



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF PAKETOVA AND OTHERS v. BULGARIA

(Applications nos. 17808/19 and 36972/19)

JUDGMENT

Art 14 (+ Art 8) • Discrimination • Positive obligations • Private and family life • Home • Authorities' omissions resulting in ethnic Roma being driven away from their homes after anti-Roma protests and not being able to return • Officials' repeated public display of unacceptance of the Roma and opposition to their return, reinforcing applicants' legitimate fear for their safety and representing a real obstacle to their peaceful return • Disadvantaged and vulnerable position of Roma and need for their special protection • Failure to provide measures of special protection and information on assistance

STRASBOURG

4 October 2022

FINAL

04/01/2023

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Paketova and Others v. Bulgaria,

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Gabriele Kucsko-Stadlmayer, *President*,

Faris Vehabović,

Iulia Antoanella Motoc,

Yonko Grozev,

Pere Pastor Vilanova,

Jolien Schukking,

Ana Maria Guerra Martins, *judges*,

and Ilse Freiwirth, *Deputy Section Registrar*,

Having regard to:

the applications (nos. 17808/19 and 36972/19) against the Republic of Bulgaria lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by the fifty-six Bulgarian nationals listed in the appendix (“the applicants”), respectively on 1 April 2019 (by the first to the fifty-fifth applicants) and on 1 July 2019 (by the applicant in application no. 36972/19);

the decision to give notice to the Bulgarian Government (“the Government”) of the complaints under Articles 3 and 8 and Articles 13 and 14 in conjunction with the former two provisions, and to declare inadmissible the remainder of the applications;

the decision to give priority to the applications (Rule 41 of the Rules of Court);

the decision to reject the request for withdrawal from the case of judge Grozev, submitted by the Government;

the decision to indicate an interim measure to the Government under Rule 39 of the Rules of Court;

the observations submitted by the Government and the observations in reply submitted by the applicants;

the comments submitted by the non-governmental organisation the European Roma Rights Centre, which was granted leave to intervene by the President of the Section;

Having deliberated in private on 13 September 2022,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case concerns the applicants’ complaints that they had been forced to leave their homes and prevented from returning subsequently, and that the authorities had refused them protection in an environment of racially based hostility. The applicants relied on Articles 3, 8, 13 and 14 of the Convention.

THE FACTS

2. The applicants were born on the dates indicated in the appended table. They are members of several families of Roma origin. At the time of the events they lived in Voyvodinovo, a village in Maritsa municipality, Plovdiv region. The applicants were represented by Mr K. Kanev, chairperson of the Bulgarian Helsinki Committee, a non-governmental organisation based in Sofia. On 15 January 2016 the then President of the Fifth Section gave Mr Kanev leave to represent the applicants in all pending and future cases in which he had been appointed to personally act as their representative (Rule 36 § 4 (a) *in fine* of the Rules of Court).

3. The Government were represented by their Agent, Ms R. Nikolova of the Ministry of Justice.

4. The facts of the case, which have received widespread media coverage, may be summarised as follows.

I. THE EVENTS ON 6 JANUARY 2019

5. On 6 January 2019 the thirty-first applicant was involved in a physical fight in a street in Voyvodinovo, as a result of which a non-Roma member of the military sustained injuries and was taken to hospital. The thirty-first applicant and his brother were immediately arrested, criminally charged in connection with the brawl, held continuously in detention until April 2019 and were given suspended prison sentences at the end of the judicial proceedings.

6. According to the applicants, at about 6 p.m. on 6 January 2019 angry members of the local population started gathering in the village to protest against the incident. Followers of radical extremist groups from Plovdiv joined them. The protesters walked around the village streets shouting anti-Roma slogans and threats of physical violence. Police forces arrived from Plovdiv in order to maintain public order. At about 10 p.m. the mayor of Voyvodinovo (also subsequently referred to as “the village mayor”) arrived in the Roma neighbourhood and told all the inhabitants there to leave immediately. Fearing for their safety, the majority of them (about a hundred Roma) left without delay the same night, by taxi or in friends’ cars; the few who remained hid in the houses overnight and left the following day.

7. According to a district police report of 29 January 2020, addressed to the head of the Plovdiv regional police directorate and prepared in the context of providing information for the purposes of the present application before the Court, immediately after the incident on 6 January 2019 the population of Voyvodinovo organised a series of recurrent protests. They lasted for about two weeks (see paragraphs 16-18 below) and were held in the street where the perpetrators had lived along with other Roma inhabitants. The police were present on 7 January 2019 during the first protest in the village. The Roma

houses that had been abandoned on the evening of 6 January 2019 remained empty that day and for the following few days.

8. According to the Government the protests were directed against the Roma inhabitants of the village. The police had been tipped off that the non-Roma majority wished to drive the Roma away from the area and demolish their houses since they considered that they had been built unlawfully. In response to this, there had been a permanent police presence during the period when the protests were taking place, and the police had ensured public order and traffic safety, and not allowed any damage to be done to private property.

9. The protests received widespread media coverage and video-footage was broadcast by several television stations.

II. VISIT BY THE DEPUTY PRIME MINISTER TO VOYVODINOVO ON 8 JANUARY 2019

10. On 8 January 2019 the then Deputy Prime Minister overseeing public order and safety, who was also Minister of Defence, arrived in the village. Having first stopped at the hospital to see the member of the military injured on 6 January 2019, he visited the Roma settlement, accompanied by the village mayor, the mayor of Maritsa municipality (also referred to below as “the municipal mayor”) and high-ranking police officials. The daily newspaper *Sega* reported that they ordered immediate measures to be taken, namely checks to be carried out on all the houses in the Roma neighbourhood.

11. The then Deputy Prime Minister also stated, as reported by Karlovo TV, as follows: “The municipal authorities have started checking the buildings, all of which are absolutely illegal, reports are being drawn up in that connection, and they will be followed by mayoral orders before demolition begins; those unfit for usage will be knocked down immediately.” He was reported by *Sega* to have said the same day that “all unlawfully built houses in the Roma neighbourhood in Voyvodinovo will be demolished”.

12. He also stated, as broadcast on national television on the same day, and further cited by several other media in the following days, that “Gypsies in Bulgaria have become tremendously brazen. A few days ago, they beat up a policeman, now a member of the military. This cannot continue and the tolerance of Bulgarian society has run out.”

13. He also reportedly stated that immediate measures would be taken for dealing with the problems with the Roma population. He also stated on the same day, in a video-recording by regional media *Plovdiv Press* which is available online, and reported by *Sega*, as follows: “There is one part of the population – I do not know why they call them Roma, are there any Romans around?! – which is a totally lost cause, which does not wish to integrate, to work, to take the interests of others into account, does not respect others’ life and health, and acts as it pleases. And that is owing to the fact that this part of the population, the majority of this gypsy population, lives in illegal

ghettos, consumes electricity illegally, considers that they do not need to accept anybody and in practice they become a marginalised group in society living by the laws of the jungle.”

14. In response to a question put by a journalist about what he thought of the protesters, the then Deputy Prime Minister said “It is their right to protest. I would call on them to avoid taking justice in their own hands. There are law-enforcement bodies and, as we see, they do their work well.” In response to a question about where all the inhabitants of the Roma neighbourhood would go if their houses were suddenly demolished, he was cited as replying “Take them to your place.”

III. INSPECTION OF THE ROMA HOUSES AND ORDERS FOR THE DEMOLITION OF UNSAFE BUILDINGS OF 8 JANUARY 2019

15. On 8 January 2019 the *ad interim* municipal mayor appointed a commission of building inspection officials, which drew up a record establishing that fifteen buildings in the Roma neighbourhood posed a danger to their inhabitants and were unfit for use and recommending that they be demolished. On 9 January 2019 the *ad interim* municipal mayor issued four orders for the demolition of those buildings, which were knocked down in the following couple of days. It would appear that the buildings in question were mostly auxiliary sheds not used as main housing premises.

IV. PROTESTS BY THE LOCAL POPULATION AGAINST THE ROMA INHABITANTS OF THE VILLAGE

16. Protests, which had started on the evening of 6 January 2019, continued in the following days (see paragraph 7 above). Many of the protests were recorded and broadcast on television and continue to be available on YouTube.

17. On 8 January 2019 protesters called Roma “carrion” (*мършуи*) and “pikeys” (*мангали*). Posters were put up bearing the slogan: “This is Bulgaria, not Gypsyland (*Тук е България, а не Цигания*)”. Some of those interviewed by the media openly spoke about how unacceptable the Roma way of life was and urged the Bulgarian population to unite and take things in their own hands if the authorities failed to do so.

18. On 11 January 2019, during the largest march on the streets of Voyvodinovo, protesters, who included many football fans from other cities, chanted repeatedly throughout the evening: “Eeo, eeo, eeo! Calling myself Bulgarian is my greatest joy!” A general addressed the crowd with the words: “Let us say no to the Gypsy iniquity! With Bulgarian flags and the red beret.”

19. On 11 January 2019 a group of academics published an open letter to the Bulgarian Prime Minister in support of the Deputy Prime Minister’s

statements against the Roma, in view of the “increasingly insolent atrocities of the Gypsy citizens”.

V. PUBLIC STATEMENTS BY OFFICIALS IN RELATION TO THE DWELLINGS IN THE ROMA NEIGHBOURHOOD

20. On 9 January 2019 the deputy municipal mayor stated publicly, as filmed and broadcast by Bulgarian news agency BTA: “We are continuing. The next step is to demolish the big buildings and to clear the land. For every building there should be a demolition order, which should be personally delivered or placed visibly on the house. We are waiting until the time-limit for appeal expires, and we are continuing until the area is 100% clean.”

21. On 10 January 2019 the village mayor stated on the television channel OnAir, which was then also reported by other media: “Public opinion is unanimous: there is no coming back [for the Roma]. Not one house will remain.”

22. On 11 January 2019 the village mayor stated to the national television channel bTV: “After clearing the land, it will be placed on a municipal list for sale. If no one is interested, it will be used as a park.”

VI. FURTHER ORDERS FOR THE DEMOLITION OF HOUSES IN THE ROMA NEIGHBOURHOOD

23. On 16 January 2019 the municipal mayor issued seventeen orders for the demolition of unlawful buildings under section 225a(1) of the 2001 Act (see paragraph 100 below). The orders referred to the findings in the record of 8 January 2019 (see paragraph 15 above) and were based on decisions (*констативни актове*) by the building inspection officials of 8 January 2019. The overseeing of the demolition was delegated to the village mayor. Among the buildings identified for demolition were the houses of the applicants.

24. The applicants brought judicial review proceedings before the Plovdiv Administrative Court challenging the orders. Seventeen administrative cases were opened by that court.

VII. THE APPLICANTS’ REQUEST FOR PROTECTION TO RETURN TO THEIR HOUSES AND THEIR ATTEMPTED RETURN ON 9 FEBRUARY 2019

25. On 1 February 2019 thirty-four of the applicants wrote to the Plovdiv regional directorate of the Ministry of the Interior, asking the police to provide them with protection so they could return to their homes in Voyvodinovo. Specifically, they stated that they lived with their families in Voyvodinovo and that the whole Roma community living in the Roma

neighbourhood of the village had been forced to leave on 6 January 2019 as a result of threats of physical violence directed at them. Ever since, they had been living at relatives' homes, squatting in empty buildings or even sleeping on the street.

26. The thirty-four applicants emphasised that the situation was intolerable in the long term, as their relatives did not have much space themselves, their children could not attend school and they had left their belongings behind unattended in their houses. They expressed their intention to return to their homes, but stated that they were afraid of the threats against them which had been voiced publicly by private individuals. Those threats had started on 6 January 2019 and had continued to that day. They reiterated their request for urgent and effective action by the police so the families could safely return to their homes.

27. Without providing further details, the applicants submitted to the Court that shortly after their request, the police had contacted some of them by phone, as well as some non-governmental organisations, in an attempt to dissuade them from returning.

