. There is not much to be changed at legislature level.

However, in my daily work I face other challenges. In Bulgaria the regional prosecutors refuse to register cases as 'hate crime'. Although the definition of 'hate crime' is given in the Penalty Code (art. 162): 'Whoever propagates or incites racial or national hostility or hatred or racial discrimination shall be punished by imprisonment of up to three years and by publicly censured', currently there are no crimes registered as 'hate crimes'. We often signalize District Persecutor Offices ('rayonna prokuratura') based on this article 162 from the Penalty Code. Regional persecutors, however refuse to initiate pre-trial proceedings and these refusals have to be appealed. Therefore we started signalizing directly the National Persecutor Office, but then again, our signal was redirected, for jurisdiction, to the regional persecutors. This is how we find ourselves in a trap. Persecutor offices usually advise us to redirect our appeals to the Commission for Protection from Discrimination, since they do not count such signals as crime.

Political Party 'National Front for Salvation of Bulgaria', for example, had openly racist propaganda in their pre-election campaign materials. We were advised by the prosecutor's office to turn to the Commission for Protection against Discrimination since this is not a crime, in their opinion.
2. Would you tell us more about your experience with CPD?

I had many cases in the CPD, concerning discrimination on various grounds. Most interesting, at least for me, are those cases concerning discrimination of Roma in media. I have initiated cases against national televisions such as BTV, NTV, TV7, the 'Standart' daily newspaper, and the information portal 'bgnes'. In Bulgaria we have the Council for Electronic Media which is a regulatory state body that monitors the air of electronic media in Bulgaria and has the right to sanction. However, they do not sanction media for discrimination of Roma or other groups, although the cases are numerous.

I have a very interesting case against Mr. Kalin Rumenov who is a hater and writes against Roma in internet. Mr. Rumenov claims that since he swore before the Bulgarian flag as a soldier it is his duty to protect Bulgaria from enemies. Based on this is this hate speech against Roma. There are many other cases.

About the legal proceedings:

If you suffer from discrimination you can either choose to complain before the court (civil procedure) or before the Commission for Protection from Discrimination. The process with CPD is comparatively faster than if you choose to go before the court. CPD collects evidence ex officio, while the courts do not make their own investigation. However, CPD cannot provide the claimant with remedies. Remedy, if discrimination proven, is being collected by the state.

No matter whether a citizen has chosen to go before the court or before the CPD, the last instance is the Supreme Administrative Court.

However, if CPD has judged that one of the sides has been discriminated, the claimant can take this case before the Supreme Administrative Court and there a personal remedy can be required, based on the CPD-judgment.

I would like to say something about the class action (actio popularis). The PfDA and CPD give the option for NGOs to take some cases for discrimination before CPD even without the consent of the interested parties. I find this as a very good clause because often Roma and other citizens are worried to get in direct contact with CPD or any other court.

Although the CPD has the right, according to PfDA, to signalize the Parliament if any of the adopted texts or bills is discriminatory, there is no evidence, so far, that this happened. There are very few self-referral cases of the Commission, although we as a society are witnessing many cases of discrimination, especially through media. The last case of self-referral for example is the one of Commissioner Lalo Kamenov who initiated a case against the Mayour of Kyustendil for publicly claiming that he will not allow the Roma population to exercise their right to vote on a local referendum.

CPD is lacking human and financial resource and their work is being delayed, from 3 to 5 month, i.e. they do not comply with the statutory deadlines for coming up with a decision in the prescribed period.

A thing that, in my opinion, should be changed in order to make the work of CPD more effective and faster is the Commission to stop accepting cases with regards to
discrimination based on the ground of 'age'. There are so many cases, where usually employees state they have been fired because of their age. This is a huge number of cases and the Commission is still accepting them and they initiate files and proceedings on them. Why? We are witnessing so many, much heavier, cases of hatred and discrimination, so I do not think the Commission should continue accepting such files.