28. In the morning of 9 February 2019, some inhabitants of the Roma neighbourhood in Voyvodinovo returned to it. According to the applicants, there were about forty of them, while the Government submitted that there were no more than twenty.

29. According to the applicants, they returned at around 9.30 a.m. and the Roma neighbourhood was empty. Sometime later a police car arrived and two police officers subjected them to an identity check. Then some more police arrived together with a senior officer who ordered the police to prevent the Roma from entering their houses, claiming that the buildings were dangerous. The village mayor arrived after the police and categorically refused to let the Roma enter their houses. Protesters arrived in the Roma neighbourhood about two hours after the forty or so applicants.

30. As recorded in an operational action plan (*план разстановка*) drawn up by the police on the same day in connection with these events, the police were informed that a civic protest had been organised against the return of the Roma population to their houses, which it had been declared in the meantime had been built illegally. The action plan's stated aims were: ensuring public order and collecting information about the organisers' and the participants' profiles and whether their intentions included breaching public order, committing offences or carrying out provocative actions aimed at third parties, and undertaking measures to prevent this. The duties of the police included: identifying and apprehending individuals who had committed offences prior to, during and following the end of the event; preventing and terminating all kinds of antisocial and unlawful behaviour; identifying suspicious individuals; and resorting to coercive measures, physical force or use of arms only in situations provided for in the Ministry of the Interior Act.

31. The report referred to in paragraph 7 above stated that the police had identified the situation as one of high risk in terms of breaches of public order, basing their assessment on the previous protest of 6 January 2019 which had been held following a serious criminal act by Roma individuals. The regional police director had issued an order on 9 February 2019, which, together with the operational action plan, aimed to ensure public order and safety (see paragraphs 30 above and 48 below). The police had blocked the access of the group of protesters to the Roma houses and had thus prevented breaches of public order without using physical force.

32. Once the village mayor arrived on the scene, the applicants who had returned had a long and animated conversation with him in the street in front of their houses. As could be seen in a video-recording of that encounter, filmed by a national media outlet (*Monitor*), he told them that they could enter their houses once they had shown him documents proving ownership. He added that the village did not want them there, that they had done nothing but cause damage in the years they had lived there, and that he could do nothing to stop the people who did not want to see them return.

33. At the end of the conversation, the applicants in question left in a bus, provided by the village mayor and apparently driven by him personally (see paragraph 48 below), which took them to the Roma neighbourhood in Plovdiv. The police escorted the bus.

34. The events on 9 February 2019 were widely covered in the media, which reported a strong police presence in Voyvodinovo as a result of tension between the two communities, sparked by the return of the Roma against whom the local population protested, including by attempting to storm the Roma neighbourhood. It was also reported that the village mayor had driven the Roma away on a bus after the local population had marched towards the Roma neighbourhood and attempted to break the police blockade. The situation had been triggered by the cruelty of two Roma the previous month who had attacked and beaten a member of the military, in response to which the village population had rioted. The Deputy Prime Minister had personally visited the village and the municipality had started to demolish the unlawful buildings. The inhabitants of those houses had then left the village voluntarily.

35. On 12 February 2019 Bulgarian National Television reported, broadcasting related video, that about 300 people living in Voyvodinovo had asked the municipal authorities that day not to allow the Roma to return and had warned that, if that were to happen, the demonstrations would resume. The municipal and village mayors assured them that the Roma could not return because judicial proceedings were pending (see paragraph 37 below).

VIII. SUBSEQUENT PUBLIC STATEMENTS BY OFFICIALS

36. On 10 February 2019 the deputy municipal mayor was reported by *Monitor* to have said: “On Monday we will declare their houses too dangerous to use, so that they do not return again.” On the same day the village mayor was reported by *24 Hours* to have said that the return of the Roma was a provocation orchestrated by human rights organisations.

37. On 12 February 2019 the deputy municipal mayor stated on Bulgarian National Television: “The Roma cannot return here to Voyvodinovo, because there are ongoing judicial proceedings and the law states that where that is the case it is for the court to decide on the matter. We are waiting for the court to deliver its decision.”

38. On 25 April 2019 the village mayor stated on Darik Radio: “Whatever the court decides, it is up to the people of the village, and they do not want them to return, so there will be a lot of trouble in the future if this is somehow allowed to happen... They have so far lived at the expense of society. Now it is time that Bulgaria shakes them off and they leave. Yes, they will suffer, but they will go in the right direction. If they don’t like it, they can find another place to live. I said that I would pay their transport costs from Bulgaria to wherever they decide [to go].”

IX. ADMINISTRATIVE JUDICIAL PROCEEDINGS AIMED AT ALLOWING THE APPLICANTS TO RETURN TO THEIR HOMES

A. The applicants’ requests

39. On 14 February 2019 seven of the applicants brought judicial proceedings under Article 250 of the Code of Administrative Procedure (see paragraph 88 below) by submitting seventeen separate claims in respect of themselves and their families.

40. They submitted that on 6 January 2019 they had been made to leave their houses, where some of them had lived for thirty years, after threats against their and their families’ safety had been made at a protest following a criminal incident in the village of Voyvodinovo earlier on the same day. On 16 January 2019 the municipal mayor had issued orders for the demolition of the houses as having been built unlawfully (see paragraph 23 above).

41. The seven applicants stated that they had returned to the village on 9 February 2019 with the intention of going back to their houses, where they had left most of their belongings following the hasty departure on the evening of 6 January 2019. However, both the police and the village mayor had told them that they could not return to their houses. The reason they had been given was that, as judicial administrative proceedings were ongoing, only once they had ended in favour of the applicants could they occupy their homes again (see paragraph 100 below). If the courts found against them, however,

the houses were going to be demolished. The applicants who had returned to the village had asked where they were supposed to live in the meantime and the mayor had replied that it was not his concern.

42. The applicants who had returned to the village had asked about the legal grounds for preventing their return to their homes, but they were not given any. Instead, the mayor had told them that the people of the village did not want the Roma there (see paragraph 32 above). The police had lined up, forming a barrier, thus blocking those applicants' access to their houses.

43. Referring to the above situation, the seven applicants requested the court to order the village mayor and the police to cease without delay any and all actions resulting in blocking their and their families' access to their homes, in so far as those actions were not based on an administrative decision or did not stem from the law.

B. Court decisions at first instance

44. Seventeen cases were opened by the Plovdiv Administrative Court under Article 250 of the Code of Administrative Procedure (see paragraph 39 above). In seventeen rulings (*определения*) of 21 February 2019 different formations of that court found the requests inadmissible. In reaching its conclusions the court observed, *inter alia*, as follows.

45. The municipal mayor had issued orders on 16 January 2019 for the demolition of unlawfully built houses (see paragraph 23 above), including the claimants'. Upon appeals by the claimants, the proceedings were pending before the Plovdiv Administrative Court. The municipal mayor's orders were not immediately enforceable.

46. In the proceedings brought by the claimants, they had alleged in particular that physical actions by the village mayor and the police had prevented them from returning to their homes. Protection under the said legal provision (see paragraph 88 below) could be provided in situations in which officials' actions did not stem from an administrative act or the law. The protection that could be provided was an order for the immediate and unconditional ceasing of such actions. Such actions however had to be taking place at the time when protection was being sought. Protection could not be provided when such actions had ceased in the meantime.

47. According to the regional police directorate, the police had been tipped off at 11.08 a.m. on the morning of 9 February 2019 via an emergency telephone line that "about twenty gypsies had turned up in the Roma neighbourhood of Voyvodinovo, had lit a fire and had been warming themselves around it. About an hour later, some sixty to seventy people had arrived in the Roma neighbourhood and had gathered at around 60 metres away from the gypsies."

48. According to the police, they had identified the situation as one of high risk in terms of breaches of public order, basing their assessment on the

previous protests of 6 January 2019 which had been held following a serious criminal act by Roma individuals (see paragraph 7 above). The regional police director had issued an order on 9 February 2019 which, together with an operational action plan (see paragraph 30 above), had been aimed at ensuring public order and safety. The police had blocked the protesters' access to the Roma houses, thus preventing breaches of public order without using physical force. The Roma had been driven away by the village mayor in a bus just after 3 p.m. when everything had settled down.

49. According to the village mayor, he had been alerted on the morning of 9 February 2019 that a group of Roma had returned to their neighbourhood and were standing next to their houses. When he had arrived on the scene at around noon, he had found about a hundred persons gathered next to the church on the main road and the police blocking their access to the unlawfully built houses. He had spoken with both groups there. He had told the protesters to keep calm and not to take justice into their own hands. He had invited the Roma to collect whatever they could and to leave as quickly as possible. The reason was that he could not guarantee their life, health and safety, in view of the unpredictable conduct of the protesters, whose numbers were growing. In the words of the mayor, neither he nor the police had prevented in any way the return of the Roma to their houses; on the contrary, the police had been preventing the protesters from reaching the houses.

50. The court then observed that, following its own order to that effect, police had visited the Roma neighbourhood between 9 and 10 a.m. on 20 February 2019, and had established that the houses were uninhabited. Nothing suggested that the claimants, who had not been present that day, were being prevented by anybody from returning to their houses.

51. The court concluded that, as the police had been ensuring public order on 9 February 2019 on the basis of the law and the police director's order, and their duties had not included preventing individuals from entering their own houses, they could not be held accountable under Article 250 of the Code of Administrative Procedure.

52. Furthermore, as could be seen from the explanations of the village mayor, on 9 February 2019 he too, like the police, had been preventing the protestors from reaching the Roma who had been standing next to the unlawfully built houses on municipal land. He had acted in accordance with his legal obligations and responsibilities stemming from the Local Administration and Local Self-Governance Act.

53. Even if it were accepted that the actions complained of had taken place on 9 February 2019, something that had not been established, the inspection had shown that neither the village mayor nor the police had been preventing the applicants' access to their houses on 20 February 2019 (see paragraph 50 above). Nor had that happened on 14 February 2019 when the requests before the court had been made.

54. In two of the decisions, the court added that, even if the authorities' actions had somehow affected the claimants' right to enjoy their private and family life and their home under Article 8 of the Convention, they had done so within the acceptable limits on the exercise of that right, namely to ensure public safety and prevent disorder.

55. The court concluded that the requirements of Article 250 of the Code of Administrative Procedure were not met, the claimants did not have a legal interest, and their requests had to be left without examination and the proceedings terminated.

C. Court decisions at last instance

56. The seven applicants appealed before the Supreme Administrative Court ("the SAC"). They emphasised that they had been driven out of their houses under a threat of violence on 6 January 2019 and had continually been prevented from returning thereafter. In particular, when they had attempted to return to their homes on 9 February 2019, the village mayor and the police had prevented them from doing so. This had been widely reported in the media and no further proof was necessary. Such a restrictive interpretation of the law in favour of the authorities was another demonstration of the disregard for the rights of the Roma community in Voyvodinovo. Their inability to live in their homes in the middle of winter, in the absence of a final judicial decision in respect of the legality of their houses, was unacceptable. Shortly after 6 January the village and municipal mayors had had some of the buildings in their neighbourhood demolished. Video-footage of the demolition had been broadcast on primetime television. Furthermore, the local population had demonstrated that they were permanently prepared to attack the Roma, which made their peaceful return impossible. This was a fact known to the whole country. By declaring their claims inadmissible, the lower court had denied the applicants justice.

57. In final decisions adopted between 18 April and 7 June 2019, the SAC upheld the lower courts' findings and confirmed that the seven applicants' requests were inadmissible. In particular it found that the actions whose termination was being sought had ceased before the claimants had turned to the courts, which rendered Article 250 of the Code of Administrative Procedure inapplicable.

X. COMPLAINTS TO THE PROSECUTOR'S OFFICE

A. First set of proceedings

58. On 15 January 2019 the head of the Bulgarian Helsinki Committee, the applicants' representative in the present case, submitted to the Chief Prosecutor that the demolition of some of the Roma buildings, shortly after

they had left their neighbourhood in Voyvodinovo on 6 January 2019, had been discriminatory and targeted the Roma as a form of collective punishment, solely because of their ethnic origin. He described the background leading to these events as evidence of the alleged motivation behind the actions and submitted eight Internet links containing video-material of related media reports.

59. On 20 March 2019 the Plovdiv district prosecutor refused to open criminal proceedings. She referred to the demolition orders of 9 January 2019 (see paragraph 15 above) and 16 January 2019 (see paragraph 23 above) and found that no damage to property on ethnic grounds, an offence under Article 162 § 2 of the Criminal Code (see paragraph 93 below), had been committed.

60. The applicants' representative appealed, complaining in addition that the Roma inhabitants had been expelled from their homes on 6 January 2019 without a lawful ground. That had been discriminatory and demeaning for them and in breach of a number of provisions of the Criminal Code. He requested that all relevant criminal-law provisions in this context be taken into consideration.

61. On 28 May 2019 the Plovdiv regional prosecutor quashed the district prosecutor's decision (see paragraph 59 above). He found that her examination of the complaint had been limited to a reference to the documents in the administrative files concerning the houses in question, on which basis it had been decided that there had been no damage to property on the ground of racial hatred. The Plovdiv regional prosecutor concluded that there had been numerous investigative deficiencies, among which a failure to question any of the relevant public officials or any of the alleged victims, and a failure to establish the reasons for which the municipal authorities had begun the process of demolishing the houses after having tolerated them for many years. Likewise, it had not been established whether the inhabitants of the demolished buildings had been relocated to social housing or whether the authorities had at least offered them such a possibility. The district prosecutor's decision had been wrong since it had been taken in the absence of fully elucidated circumstances. He returned the file to the district prosecutor for further investigation, instructing that a global assessment of the relevant facts be made under the substantive criminal law, and not solely as regards a potential offence under Article 162 § 2 of the Criminal Code.

62. On 29 August 2019 the Plovdiv district prosecutor, having considered the appeal by the applicants' representative (see paragraph 60 above), implicitly refused to open criminal proceedings, finding that "it was out of the question that an offence under Article 162 of the Criminal Code had been committed". In doing so he listed the mayoral orders issued in connection with the Roma houses (mentioned in paragraph 59 above), referred to the inspection they had been based on (see paragraphs 15 and 23 above) and noted that requests for injunctions had been brought before the administrative

courts (see paragraph 39 above), before which proceedings for challenging the different mayoral orders were also pending (see paragraphs 23 above and 85 below). Five of the individuals who had been living in the houses had been questioned and none of them had managed to produce any document evidencing ownership or any construction-related papers. The municipal mayor had indicated that all requisite checks had been carried out before the demolition orders had been issued. According to the building inspection officials, who had carried out the inspection on site on 8 January 2019, all the houses had been empty on that day. All the orders had been issued in accordance with the mayor's legal obligations and responsibilities, following the conclusions of the inspections and not as a result of racial intolerance. The district prosecutor referred the file to the Specialised Prosecutor's Office in view of exploring whether an offence under Article 282 of the Criminal Code (see paragraph 90 below) had been committed.

63. The applicants' representative appealed, emphasising that the complaint related to the chasing away of around one hundred people from their only homes on 6 January 2019, the repeated racist chanting during the subsequent anti-Roma protests in the village and the impeding of some of the Roma inhabitants from returning to their homes, including by the categorical statements of the village mayor that he would not allow them in. The representative pointed out that the prosecutor had to examine whether those acts were acts of violence on an ethnic ground. Respectively on 23 April 2020 and 12 May 2020, the Plovdiv regional prosecutor and the Plovdiv appellate prosecutor confirmed the lower prosecutor's decisions. In a letter (not decision) of 20 July 2020 the Chief Prosecutor's Office confirmed the appellate prosecutor's decision, finding that there had been no evidence of intolerance on ethnic grounds.

64. In a decision of 27 September 2019, the Specialised Prosecutor's Office to whom the file had been sent (see paragraph 62 above) refused to open criminal proceedings, finding that no offence had been committed. The prosecutor found that the information collected thus far sufficed to establish the circumstances and that it was unnecessary to carry out further investigative steps. The municipal mayor had acted fully within his legal obligations and responsibilities in issuing the orders under the 2001 Act (see paragraphs 15 and 23 above) and, consequently, his actions could not be examined as an offence under Article 282 § 1 of the Criminal Code or under any other criminal-law provision.

B. Second set of proceedings

1. At first instance

65. On 20 February 2019 twelve of the applicants, acting on their own behalf and on behalf of their children, complained to the Plovdiv regional prosecutor's office. They stated that the whole Roma community of

Voyvodinovo had been driven away on 6 January 2019 as a result of threats of physical violence by third parties and the explicit request by the village mayor for them to leave. The twelve applicants also complained that the village mayor and the police had not allowed them to return to their homes when they had attempted to do so on 9 February 2019. They further reiterated submissions on this point they had made before the administrative courts (see paragraph 42 above). They asked that the officials at fault be prosecuted for abuse of power or office and for exceeding their power (see paragraph 91 below), or potentially other offences. Without specifying further, they also asked the prosecutor to exercise his or her legal powers to provide them with access to their homes (see paragraph 94 below).

66. A preliminary inquiry into “whether an offence under Article 282 of the Criminal Code had been committed in connection with the events of 6 January 2019” was carried out by the regional economic police on a request by the regional prosecutor.

67. The police contacted eight of the applicants by phone, on the number indicated in the complaint. All eight of them gave statements. According to those statements, as recorded by the police, those applicants specified that they had run away on 6 January 2019 as they had been “afraid that they would otherwise get beaten” by the crowd. The village mayor had told them that people did not want them in the village and he could not control those people. V.K., a person they knew was “from some foundation” and who had said would help them, had found them in the Roma neighbourhood in Plovdiv and had given them documents to sign. They had not read the documents (some of them could not read), but he had explained to them that the purpose of the papers was to complain about having been driven away from their houses on 6 January 2019 and about the demolition of the houses. The applicants, who signed at the end of statement recorded as having been dictated by themselves, had no grievances *vis-à-vis* the law-enforcement officers as they had not insulted them but had protected them from the crowd and ensured their safety. They had not been treated badly by the mayor either. Their only request was for their houses not to be demolished. The municipal and village mayors and V.K., a volunteer working for the Bulgarian Helsinki Committee, also gave statements.

68. According to the applicants’ representative, as the complainants were illiterate, the statements in question were prepared by the police and the complainants only signed them. No lawyer or other person offering support was present and the manner in which the content of those statements had been brought to their knowledge was entirely unclear. When interviewed later by the Bulgarian Helsinki Committee, some of the claimants stated that the police had told them they had to sign a statement that the police had not beaten them up on 9 February 2019.

69. On 13 June 2019 the Plovdiv regional prosecutor refused to open criminal proceedings. She observed that the preliminary police check had established as follows.

70. About twenty houses had been erected in the Roma neighbourhood in Voyvodinovo where about a hundred Roma lived. Following a criminal incident on 6 January 2019 in the village, relations between the Roma and the general population had soured. As a result, the village mayor had gone to the Roma houses and told their inhabitants to depart for their own safety, which they had done the next day.

71. Some of the buildings had been pulled down immediately as posing a danger to their occupants. Judicial review proceedings had been brought in respect of seventeen of the municipal mayor's orders (see paragraph 23 above) and those proceedings were pending before the administrative courts.

72. The Roma had returned on 9 February 2019 and the population of the village had started gathering around the church in a peaceful expression of their disapproval of the presence of the Roma in the village. The police had been tipped off at around 11 a.m. that about seventy people had gathered in the village with the intention of marching towards the Roma neighbourhood (see paragraph 47 above). Acting on the basis of an order by the head of the police, officers had lined up between the two groups, thus preventing clashes between them.

73. The village mayor had also been there, had spoken to the people and had convinced them to remain calm. The Roma had gone back on their intention to stay and had left in a bus provided by the village mayor.

74. V.K. (see paragraph 67 above) had gone to the Roma neighbourhood in Plovdiv and had given them pre-drafted complaints to the prosecutor's office which twelve Roma had signed. He had explained to them that the complaints concerned the orders for the demolition of their houses. Requests before the administrative courts had also been made, seeking an injunction aimed at the village mayor and the police in connection with their actions on 9 February 2019. Those requests had been declared inadmissible (see paragraphs 44 and 57 above).

75. It was clear from the applicants' statements (see paragraph 67 above) that the police had not used violence either *vis-à-vis* them or any other person from the village. The applicants' only request was for their homes not to be demolished.

76. The regional prosecutor further found that the police had not in any way prevented the applicants from returning to the houses in the Roma neighbourhood. Nor had the village mayor, whose role had been to manage the tension between the two opposing groups. The applicants had indicated in their statements that their access to their homes had been prevented solely by the local non-Roma population. The mayor and the police had been making sure that no physical violence erupted between the two groups.

77. The regional prosecutor observed that the twelve applicants had not produced any document to evidence either ownership of the houses they claimed were their homes, or any other ground for their occupying them. It was not clear since when they had been living there. Similarly, aside from their own statements, there was nothing to prove that they had been chased away. Moreover, their complaints to that effect had also been made before the courts and, under section 61 of the Judiciary Act, when a case was being examined by a court, no other body could deal with it in parallel.

78. In addition, the applicants had stated that they believed that the papers they had signed had concerned solely the lawfulness of the demolition of the houses, and not of the authorities' actions in connection with the conflict.

2. On appeal

79. On 22 July 2019 the fifty-third applicant appealed against the regional prosecutor's refusal of 13 June 2019 to open criminal proceedings.

80. She maintained that the Roma had been driven away on 6 January 2019 and prevented from returning to their homes on 9 February 2019. By refusing to open criminal proceedings, the regional prosecutor had reached an entirely wrong conclusion which contradicted the preliminary findings, namely that the non-Roma population had prevented the Roma from returning to their houses. She also submitted that the prosecutor had failed to examine whether the facts complained of disclosed characteristics of other offences, for example those under Articles 162, 163 and 174a of the Criminal Code (see paragraphs 93 and 98 below). The requests made before the administrative courts did not exclude identifying offenders and bringing them to account.

81. Furthermore, she submitted that the regional prosecutor had not examined whether the demonstrations and marches had been organised lawfully, or who had organised and taken part in those events, and with what motivation. Nor had it been verified whether the municipal mayor had complied with his obligations under the Meetings and Marches Act in sanctioning marches in the course of which calls for the expulsion of the Roma population had been voiced.

82. On 29 July 2019 the appellate prosecutor upheld the refusal to open criminal proceedings. He also sent the file to the district prosecutor for examination of whether offences under the legal provisions cited in paragraphs 93 and 98 below had been committed. The decision of the appellate prosecutor indicated that it was not subject to further appeal.

83. Nonetheless, on 5 August 2019 the fifty-third applicant brought a cassation appeal challenging the refusal by the appellate prosecutor to open criminal proceedings. There is no information in the case file on any development in those proceedings.

3. *New examination at first instance*

84. On 17 January 2020 the Plovdiv district prosecutor, to whom the file had been sent (see paragraph 82 above) refused to open criminal proceedings, finding that no offence had been committed. The decision indicated that a senior police officer and the municipal and village mayors had given statements, and that the statements made before the regional prosecutor (see paragraphs 68-69 above) had been taken into account. The district prosecutor reiterated the findings in paragraphs 70 and 72 to 74 above. He then found that, as described by all the individuals who had given statements, only peaceful protests had taken place without verbal or physical violence. Similarly, the protests had not been covered by the media in a manner condoning discrimination or ethnic hatred. No groups of people had gathered with the intention of attacking others or their property on ethnic or racial grounds. Also, no one had entered the Roma houses using force or threats. The Roma had kept returning to the neighbourhood to collect their belongings without anyone impeding them from doing so. The people that had gathered in the village had participated in a peaceful protest against violence and there had been no need for the police to intervene.