Another, serious issue I see is the definition of 'segregation' given by the protection from Discrimination Act in Bulgaria (PfDA, Paragraph 6, Additional provisions): "Racial segregation" is the issuance of an act, action or omission leading to forced division, separation or separation of a person based on their race, ethnicity or skin color.' This is an incorrect transposition of the Racial Equality Directive in Bulgaria. Why there should be 'forced' division and how do you prove it? In the text of Racial Equality Directive there is no such text. This makes it difficult for us to initiate proceedings on segregation even in those cases where Roma children in fact are segregated.

3. Would you share with us some of your most challenging cases?

The most challenging are definitely those related to the evictions of Roma. We already had in Stara Zagora, Varna, and most recently in Garmen. Many times people are calling me and telling me: 'Tomorrow they are coming to destroy our houses, please do something'. Often there is no even time to react. For the evictions in Varna, for example, the mayor even did not warn the inhabitants when the machines are expected to come. I received a call in the night before the demolitions. In such urgent cases the procedure is that all the documentation has to be sent via fax to the Court of Human Rights in Strasbourg so they can stop the demolitions. I do not know why is via fax and why not via e-mail or phone, sometimes it is so urgent. However, in the Varna case was too late. At the time Strasbourg reacted only a few houses remained untouched. In Garmen the municipality demolished few Roma houses and then they had to stop, because of signal to Strasbourg. These people are not even in the centre of the settlement, why Garmen municipality have started this I cannot say. At the time I received the signal they have demolished few houses and the demolitions were made randomly. One house here, one there. I am asking how they selected these houses and why did not start the demolitions in order, as all of the houses were supposed to be demolished? People in Garmen were living in peace; the tension is coming from the nationalistic party in the parliament.

Other case I currently have is against the Sofia Municipality and their online system for signing children for kindergartens. The problem is that there is no alternative to this online signing. How citizens who do not have internet and who do not know how to use it will be able to sign their children in kindergartens. Such is the case of many Roma parents in Sofia.
1. What is your interaction with the CPD?

We have signalized them once about the demolition of the Roma ghetto here in Veliko Tarnovo in 2007. And I must say that they reacted and it was a proper and timely intervention from their side. Otherwise we regularly invite the regional representative of CPD for Veliko Tarnovo to attend various events of ours. We have worked together on the project ‘Youth is Tolerance’ where the regional representative took part and discussed with young people about discrimination.

2. Is there anything that should be changed in CPD.

Many things should be changed. It is important that the CPD has a mandate from the Parliament. However, the biggest weakness of the CPD is that does not reach people at the local level. It goes only to regional level, but even there: in some districts they have representatives and in some not. The real problems are at local level. Currently CPD reaches only the regional one. I suggest they need a bigger budget.

Another issue is that CPD remains invisible for the schools. We work with many schools and we don’t see CPD there. This preventive function of CPD is very important. Currently we don’t see that.
Lili Makavaeeva,
Chairperson of Integro Association
Razgrad, Bulgaria
Skype interview, 21/10/2015

Association Integro used to be the focus point of the Decade for Roma Inclusion 2005-2015 for Bulgaria. The Decade, however just closed its doors.

Our work against hate speech directed to Roma, initially started in 2008-2010 when we implemented the project ‘Thank you Mayor!’ Then we had Roma youngsters involved in monitoring of electronic media and press. We trained young Roma how to make monitoring of media in order to find hate speech against Roma. Young Roma students did their own research based on our methodological support, we assembled a final report on the matter of hate speech against Roma in media and we presented our findings.

Working on this project we realized that there are two big problems ahead of us. The one is the internalized by the Roma racism they face on a daily basis, and the second is the passivity of the institutions towards changing this situation. Both of our findings led us to one key problem: hate speech.