XI. OTHER DEVELOPMENTS

85. On 18 February 2019 the municipal mayor issued further orders banning access to and usage of some of the houses as lacking the proper documentation necessary for the buildings to be occupied. The orders also provided that the electricity and water supply to the buildings had to be stopped within three days. Some of the applicants brought judicial review proceedings against those orders. Five of the orders were quashed as unlawful by the Plovdiv Administrative Court. According to the latest information in the case file, the proceedings brought by the twenty-ninth applicant, mother of the applicant in application no. 36972/19, ended on 23 June 2020 with a decision by the SAC. In that decision the SAC overturned the lower court's judgment and rejected the applicant's challenge to the mayor's order. The other sets of proceedings were pending before the SAC.

86. On 24 April 2019, the Court indicated to the Bulgarian Government interim measures which they had to put in place in respect of sixteen of the applicants, members of three families and identified as the most vulnerable, in application of Rule 39 of the Rules of Court. In particular, the authorities were asked to make all necessary efforts to lodge the sixteen applicants, ensuring that the children were not exposed to a risk of inhuman or degrading treatment prohibited by Article 3 of the Convention.

87. In their observations the Government invited the Court to lift those interim measures as the authorities had made offers for some form of alternative lodging to all of the applicants concerned. The families in question were either employed or in receipt of social benefits and had been informed

by the social services about their related rights. The applicants' representative submitted that the offers made to the applicants concerned were unsuitable as they involved splitting the family members. Furthermore, the competent Plovdiv regional authorities had confirmed that in the entire Plovdiv region there were no possibilities for crisis accommodation or social services for temporary accommodation of families.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. DOMESTIC LAW AND PRACTICE

A. Prohibitive injunctions against administrative authorities

88. Article 250 § 1 of the Code of Administrative Procedure 2006 ("the 2006 Code") provides that any person who has the requisite legal interest may request the cessation of actions carried out by an administrative authority or a public official that have no basis in the law or in an administrative decision. The request is to be made to the competent administrative court (Article 251 § 1), which has to deal with it immediately (Article 252 § 1) and, having made the necessary enquiries (Article 252 §§ 2-4), rule on it straight away by means of an order (Article 253 § 1). The court can order that actions that have no basis in the law or in an administrative decision be ceased unconditionally and such orders are subject to immediate enforcement by the police (Article 253 § 2). The court's decision is subject to appeal, which does not have suspensive effect (Article 254 §§ 1 and 2).

89. In proceedings brought under Article 250 of the 2006 Code, the SAC confirmed in a ruling of 2013 the lower court's decision ordering the mayor to cease the dismantling of a temporary commercial site; the SAC found that the fact that the action of dismantling had been terminated at the time of the examination of the case by the court was not a ground for quashing the lower court's order (see *определение № 29 от 3.01.2013г. на ВАС по адм.д. № 15249/2012г.*). In a ruling of 2015, the SAC found that the lower court had wrongly concluded that the mayor's failure to maintain an up-to-date file for the claimant (in connection with his established housing needs) could be said to be an action that had ceased at the time of the request, and returned the case to it for further examination (*определение № 329 от 12.01.2015г. на ВАС по адм.д. № 1414/2014г.*). In another ruling of 2015, the Burgas Administrative Court issued an order (*разпореждане*) directing a municipality to cease unconditionally any construction works it had started without a lawful ground in the area adjacent to the claimant's plot. The court concluded that the absence of construction workers on the site during an inspection by the police, carried out after the construction had begun, did not indicate that the municipality's related actions had come to an end (see *разпореждане № 2599 от 21.05.2015г. на АдмС Бургас по адм.д.*

№ 873/2015z.). In a ruling of 2017, the SAC quashed the lower court's decision and ordered the responsible prison officials to unconditionally cease to impede the handing over of written case materials by the lawyer to a detained suspect (see *определение № 1008 от 25.01.2017г. на ВАС по адм.д. № 619/2017г.*)

B. Abuse of power and other criminal offences

90. Under Article 282 of the Criminal Code, an official who violates or fails to fulfil his or her official duties, or exceeds his or her powers or rights for the purpose of acquiring a benefit for himself or herself or for another person, or to cause damage to another person, from which significant harmful consequences may result, will be punished by imprisonment of up to five years. If the act has resulted in major harm, or the act has been committed by a person occupying an official position of responsibility, the punishment will be imprisonment of between one and eight years.

91. Under Article 387 of the Criminal Code, part of the section on military offences, a person who abuses his or her power or official position, who fails to fulfil his or her official duties or oversteps his or her power, thus causing harm, will be punished by imprisonment of up to three years.

92. Under Article 143 of the Criminal Code, a person who compels another to do, to omit or to suffer something against his or her will, using for that purpose force, threats or abuse of authority, will be punished for coercion by imprisonment of up to six years. A person who threatens someone with a crime against his or her person or property or against the person or property of his or her next of kin, and where this threat could evoke a justified fear of its implementation, will be punished by imprisonment of up to three years (Article 144 of the Criminal Code).

93. The relevant criminal-law provisions concerning racially, nationally or ethnically motivated hate speech or violence, and hooliganism, which include Article 162 of the Criminal Code, were set out in the Court's judgment in *Karahmed v. Bulgaria* (no. 30587/13, §§ 49-53, 24 February 2015).

C. The prosecutor's office's powers

94. The task of the Prosecutor's Office is to ensure the enforcement of the law by, among others, (i) prosecuting persons who have allegedly committed criminal offences, (ii) overseeing the execution of penalties and coercive measures, (iii) seeking the annulment of unlawful decisions, and (iv) participating, where provided by law, in civil and administrative proceedings (Article 127 of the Constitution of 1991). In carrying out their duties, prosecutors may take all measures provided for in law if they have information that a publicly prosecutable criminal offence or other illegal act

may be committed (section 145(1)(6) of the Judiciary Act 2007, “the 2007 Act”). Prosecutors’ orders issued within their competence and in accordance with the law are binding on all State officials and private persons (section 145(3) of the 2007 Act). Prosecutors may give orders to the police (section 145(5) of the 2007 Act). Prosecutors may also summon individuals and order that they be brought by force if they fail to appear (section 145(1)(4) of the 2007 Act).

D. Meetings and marches

95. Under section 11 of the Meetings and Marches Act 1990, the organisers of a demonstration or a march have to inform the municipal mayor in writing about it no less than seventy-two hours before it is to take place, or no less than forty-eight hours before in urgent circumstances. The mayor may ban (giving reasons in writing) a meeting, a demonstration or a march, if it is clear that, among other things, the event threatens public order or third parties’ rights and freedoms. The mayor informs the police immediately about the holding or not of such events (section 12).

96. The municipal mayor may terminate a meeting, demonstration or march if it has not been organised or is not taking place in line with the conditions set out in the Meetings and Marches Act (section 13). When such an event is terminated, its participants must disperse.

97. Individuals or public officials who breach the established order and guarantees for organising and proceeding with such events will be fined between 25 and 150 euros, unless a heavier punishment is due (section 14). Related penal orders are issued by the mayor and can be challenged under the Administrative Offences and Punishments Act.

98. Under Article 174a § 2 of the Criminal Code, if the organiser of a banned or terminated meeting, demonstration or march proceeds with the event, he or she will be punished by imprisonment of up to one year.

99. Under section 14(2)(5) of the Ministry of the Interior Act, the police ensure public order and traffic safety during the events.

E. Demolition of buildings constructed without a permit

100. By section 225(2)(2) of the Territorial Organisation Act 2001 (“the 2001 Act”), a building or a part of a building constructed without a building permit is illegal and subject to demolition. Under section 225a of the 2001 Act, the municipal mayor, or an official authorised by him or her, issues orders for the demolition of unlawful buildings within the meaning of section 225(2) of the 2001 Act. These orders are not subject to immediate enforcement (section 217 of the 2001 Act). They can be challenged before the administrative courts (section 215 of the 2001 Act) and are enforceable once they become final.

F. Protection against discrimination

101. The relevant domestic law provisions concerning protection against discrimination under the Protection Against Discrimination Act 2003 (“the PADA”) were set out, most recently, in the Court’s judgment in *Budinova and Chaprazov v. Bulgaria*, no. 12567/13, §§ 21-34, 16 February 2021. In essence, the authority chiefly responsible for ensuring compliance with the PADA is the Commission for Protection from Discrimination (“the CPD”). People who have obtained a favourable decision delivered by the CPD and wish to obtain compensation for damage suffered as a result of the breach established by it can lodge a claim for compensation for damage against the persons or authorities that have caused that damage. Those complaining of discrimination can, alternatively, lodge a claim in a civil court seeking (a) a judicial declaration that there has been a breach of the PADA, (b) an injunction against the party engaging in such discrimination requiring him or her to cease committing the breach, to restore the status quo ante and to refrain from committing any such breach in the future, and (c) damages.

102. The Government submitted several decisions delivered by domestic courts in proceedings under the PADA, which had initially been brought before the CPD (see *пеш. № 5196 от 10.08.2017 г. на АДДС по адм. д. № 6150/20012 г.*; *пеш. № 927/02/06/2017 г. на Адм. съд Пловдив по адм. д. № 611/17 г.*; *пеш. № 7231/29/05/2014 г. на ВАС по адм. д. № 14406/2013*; and *пеш. № 10394/ 09.07.2013 г. на ВАС, по адм. д. № 16154/2010 г.*). Only one of those decisions was final and the related proceedings had lasted between three and five years.

II. RELEVANT INTERNATIONAL MATERIALS

103. In its November 2018 Concluding Remarks on the fourth periodic report of Bulgaria on the country’s implementation of the International Covenant on Civil and Political Rights, the United Nations Human Rights Committee noted the following among the principal matters of concern:

“Discrimination against Roma

13. While noting the measures taken to improve the situation of the Roma community, the Committee remains concerned (CCPR/C/BGR/CO/3, paras. 7, 15 and 24) that members of the Roma community continue to suffer marginalization and discrimination, especially in the areas of housing, education, health care and employment. It is particularly concerned about reports that Romani children increasingly attended de facto segregated schools, and about numerous forced evictions executed without prior notice that rendered families homeless, as there was no satisfactory replacement housing available to them. In this respect, the Committee regrets the failure to amend the State Property Act, the Municipal Property Act and the Spatial Development Act to introduce the principle of proportionality in the demolition of illegal construction. It also regrets the lack of statistics on the number of complaints of discrimination against the Roma community, in the light of reports about the lack of

accountability for such acts. The Committee remains concerned by the continuing practice of early marriage, particularly in the Roma community, and its close link to early school dropouts (arts. 2, 23, 24, 26 and 27).

14. The State party should:

(a) Intensify its efforts to address stereotypes, prejudice, intolerance and widespread discrimination against the Roma population, ensuring that complaints are investigated, perpetrators are held accountable and victims have access to full reparation;»

104. In the report (A/HRC/19/56/Add.2) of the United Nations Human Rights Council's independent expert on minority issues, which followed her visit to Bulgaria in 2011 (reports on country visits being published annually as addenda to the Special Rapporteur's report to the Human Rights Council), the independent expert on minority issues noted as follows:

“72. However, in key areas such as education, employment, health care and housing, the Roma remain at the very bottom of the socio-economic ladder. They experience discrimination and exclusion in all walks of life, which leaves them highly marginalized and in persistent poverty. Current Government initiatives and financial commitments have little more than superficial impact and fail to address the entrenched discrimination, exclusion, and poverty faced by many Roma. There is minimal evidence of a strong Government commitment to Roma equality and ensuring such equality does not seem to be a high priority.

...

76. The level of racial prejudice against Roma was evident in numerous interactions, including with Government officials. Journalists and NGOs also noted the overwhelmingly negative media coverage and discriminatory stereotyping of the Roma by the media and in some political discourse. Comments, including from some high-level Government officials, strongly indicated that their view of Roma communities is that they are predominately a problematic and criminal element in society. As a priority, the Government should robustly enforce its anti-discrimination and equality laws and ensure appropriate penalties are applied for acts of discrimination.

77. The efforts of many committed people working at the local-authorities level should be supported. Mayors, local councillors and experts, including those from minority communities, need greater support, financial resources and commitment from the national Government. In some instances, national legislation should be reviewed and amended to facilitate their efforts to promote and protect the rights of minorities at the local level. Furthermore, where local authorities fail to meet their obligations or to implement national legislation or policies, particularly with regard to minority rights, anti-discrimination and Roma integration, they should face effective sanctions.

78. The independent expert expressed concern that shortly after her visit, in September 2011, anti-Roma demonstrations took place in many major cities, including Sofia. Nearly 300 people were arrested after the two nights of rallies that unfortunately involved what has been perceived as ethnic hatred. Some media reported attempted pogroms on Roma quarters by far-right groups, and all-out violence prevented only by mobilization of the riot police. The police should remain highly vigilant in order to ensure the security of Roma neighbourhoods in light of recent events.”

THE LAW

I. JOINDER OF THE APPLICATIONS

105. Having regard to the similar subject matter of the applications, the Court finds it appropriate to order their joinder (Rule 42 § 1 of the Rule of Court).

II. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION IN CONJUNCTION WITH ARTICLE 14

106. The applicants complained that they had been expelled from their homes on 6 January 2019 and prevented from returning to them subsequently, and that the authorities had refused them protection in an environment of racially based hostility. They relied on Articles 3 and 8 of the Convention, in conjunction with Article 14, which read as follows:

Article 3

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

Article 8

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

Article 14

“The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

107. Being master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 114 and 126, 20 March 2018), the Court finds that the complaints fall to be examined under Article 8 of the Convention in conjunction with Article 14.

A. Scope of the application and the Court’s assessment

108. As regards the applicants’ complaints (see paragraph 106 above), the Court notes that the different mayoral orders (concerning the demolition of

and banning access to buildings, see paragraphs 23 and 85 above) and the ensuing judicial proceedings do not form part of the complaint in the present application. Therefore, the Court will not examine those proceedings as such but will have regard to them as background information that might be indicative of the overall context and, to that extent, relevant for its assessment of the authorities' actions.

B. Admissibility

1. The Government's submissions

109. The Government made several objections to the admissibility of the applications.

110. They argued that the applicants could not claim to be victims of a violation of the Convention, given that they had left their homes on 6 January 2019 of their own volition. The authorities had neither evicted the applicants nor prevented them from returning to their homes. Given that the applicants had known that the houses they were occupying had been built unlawfully, they could not have expected to remain there indefinitely.

111. The application had to be dismissed also for failure to exhaust domestic remedies. In the first place, the judicial review proceedings to challenge the municipal mayor's orders banning access to and use of the dangerous buildings and ordering the demolition of the unlawfully built houses had been brought by only some of the applicants and, in any event, had not come to an end. Therefore, the applications were premature.

112. Secondly, the applicants had failed to complain to the prosecutor's office about having suffered violence on ethnic grounds. To the extent that a complaint to the prosecutor's office had been made (see paragraph 58 above), it concerned the demolition of Roma houses, was made by the head of the Bulgarian Helsinki Committee acting in his own capacity, and those proceedings were pending in any event.

113. Thirdly, the applicants had omitted to bring proceedings under the special anti-discrimination legislation – the Protection Against Discrimination Act ("the PADA"). They could have requested the court, to establish that they had been discriminated against, to order the municipality to discontinue the discriminatory treatment and to refrain from such treatment in the future, and to pay related compensation to them. They could have also complained directly to the CPD, whose decision was amenable to judicial review. The Government submitted several domestic decisions by administrative courts delivered in anti-discrimination proceedings under the PADA, initially brought before the CPD (see paragraph 102 above).

114. Also, in 2004, the authorities had offered the sixth, thirty-third, forty-sixth and forty-ninth applicants the possibility to purchase the right to construct in the area. Those applicants' failure to take up the offer could not be imputed to the authorities.

115. The Government stated that the following applicants have abused their right to application to the Court, for the following reasons. In particular, the twenty-sixth, twenty-eighth, thirty-eighth and forty-third applicants had never lived in Voyvodinovo, as their permanent and current address registrations indicated different addresses. The same was true in respect of the forty-seventh applicant, as he lived and worked in Switzerland. Furthermore, the twenty-ninth and thirty-third applicants, parents of the applicant in application no. 36972/19, owned immovable properties and land in a different municipality. Being the son of the applicants mentioned immediately above, the applicant in application no. 36972/19 had abused his right to application for the same reasons as those related to his parents.

116. Finally, the proceedings under Article 250 of the Code of Administrative Procedure had been brought by only some of the applicants. Therefore, the ones who had not pursued those proceedings had not exhausted domestic remedies.

2. The applicants' submissions

117. The applicants emphasised that the present application concerned only complaints related to their expulsion from their homes and the obstacles to their return. The questions of the legality of their houses and of the conditions in which they had been made to live as a result of their *de facto* eviction were separate ones, in respect of which they had brought proceedings domestically, but about which they were not complaining presently before the Court.

118. As regards the Government's arguments of non-exhaustion for failure to complain to the prosecutor's office (see paragraph 112 above), the applicants had in fact done so in February 2019 (see paragraphs 65-83 above). In addition, their representative had made a separate complaint to the prosecutor's office in January 2019 (see paragraphs 58, 60 and 63 above). The representative's appeals had raised consistently and in substance all the complaints of all Roma in Voyvodinovo, including the applicants, under Articles 3, 8 and 14 of the Convention. The complaints had been dismissed at all instances, the prosecutors having failed to even open criminal proceedings, thus rendering this remedy ineffective.

119. As regards the Government's arguments of non-exhaustion of the procedure under the PADA, the following had to be noted. The applicants had been driven away from their homes on 6 January 2019, in the middle of winter, as a form of collective punishment for a crime committed by two Roma individuals against a non-Roma. They had attempted to return to their homes on 9 February 2019 but the authorities had not allowed them to remain there. In the circumstances, they had needed a remedy offering rapid redress. That was why they had brought proceedings under Articles 250 to 255 of the Code of Administrative Procedure (see paragraph 88 above). Requests under those legal provisions had to be examined immediately by the courts, which

were competent to order the termination of unlawful administrative actions without delay. While anti-discrimination proceedings under the PADA were indeed a possible remedy, they were one which might have only offered prospects of success with an unacceptable delay. In particular, anti-discrimination proceedings before the courts took on average several years to complete. Instead, the applicants had attempted a remedy which, at least on its face, appeared to offer prospects of quick redress (see paragraph 88 above).

120. As regards the Government's submissions that eight of the applicants had abused their right of individual application, the applicants specified as follows. The twenty-sixth and twenty-eighth applicants were both under 18 years of age and were the children of the twentieth and twenty-seventh applicants. The whole family had lived for many years in their house in Voyvodinovo and both parents had their permanent address there, at that house. Their children had retained the address they had had at birth, in Plovdiv, in order to avoid being denied the issuing of address registration certificates by the mayor of Voyvodinovo. The latter was not an unlikely scenario given that the house in which they lived had been considered to have been built unlawfully. The family had continually lived in their house in Voyvodinovo, as testified by their neighbours there. The two girls had attended the primary school in the village.

121. The forty-third and thirty-eighth applicants were mother and daughter, and the latter had been one year old at the time of the events. Both of them had lived in Voyvodinovo with the thirtieth applicant, who was their husband and father respectively, and who was registered at an address there.

122. The forty-seventh applicant moved to Switzerland after his and his family's expulsion from Voyvodinovo. He had been and continued to be legally registered as resident in Voyvodinovo.

123. As the complaints before the Court of the twenty-ninth and thirty-third applicants in application no. 17808/19 and the applicant in application no. 36972/19 were about their expulsion from their homes in Voyvodinovo, where they had been registered as residents at the time of the facts of the case, whether they owned another property elsewhere was immaterial.

3. *The Court's assessment*

(a) **Non-exhaustion of domestic remedies**

124. The general principles regarding the requirement to exhaust domestic remedies are summarised in *Vučković and Others v. Serbia* ((preliminary objection) [GC], nos. [17153/11](#) and 29 others, §§ 69-77, 25 March 2014). Regarding situations in which different avenues of redress are available, the Court reiterates that an applicant who has made use of a remedy that is apparently effective and sufficient cannot be required also to

have tried others that were available but probably no more likely to be successful (see *Aquilina v. Malta* [GC], no. 25642/94, § 39, ECHR 1999-III).

125. Turning to the Government's first objection on the ground of non-exhaustion of domestic remedies (see paragraph 111 above), the Court notes that the applicants' complain about having been forced to leave their homes in January 2019, not having been allowed to return to them subsequently and the authorities' failure to protect them in that context (see paragraph 106 above). The Court reiterates that the scope of the case referred to it in the exercise of the right of individual application is determined by the applicant's complaint, and the Court cannot base its decision on facts not covered by the complaint (see *Radomilja and Others*, cited above, § 126). Consequently, in the present case the Court must determine on the basis of the information before it only whether the facts complained of were compatible with the applicants' Convention rights. The Court has no jurisdiction, therefore, to deal with the proceedings related to the usage of (see paragraph 85 above) and demolition (see paragraph 23 above) of the allegedly unlawfully built Roma houses, and accordingly to examine the Government's non-exhaustion objection in relation to those events (compare *Handzhiyski v. Bulgaria*, no. 10783/14, § 31, 6 April 2021).

126. In respect of the second ground of non-exhaustion advanced by the Government (see paragraph 112 above), the Court notes that twelve of the applicants did complain to the Plovdiv regional prosecutor's office about the expulsion of the whole Roma community of Voyvodinovo and that the community had subsequently been prevented from returning, and asked for assistance to return to their houses (see paragraph 65 above). Similarly, the applicants' representative pursued an additional related complaint to the Chief Prosecutor (see paragraphs 58, 60 and 63 above). The prosecutors in both sets of proceedings refused to open criminal proceedings (see paragraphs 59-82 above). The Court considers that since both complaints to the prosecutor's office concerned the alleged expulsion of the local Roma community as a whole and its return being prevented, the outcome of those proceedings was important for all the applicants, regardless of whether or not they themselves had formally complained (see, *mutatis mutandis*, *D.H. and Others v. the Czech Republic* [GC], no. 57325/00, §§ 120-22, ECHR 2007-IV). As twelve of the applicants personally complained to the prosecutor's office in due form, and the applicants' representative also pursued complaints made in the name of the whole Roma community of Voyvodinovo, the prosecutor's office was given an opportunity to rule on all the complaints which the applicants have now referred to the Court (see, *mutatis mutandis*, *D.H. and Others v. the Czech Republic*, cited above, § 120).

127. Referring to the arguments for refusing to open criminal proceedings (see paragraphs 59, 62, 64, 69-78 and 82), the Court finds that there is nothing to suggest that the prosecutor's office's relevant decisions would have been different had it received personal complaints by all fifty-six applicants. In the

light of these considerations, the Court finds that a personal complaint by all the applicants would not have resulted in a different decision. Consequently, in the particular circumstances of the present case, the remaining applicants (other than the twelve ones mentioned in paragraph 65 above) were not required to avail themselves of that remedy because it would have been bound to fail (see, *mutatis mutandis*, *Kleyn and Others v. the Netherlands* [GC], nos. 39343/98 and 3 others, § 158, ECHR 2003-VI; *Öney v. Turkey*, no. 49092/12, § 93, 15 January 2019).