Therefore, 2 years ago, in September 2013, we started a second project funded by the Roma Initiative Office of Open Society Institute, Budapest. This time we wanted to go further than simply collecting evidence for hate speech against Roma in media. We also wanted to address this hate speech by training young Roma and local NGOs how to signalize the Commission for protection from Discrimination and other institutions for hate speech. Our main goals with this project were to raise the awareness of young Roma people on the issue of hate speech, to train them how to recognize it and to monitor it in the electronic media only and to initiate proceedings before different authorities to actually solve the problems we have found.

This project is ending soon, in the end of October, 2015 and we will come up soon with a report and recommendations. However, I can share with you some of our work and findings.

What we have found through our work is that the Commission for protection from Discrimination is far not the only authority in Bulgaria dealing with hate speech. These are also **prosecutors, on the first place. Actually the only place where hate speech as defined as such** is the Penalty Code, under article 162, paragraph 1. Therefore, when there is a case, we signalize the regional persecutor to initiate a case, based on this text. However, the prosecution generally refuses to initiate such cases. They do not answer and it takes time.

Other institution that should deal with hate speech, particularly the one in media, is the **Council for Electronic Media** – a regulatory state body regulating media services in Bulgaria. In articles 10, 17 of the Radio and Television Act it is said that media should not **suggest ethnic intolerance**.

The Commission for protection from Discrimination turns to be the most effective of these three institutions. However, **in the text of the Protection from Discrimination Act there is**
no given definition of hate speech. This text defines direct and direct discrimination based on different grounds, one of them is ethnicity. There is no word for antigypsyism or hate speech.

As we can see, the three acts are using different language: 'hate speech' in the Penalty Code, 'discrimination on ethnic ground' in the PfDA and 'ethnic intolerance' in the Council for Electronic Media. And actually we are talking about one single issue, namely hate and discrimination towards Roma, or the so-called Anti-gypsyism.

What we have actually found is that hate speech is not regulated by the Commission for protection from Discrimination. Actually it is not regulated at all. From these three organizations above, only the Commission for Protection from discrimination has initiated cases on its own initiative when it comes to Roma, but there is no such initiative taken from the Council for Electronic Media and the prosecutor's office, despite the legal framework is on place. These inactions of these state bodies when it comes to hate speech against Roma enforce even more the feeling that everybody can use hate speech against Roma. For example in media they often say 'A group of Roma killed, stole...' etc. This is openly encouraging people for hate speech against all Roma.

Actually there is one organization that deals very well with such issue of hate speech in media. Surprisingly, this is not a state body but an association - 'National Council for Journalistic Ethics'. This is an alliance of TVs and other electronic media and they often impose sanctions when the language of hate speech is being allowed in air.

What we have discovered during our project and work with the Commission for Protection from Discrimination is that the number of cases dealing with discrimination based on ethnicity is comparatively low. At the same time we are witnessing hate speech against Roma on a daily basis, especially from media. After the young Roma had the monitoring we had many cases of discrimination. Therefore we also trained 10 local Roma NGOs how to signalize for discrimination the different institutions. The work with the Regional Persecutors and the Council for Electronic Media turned to be very much ineffective. However, we have submitted more than 100 signals for discrimination of Roma in the CPD and I should say that for approximately 60 % of the cases there were initiated proceedings, i.e. the CPD started investigations. A famous case is the one against Ani Tsolova and Viktor Nikolaev from the morning block of the national bTV. Through one of our local NGOs from Petrich we initiated a case and finally the Commission fined them for discrimination against Roma.

I hope this high number of cases signalizing for discrimination of Roma, this high reporting to remain for the next year as well, as our project its ending now.

What we have found is that on the issue of hate speech there is no enough collaboration. For the first time we gathered representatives of the CPD and of the Council for Electronic Media together to work on this issue. It appears that the current servants at the Council for Electronic Media are not enough sensitive when it comes to speech against Roma, therefore we recommend there to be Roma employed. From legislative point of view there are many gaps as well - not clear or detail definitions which prevent taking effective measures from the side of the administration.
Currently we are working with an expert group and we will come up with recommendations to improve the legislation addressing the hate speech in Bulgaria. We will announce them soon.