128. The Court observes that seven of the applicants identified and pursued other judicial proceedings domestically on behalf of their families (see paragraphs 39-43 above). Those proceedings, brought under Article 250 of the Code of Administrative Procedure, were aimed at discontinuing unlawful actions by public officials. In particular, those applicants sought a court order directing the village mayor and the police to cease actions blocking their return to their homes. Had the courts upheld their requests, the related court orders would have been immediately enforceable by the police. However, referring to the arguments with which the courts dismissed those applicants' requests for injunction (see paragraphs 44 to 57 above), the Court finds that there is nothing to suggest that the courts' relevant decisions would have been different had they received personal requests for injunctions by all of the applicants. Consequently, in the particular circumstances of the present case, the remaining applicants were not required to avail themselves of that remedy because it would have been bound to fail (see, *mutatis mutandis*, *Khamzayev and Others v. Russia*, no. 1503/02, § 155, 3 May 2011, and *Vasilkoski and Others v. the former Yugoslav Republic of Macedonia*, no. 28169/08, § 46, 28 October 2010).

129. Finally, as regards the possibility for the applicants to have brought anti-discrimination proceedings, in view of the characteristics of the remedy under the PADA, the Court has previously held that such a mechanism could, in principle, represent an effective remedy in cases where individuals complain of having suffered discriminatory treatment (see, among others, *Halil Adem Hasan v. Bulgaria*, no. 4374/05, § 71, 10 March 2015). The Court finds, however, that the applicants in the present case cannot be criticised for not having attempted a remedy, namely under the PADA, that would have been directed essentially at achieving the same outcome as the ones already attempted by them (see paragraphs 126 and 128 above) and which, as matters stood when they were faced with a choice between the different remedies under which they raised their complaints about discriminatory treatment, did not appear to offer a better prospect of redress (see, *mutatis mutandis*, *A. v. France*, 23 November 1993, § 32, Series A no. 277-B; *Iatridis v. Greece* [GC], no. 31107/96, § 47, ECHR 1999-II; *Guberina v. Croatia*, no. 23682/13, § 50, 22 March 2016; and *Lewit v. Austria*, no. 4782/18, § 73, 10 October 2019). Furthermore, as can be seen from the PADA-related case-law submitted by the Government, proceedings would have taken years to

complete (see paragraph 102 above and, *mutatis mutandis*, *Budinova and Chaprazov v. Bulgaria*, no. 12567/13, § 75, 16 February 2021). In the specific circumstances of the present case, the Court finds that, while the remedy under the PADA was available to the applicants, it cannot be said to have been sufficient or capable of granting them adequate redress because of the time required to conclude those proceedings.

130. The Court emphasises that this conclusion is reached in the very specific circumstances of the present applications and it does not in any way call into question the effectiveness of the remedy under the PADA, nor the need for other applicants to exhaust it before turning to the Court (compare with *V.K. v. Croatia*, no. 38380/08, § 116, 27 November 2012).

131. In the light of the foregoing, the Court considers that the applications cannot be rejected in respect of any of the applicants for failure to exhaust domestic remedies. The Government's related objection must therefore be dismissed.

(b) Other grounds for inadmissibility

132. In respect of whether the eight applicants identified by the Government in paragraph 115 above abused their right of individual application for the reasons suggested by the Government, the Court has held that an application may be rejected under Article 35 § 3 (a) of the Convention for abuse of the right of individual application if, among other reasons, it was knowingly based on untruths, or if the applicant submitted incomplete or misleading information (see *Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014, and *Shalyavski and Others v. Bulgaria*, no. 67608/11, § 44, 15 June 2017). On the basis of the information in the file, the Court finds that those conditions are not met in respect of those applicants. It thus dismisses the Government's related objection. The Court finds it appropriate to examine the Government's objections related to the individual applicants identified in paragraph 115 from the perspective of whether they could claim to have been victims of a violation of the Convention.

133. As to whether the applicants could claim to be victims of a Convention violation, something which the Court will have to establish of its own motion (see *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, § 70, 5 July 2016), the Court finds that this is a two-fold question. The first element the Court will have to establish is whether the applicants actually lived in Voyvodinovo, and the second element, raised by the Government in paragraph 110 above, concerns whether the applicants left Voyvodinovo of their own volition. As to the first element, in the specific circumstances of the present case, the Court considers that where the applicants have presented evidence of an address registration in Voyvodinovo, this is sufficient for it to conclude that the applicants actually lived there, unless there is explicit evidence pointing to the contrary. Further, where the applicants were minors at the time of the events, the Court will have regard to their parents' official

address registration as respective evidence that the minors too had lived there. The Court observes that most applicants have submitted evidence of their official registration in Voyvodinovo or that they were minor children of parents with an official registration in Voyvodinovo. As regards the forty-third and thirty-eighth applicants, who are mother and daughter with address registrations not in Voyvodinovo, the Court finds that it cannot accept that they lived in Voyvodinovo before 6 January 2019. Even though the thirtieth applicant, who has his address registration in Voyvodinovo, is the father of the thirty-eighth applicant, no evidence has been provided to show that the mother and daughter effectively lived with him in Voyvodinovo. As regards the forty-seventh applicant, the Court observes that since his address registration is in Voyvodinovo and the Government did not claim that he had moved to Switzerland before the events of 6 January 2019, it can be accepted that he lived in Voyvodinovo at the time of the events. In respect of the twenty-ninth and thirty-third applicants, the Court considers the fact that they own property in a location outside of Voyvodinovo immaterial for their complaint in the present case, in view of the fact their address registration was in Voyvodinovo. In respect of the applicant in application no. 36972/19, the Court observes that his personal identity card issued on 13 February 2019, that is after the events in question, indicates an address registration not in Voyvodinovo. The explanation he and his father, the thirty-third applicant, have provided is that he was registered at the new address only after they had been made to leave Voyvodinovo on 6 January 2019 and that he had lived together with his parents in Voyvodinovo prior to that date. The Court finds however that the applicant in application no. 36972/19 was no longer minor on 6 January 2019 and that he has provided no document to show that he was effectively registered in Voyvodinovo at the time of the events. The same applies in respect of applicant twenty-three, who was no longer minor at the time of the events and has not submitted any document to show her address registration or any other evidence that she lived at the time of the events in Voyvodinovo. As regards applicant thirty-one, with reference to facts of the case (see paragraph 5 above), the Court finds that he was not present in Voyvodinovo at the time of the events. On the basis of all of the above, the Court concludes that the twenty-third, thirty-first, thirty-eighth and forty-third applicants in application no. 17808/19, and the applicant in application no. 36972/19, cannot claim to have been victims of a violation under the Convention, since they have not demonstrated that they lived in Voyvodinovo at the time of the events. As regards the second element about the victim status of the remaining applicants as raised by the Government in paragraph 110 above, the Court considers that this question is closely linked to the merits of the applicants' complaint (see, for a similar approach, *Munjaz v. the United Kingdom*, no. 2913/06, § 61, 17 July 2012, and *Kasparov v. Russia*, no. 53659/07, § 30, 11 October 2016). It therefore joins this preliminary issue to the merits.

134. Finally, as regards the Government's argument that some of the applicants failed to purchase the land offered to them by the authorities in 2004 (see paragraph 114 above), the Court finds that this circumstance does not affect the admissibility of the applicants' complaint in the present case.

(c) Conclusion

135. The Court notes that the complaints made by the twenty-third, thirty-first, thirty-eighth and forty-third applicants in application no. 17808/19, and the applicant in application no. 36972/19, are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention. The Court further finds that the complaints made by the rest of the applicants are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. They must therefore be declared admissible.

C. Merits

1. The parties' submissions

136. The applicants stated that they had been forced to leave their homes on 6 January 2019 as a form of collective expulsion, against the backdrop of racist demonstrations, because they were Roma. That had been made clear repeatedly both by public officials and by the protesters. The applicants had subsequently been prevented from returning to their homes and, on 9 February 2019, the village mayor had personally driven them away in blatant disregard for the law. Both their expulsion and the subsequent preventing of their returning, in which they submitted the village mayor and the police had played a major role, represented ethnic cleansing and an extreme measure of dehumanisation of the applicants, based on their Roma ethnicity. The authorities had also refused to protect them from threats, verbal assaults and racist slurs of public officials and private individuals alike.

137. The Government submitted that the applicants had not left their homes as a result of actions of the authorities, but following extraordinary, unforeseeable events of a *force majeure* nature. Their departure had been caused by the indignation of the non-Roma population of Voyvodinovo provoked by the cruel beating of a citizen on 6 January 2019. Hundreds of Bulgarian citizens living in the village and its surroundings had expressed their civic position through several peaceful protests against violence.

138. The applicants had left the village on the evening of 6 January 2019 of their own volition following the events in question, and not as a result of State coercion. They had not approached the authorities that evening with a request for protection and, consequently, it could not be said that the authorities had explicitly refused such protection.

139. In the context of the preliminary inquiry (see paragraph 66 above), it had been established that on 6 January 2019 the village mayor had invited the Roma inhabitants to leave for their own safety in view of the strong public reaction against the criminal offence earlier that day. He had not prevented them from staying in their houses on that day. The timely and adequate intervention by the police had prevented the destruction of Roma houses during the first protest, which the Government submitted had taken place on 7 January 2019.

140. The demonstrations by the protesters on 11 January 2019 had no connection with the Roma inhabitants leaving their neighbourhood five days earlier. None of the applicants had complained that they had physically been in the neighbourhood at that point in time and had personally witnessed the protests. There had been no chanting of a racist nature which could have affected the psychological integrity of the applicants who had not been personally present.

141. The subsequent orders for the demolition of the Roma houses of 16 January 2019 were not an obstacle to the continued use of those houses, until such time as the orders became final. When some of the Roma inhabitants had returned to the village on 9 February 2019, the police had again protected them from the growing mass gathering. The police, having been informed that the village population intended to chase the Roma away from their houses and to demolish them, had reacted without delay. The focus of the police had been on ensuring public order and safety which they had achieved by cordoning off the neighbourhood and keeping the two groups apart. The applicants had been able to collect their belongings at any time and specifically on 9 February 2019 they had been given an additional opportunity to do so.

142. While the village mayor had indeed spoken on 9 February 2019 to some of the Roma inhabitants, he had invited them to leave for their own safety, as he could not ensure their protection from the protesters. If the assistance which the authorities had provided to the Roma leaving the neighbourhood represented an interference with their rights, it was within the acceptable limitations under Article 8 § 2 of the Convention.

143. As to the applicants' complaint to the prosecutor's office, when heard in the context of the preliminary inquiry (see paragraphs 66-67 above), the applicants had not complained about police violence, or about anyone having prevented them from entering their houses. The competent authorities, namely the prosecutor's office, had dealt with the submissions and complaints and had found that no offence had been committed (see paragraphs 69-78 and 82 above). Although the applicant in application no. 36972/19 had not personally attempted to approach the prosecution authorities, their conclusions of 13 June 2019 were relevant to his situation too as they referred to the same circumstances of which he complained before the Court.

144. Furthermore, given the very significant difference between the submissions made in person by the applicants to the prosecutor’s office (see paragraph 67 above), and their complaints in the present applications, the latter were, according to the Government, a manipulative misrepresentation of the events on 6 January and 9 February 2019 aimed at justifying the alleged violations and misleading the Court.

145. In respect of the authorities’ obligations to investigate by attempting to unmask any racial overtones, regard had to be had to the specific context, namely that it had been members of the Roma community who had committed a serious criminal offence. The protests that had followed had been peaceful and there had been no expressions of ethnic intolerance or anti-Roma chants. Given that there had been no interference by the authorities with the applicants’ rights, the standard requiring that the decision-making process afford due respect to the interests protected under Article 8 was inapplicable.

146. Finally, the Government asked the Court to lift the interim measure indicated to the Government on 24 April 2019. The authorities had made efforts to find an acceptable solution for alternative lodging of the sixteen applicants in respect of whom the measure had been imposed.

2. *Third-party intervener*

147. The European Roma Rights Centre made three points. Firstly, the time had come for the Court to use the term “anti-Gypsyism” in its case-law. Secondly, anti-Gypsyism was rife in Bulgaria and was closely linked to residential segregation, degraded living conditions and forced evictions. And, lastly, in the light of the Court’s case-law and Recommendation Rec(2017)10 of the Committee of Ministers of the Council of Europe to member States on access to justice for Roma and Travellers in Europe, Romani people’s complaints about discriminatory no-notice or short-notice evictions should be admissible regardless of whether those people brought domestic proceedings, because such evictions left Roma with no effective remedy to exhaust.

3. *The Court’s assessment*

(a) **General principles**

148. The Court reiterates that while the essential object of Article 8 of the Convention is to protect the individual against arbitrary interference by public authorities, there may in addition to this primary negative undertaking be positive obligations inherent in an effective respect for private or family life and the home. These obligations may involve the adoption of measures in the sphere of the relations between individuals (see *Király and Dömötör v Hungary*, no. 10851/13, § 60, 17 January 2017, with further references).

149. A State's responsibility may be engaged because of acts which have sufficiently direct repercussions on the rights guaranteed by the Convention. In determining whether this responsibility is effectively engaged, regard must be had to the subsequent behaviour of that State (see *Moldovan and Others v. Romania* (no. 2), nos. 41138/98 and 64320/01, § 95, ECHR 2005-VII (extracts)).

150. Whatever analytical approach is adopted – positive duty or interference – the applicable principles regarding justification under Article 8 § 2 are broadly similar. In both contexts, regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole. In both contexts the State enjoys a certain margin of appreciation in determining the steps to be taken to ensure compliance with the Convention (ibid., § 97, with further references). The margin of appreciation left to the authorities will tend to be narrower where the right at stake is crucial to the individual's effective enjoyment of intimate or key rights (see *Connors v. the United Kingdom*, no. 66746/01, § 82, 27 May 2004). This is the case in particular for Article 8 rights, which are rights of central importance to the individual's identity, self-determination, physical and moral integrity, maintenance of relationships with others and a settled and secure place in the community (see, among many other authorities, *Winterstein and Others v. France*, no. 27013/07, §148, 17 October 2013).

151. The Court's task is not to substitute itself for the competent domestic authorities in determining the most appropriate methods for protecting individuals from attacks on their personal integrity, but rather to review under the Convention the decisions that those authorities have taken in the exercise of their power of appreciation (ibid., § 62). The "necessary in a democratic society" requirement under Article 8 § 2 raises a question of procedure as well as of substance (see, among many other authorities, *Yordanova and Others v. Bulgaria*, no. 25446/06, § 118, 24 April 2012).

152. The Court reiterates that discrimination on account of one's actual or perceived ethnicity is a form of racial discrimination under Article 14 of the Convention. Racial discrimination is a particularly invidious kind of discrimination and, in view of its perilous consequences, requires from the authorities special vigilance and a vigorous reaction. It is for this reason that the authorities must use all available means to combat racism, thereby reinforcing democracy's vision of a society in which diversity is not perceived as a threat but as a source of enrichment (see *Timishev v. Russia*, nos. 55762/00 and 55974/00, § 56, ECHR 2005-XII).

(b) Application of the above principles in the present case

153. The Court specifies that where it refers to "the applicants" as from this point below, those are the applicants in respect of whom the application was not declared inadmissible (see paragraph 135 above). It then notes that the Government has not disputed that the applicants' houses in Voyvodinovo

village, where they lived before fleeing in January 2019, are their “homes” within the meaning of Article 8. The Court reiterates that this classification is a matter of fact independent of the question of the lawfulness of the occupation under domestic law (see *Yordanova and Others*, cited above, § 103). The Court finds that there is sufficient evidence that these were the applicants’ homes. Having regard to the fact that the applicants’ inability to live in their homes could have repercussions on their community and family ties, the Court finds that the applicants’ “private and family life” has also been affected (see, *mutatis mutandis*, *Yordanova and Others*, cited above, § 105).

154. The Court notes that the facts of the case are to be distinguished from those in a number of earlier cases that raise similar issues with which it has dealt so far. It points out in the first place that the events on 6 January 2019, which unfolded after the incident earlier that day, did not result in physical altercations or injuries to the applicants (contrast *Identoba and Others v. Georgia*, no. 73235/12, § 15, 12 May 2015) or in damage to their houses or belongings (contrast *Moldovan and Others*, cited above, § 19, and *Burlyya and Others v. Ukraine*, no. 3289/10, § 12, 6 November 2018). The applicants do not allege that they were evicted by the authorities (contrast *Connors*, cited above, § 28) or that they were served with eviction notices by them (contrast *Yordanova and Others*, cited above, § 47). Nor does the information in the case file allow the Court to conclude that the applicants personally witnessed, at close range, racial slurs or affronts by members of an angry mob on that day (contrast *Identoba and Others*, cited above, § 13; *Király and Dömötör*, cited above, § 11, and *R.B. v. Hungary*, no. 64602/12, § 10, 12 April 2016).

155. The Court observes that the parties disagree on a number of key issues. In particular, according to the applicants, they were forced to leave - both as a result of the authorities’ actions and of their failure to provide protection to the applicants against the protesters - and were not allowed to return to their homes subsequently. According to the authorities, the applicants left of their own volition, in response to peaceful protests by non-Roma population against the violence perpetrated by two Roma individuals. The authorities assisted the applicants in the process of avoiding the protesters and did not prevent them from returning to their houses subsequently, as evidenced by the fact that individual applicants did go back now and then and collected their belongings left in the houses.

156. Considering the findings of the different domestic authorities approached by the applicants in connection with their complaints above, the Court observes that those findings are incomplete. In particular, the domestic authorities avoided addressing directly the issue, did not deal with all relevant available evidence and their conclusions comprise important contradictions. Specifically, it cannot be said that the prosecutor’s office made a genuine attempt to establish the circumstances which the applicants or their representative alleged had taken place on 6 January and 9 February 2019. While the regional prosecutor’s office established that the Roma community

of Voyvodinovo had been made to flee in fear as a result of a threat from private individuals and a request by the village mayor (see paragraph 70 above), none of the prosecutors (see paragraphs 65-84 above) sought to ascertain who those private individuals were and what conduct they had engaged in which could have led to all of the applicants fleeing *in extremis*. The reasons for the district prosecutor's conclusion that there had been no groups of people gathered with the intention of attacking others or their property on ethnic or racial grounds (see paragraph 84 above) remain likewise elusive, in particular in view of the information in the case file (see paragraphs 8, 17-18, 30-31, 34 and 48-49).

157. In this connection, the Court is especially struck by what would appear to be a clear contradiction in the position of the prosecution authorities (see on the one hand paragraphs 67 and 70 above, and on the other hand paragraphs 77 and 84 above), of the administrative courts' findings (see paragraphs 48 and 49 above) and of the Government in their observations (compare paragraphs 137 and 139 above) on the question of whether the situation presented nothing but peaceful protests, or whether in fact it had warranted police presence and explicit urging from the mayor for the applicants to depart for their own personal safety.

158. Consequently, the Court finds it necessary to conduct its own assessment of the relevant facts. On the basis of the materials in the file, the Court finds that most of the applicants fled their houses on the evening or night of 6 January 2019, and the rest did so on the following day (see paragraphs 6-7, 25, 65 and 70 above), as a result of public protests against the Roma inhabitants by the general population which continued in the following two weeks (see paragraphs 7 and 8 above). Protestors called Roma "carrión" and "pikeys", paraded the slogan "This is Bulgaria, not Gypsyland" and some of those interviewed by the media openly urged the Bulgarian population to unite and take things in their own hands if the authorities failed to do so (see paragraphs 16 to 18 above). Many of the protests were broadcast on television (see paragraph 9 above), were likely seen by the Roma who had fled, and the neighbourhood remained empty in the weeks that followed (see paragraphs 7 and 50 above).

159. In their submissions to the police and the courts (see paragraphs 26 and 56 above), the applicants referred to those protests and to the continued fear they aroused in them. In particular, on 1 February 2019 thirty-four applicants wrote to the police asking for protection so that they could return to their homes. They stated that they had fled their homes under the threat of physical violence, and that they continued to fear for their safety in view of the recurrent anti-Roma marches in the village (see paragraphs 25-27 above).

160. In view of the above, the Court finds that the situation in which the applicants found themselves on 6 January 2019 and in the weeks that followed could have legitimately provoked their fear, even if it has not been established that the protestors actually came in close proximity to the

applicants. In reaching this conclusion as to the existence of risk to the applicants' safety, the Court takes also into account the fact that the police had identified the situation as one of high risk to public order and safety (see paragraph 48 above), that on 6 January 2019 the mayor had gone to the Roma inhabitants and told them to leave for their own safety (see paragraph 70 above) and on 9 February 2019 had invited them to collect whatever they could and leave as quickly as possible as he could not guarantee their life and health (see paragraph 49 above). In assessing the response of the domestic authorities with respect to these events, the Court cannot but accept the claim of the applicants that they left their homes as a result of a legitimate fear for their safety created by the public protests. Even if they were able to return on an individual basis at a later moment to collect belongings, they could not move back into their homes.

161. The Court cannot remain oblivious of the broader context in which the events took place. In particular, two days after the events of 6 January 2019, the then Deputy Prime Minister arrived in the village and made a series of statements which received widespread media coverage (see paragraphs 10-12 above). As borne out by the content of his statements he used strongly stigmatising language targeting the Roma community in Bulgaria as a whole, something which the Court finds of particular concern. The Court has long acknowledged the disadvantaged and vulnerable position of Roma and the need for their special protection (see *Chapman v. the United Kingdom* [GC], no. 27238/95, § 96, ECHR 2001-I; *D.H. and Others v. the Czech Republic*, cited above, §§ 181-82; *Oršuš and Others v. Croatia* [GC], no. 15766/03, §§ 147-48, ECHR 2010; *Aksu v. Turkey* [GC], nos. 4149/04 and 41029/04, §§ 44 and 75, ECHR 2012; *Horváth and Kiss v. Hungary*, no. 11146/11, § 102, 29 January 2013; *Vona v. Hungary*, no. 35943/10, § 67, ECHR 2013; *Hirtu and Others v. France*, no. 24720/13, § 70, 14 May 2020; and *Budinova and Chaprazov*, cited above, § 64).

162. Also, as can be seen from the materials in the case file, the different mayors publicly stated that the process of "cleaning up" the Roma neighbourhood would be pursued, that "there [was] no coming back [for the Roma]", that "there [would] be a lot of trouble in the future if this [was] somehow allowed to happen", that "it [was] time that Bulgaria [shook] them off and they [left]" and the village mayor stated that he "would pay their transport costs from Bulgaria to wherever they decide[d to go]" (see paragraphs 20-22, 36 and 38 above). Those statements followed declarations by the then Deputy Prime Minister that all of the houses in the Roma neighbourhood were "absolutely illegal" and that "all unlawfully built houses in the Roma neighbourhood of Voyvodinovo [would] be demolished" (see paragraph 11 above). The Court considers that the officials' repeated public display of opposition to the Roma's return is a factor of special relevance in the context of the applicants' complaints (see, *mutatis mutandis*, *The Religious Denomination of Jehovah's Witnesses in Bulgaria v. Bulgaria*,

no. 5301/11, § 114, 10 November 2020, and, *mutatis mutandis*, *Király and Dömötör*, cited above, § 75).

163. The Court finds that such public display of unacceptance of the Roma represented a real obstacle to their peaceful return, and that their fear for their safety was reinforced by the above-mentioned statements of the public authorities. The Court does not need to decide whether the statements of the authorities in themselves represent an interference with the applicants' Article 8 rights or whether they should be examined under the authorities' positive obligations, as the applicable principles are broadly similar. In the present case, given that in any event the authorities knew of the danger for the applicants (see paragraphs 31, 48-49 and 70 above), the Court finds that they should have taken reasonable measures in order to protect the individuals exposed to it so as to ensure effective respect for their private and family life, and home (see, *mutatis mutandis*, *Karaahmed v. Bulgaria*, no. 30587/13, § 100, 24 February 2015, albeit in the context of Article 9). Such positive obligations were even more important in light of the fact that the applicants claimed they had been targeted on ethnic grounds.

164. The Court recognises that on both 6 January and 9 February 2019 the police reacted rapidly, at very short notice, and dispatched officers to the village. The police presence ensured that no physical violence occurred between members of the two groups and no one was physically hurt during the events. There was likewise no destruction of the applicants' houses or damage to their belongings by the protesters on those dates. However, the provision of incidental protection of the applicants' physical integrity, while commendable, does not of itself suffice to satisfy the authorities' obligation to deal with individuals' complaints of recurring acts of intolerance impeding the peaceful enjoyment of their homes (see paragraphs 158, 161 161 and 162 above).

165. The Court observes further that there is nothing in the case file to suggest that, following the events on 6 January 2019, the village mayor pursued measures of special protection in respect of the applicants, who had been made to leave their homes on a winter's night (see paragraph 161 above). It does not appear that, apart from telling them to leave for their own safety, he sought protection from the police that night so that they could safely remain in their homes. It has not been argued in any of the domestic decisions, or before the Court, that the tension erupted so abruptly or so overwhelmed the police resources as to justify a decision merely to attempt to minimise the damage by advising the applicants to flee (compare *Burlya and Others*, cited above, § 131, and, *mutatis mutandis*, *Karaahmed*, cited above, § 107).

166. Nor did the village mayor provide the applicants with any information that night, for example about shelters that might have existed to lodge the families in need, or about social or legal services available so as to assist the applicants with coping with the situation or enabling them to effectively exercise their rights (see, *mutatis mutandis*, *D.H. and Others v. the Czech*

Republic, cited above, § 203, as regards the possible content of the authorities' positive obligations when dealing with disadvantaged groups). The mayor did not inform the applicants either about when they could return to their homes or what authority they could turn to in that connection. The Court has already held that such disadvantaged social groups, and outcast communities, may need assistance in order to be able effectively to enjoy the same rights as the majority population (see *Yordanova and Others*, cited above, § 129).

167. On the basis of all of the above, the Court finds that the cumulative effect of the omissions of the different relevant authorities, namely the mayors, police and prosecutor's offices, in terms of their positive obligations, resulted in a situation where all of the applicants had been driven away from their home and for which there had been no legal consequences. The applicants were left unable to peacefully enjoy their private and family life and their homes and were not provided with the required protection of their Article 8 rights (compare *Király and Dömötör*, cited above, § 80).

168. The foregoing considerations are sufficient to enable the Court to conclude that there has been a violation of Article 8 of the Convention taken in conjunction with Article 14. Consequently, the Court dismisses the Government's preliminary objection (see paragraph 110 above) to the effect that the applicants could not claim to be victims of a Convention violation.

III. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

169. The applicants complained that they had not had an effective remedy available in respect of their expulsion and the prevention of their return, in breach of Article 13 of the Convention, which reads as follows:

"Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

170. The Court finds that this complaint is closely linked to the one examined above under Articles 8 and 14 and must therefore likewise be declared admissible. Nevertheless, having regard to its finding in paragraph 168 above), the Court considers that it is not necessary to examine the complaint under Article 13 separately.

IV. RULE 39 OF THE RULES OF COURT

171. The Court reiterates that, in accordance with Article 44 § 2 of the Convention, the present judgment will not become final until (a) the parties declare that they will not request that the case be referred to the Grand Chamber; or (b) three months after the date of the judgment, if referral of the case to the Grand Chamber has not been requested; or (c) a panel of the Grand Chamber rejects any request to refer under Article 43 of the Convention.

172. In view of the information provided by the parties, it considers that the indication made to the Government under Rule 39 of the Rules of Court (see paragraph 87 above) should be lifted.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

173. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

174. The applicants did not claim pecuniary damages. Each of the applicants in respect of whom an interim measure had not been indicated claimed 20,000 euros (EUR) in respect of non-pecuniary damage. The remaining applicants in respect of whom an interim measure had been indicated claimed EUR 30,000 each.

175. The Government submitted that these claims were excessive.

176. The Court considers that the applicants must have suffered non-pecuniary damage on account of the violation found. Ruling on an equitable basis, it awards the following amounts in respect of non-pecuniary damage, plus any tax that may be chargeable:

(a) EUR 9,000 jointly to the first, thirty-second, thirty-seventh and thirty-ninth applicants, who are a mother and her minor children;

(b) EUR 9,000 jointly to the second, fourth, seventeenth, eighteenth and nineteenth applicants, who are a mother and her minor children;

(c) EUR 9,000 jointly to the third, fifth, fifteenth, thirtieth, thirty-fifth, thirty-sixth and forty-fourth applicants, who lived at the same address;

(d) EUR 9,000 jointly to the forty-sixth, forty-seventh and forty-ninth applicants, who lived at the same address;

(e) EUR 5,000 jointly to the forty-fifth and forty-eighth applicants, who are a father and his minor daughter;

(f) EUR 5,000 jointly to the sixth and eight applicants, who lived at the same address;

(g) EUR 9,000 jointly to the twenty-sixth, twenty-seventh and twenty-eight applicants, who are a mother and her minor children at the time of the events;

(h) EUR 9,000 jointly to the twentieth, twenty-second, twenty-fourth and twenty-fifth applicants, who lived at the same address;

(i) EUR 5,000 jointly to the twelfth and twenty-ninth applicants, who are mother and her minor daughter;

- (j) EUR 5,000 jointly to the thirteenth and thirty-fourth applicants, who are a mother and her minor son;
- (k) EUR 5,000 jointly to the eleventh and thirty-third applicants, who lived at the same address;
- (l) EUR 9,000 jointly to the seventh, ninth, forty-first and forty-second applicants, who are a mother and her minor children;
- (m) EUR 4,000 to the tenth applicant;
- (n) EUR 4,000 to the twenty-first applicant;
- (o) EUR 9,000 jointly to the fourteenth, sixteenth, fiftieth, fifty-first, fifty-second, fifty-third, fifty-fourth and fifty-fifth, who are parents and their minor children;
- (p) EUR 4,000 to the fortieth applicant.

B. Costs and expenses

177. The applicants in application no. 17808/19 also claimed EUR 10,430 in respect of the costs and expenses incurred both before the domestic courts and before the Court. Of this sum, EUR 10,251 corresponded to fees for legal assistance and EUR 179 for domestic travel and for postage to the Court.

178. The Government submitted that the claims for legal fees were excessive and invited the Court to lower the amount as it did not correspond to the national living standard.

179. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 9,000 covering costs under all heads, plus any tax that may be chargeable to the applicants. As requested by the applicants, this sum is to be paid directly into the bank account of the Bulgarian Helsinki Committee.

C. Default interest

180. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Joins to the merits* and *dismisses* the objection raised by the Government as regards the question of the victim status of the applicants;
2. *Declares* the applications admissible in respect of all applicants with the exception of the twenty-third, thirty-first, thirty-eighth and forty-third

applicants in application no. 17808/19 and the applicant in application no. 36972/19 in respect whom it declares them inadmissible;

3. *Decides* to lift the indication of an interim measure to the Government under Rule 39 of the Rules of Court;
4. *Holds* that there has been a violation of Article 8 of the Convention taken in conjunction with Article 14;
5. *Holds* that there is no need to examine separately the merits of the complaint under Article 13 of the Convention;
6. *Holds*
 - (a) that the respondent State is to pay the applicants in respect of whom the application was declared admissible, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
 - (i) the amounts specified in paragraph 176 above, plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 9,000 (nine thousand euros), plus any tax that may be chargeable to the applicants, in respect of costs and expenses, to be paid into the bank account of the Bulgarian Helsinki Committee;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
7. *Dismisses*, unanimously, the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 4 October 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Ilse Freiwirth
Deputy Registrar

Gabriele Kucsko-Stadlmayer
President

APPENDIX

List of applicants

Application no. 17808/19:

No.	Applicant's Name	Year of birth / registration	Nationality
1.	Silviya Andonova PAKETOVA	1988	Bulgarian
2.	Mincho Zvezdev ANGELOV	2007	Bulgarian
3.	Ivanka Kalinova ANGELOVA	1973	Bulgarian
4.	Zvezda Ivanova ANGELOVA	1989	Bulgarian
5.	Stoyan Yozov ASENOV	1985	Bulgarian
6.	Yozo Georgiev ASENOV	1959	Bulgarian
7.	Albena Katerinova ASENOVA	2014	Bulgarian
8.	Ivanka Ilieva ASENOVA	1962	Bulgarian
9.	Katerina Yozova ASENOVA	1983	Bulgarian
10.	Maria Yozova ASENOVA	1982	Bulgarian
11.	Sergey Petranev EVGENEV	1997	Bulgarian
12.	Ana Petranova EVGENIEVA	2004	Bulgarian
13.	Gyurga Petranova EVGENIEVA	1999	Bulgarian
14.	Ilia Georgiev GEORGIEV	1987	Bulgarian
15.	Delka Ilieva GEORGIEVA	1957	Bulgarian
16.	Mirela Ilieva GEORGIEVA	2016	Bulgarian
17.	Asen Iliyanov ILIEV	2009	Bulgarian
18.	Nikolay Iliyanov ILIEV	2006	Bulgarian
19.	Angelinka Iliyanova ILIEVA	2004	Bulgarian
20.	Zapryan Pavlov IVANOV	1974	Bulgarian
21.	Nora Marieva IVANOVA	1991	Bulgarian
22.	Stoyanka Aleksandrova IVANOVA	1949	Bulgarian
23.	Stoyanka Zapryanova IVANOVA	1999	Bulgarian
24.	Yulia Pavlova IVANOVA	1983	Bulgarian
25.	Asen Milkov KARAIVANOV	2000	Bulgarian
26.	Anka Milkova KARAIVANOVA	2003	Bulgarian
27.	Milka Mitkova KARAIVANOVA	1982	Bulgarian
28.	Zhivka Milkova KARAIVANOVA	5 September 2001	Bulgarian
29.	Petrana Evgenieva MINCHEVA	1980	Bulgarian

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No.	Applicant's Name	Year of birth / registration	Nationality
30.	Andon Yordanov PAKETOV	1997	Bulgarian
31.	Asen Naskov PAKETOV	1997	Bulgarian
32.	Gyundoan Sylviev PAKETOV	2008	Bulgarian
33.	Lyuben Asenov PAKETOV	1976	Bulgarian
34.	Nasko Asenov PAKETOV	2018	Bulgarian
35.	Anka Delkova PAKETOVA	1976	Bulgarian
36.	Anka Ivankova PAKETOVA	1980	Bulgarian
37.	Shenka Sylvieva PAKETOVA	2012	Bulgarian
38.	Velichka Andonova PAKETOVA	2017	Bulgarian
39.	Velichka Silvieva PAKETOVA	2005	Bulgarian
40.	Hristo Milchev PETROV	1994	Bulgarian
41.	Angelina Yordanova PETROVA	2010	Bulgarian
42.	Asia Hristova PETROVA	2016	Bulgarian
43.	Stefanka Stoyanova STRAHILOVA	2001	Bulgarian
44.	Albena Trifonova TRIFONOVA	2000	Bulgarian
45.	Dimitar Vasilev VASILEV	1986	Bulgarian
46.	Vasil Asenov VASILEV	1966	Bulgarian
47.	Yordan Vasilev VASILEV	1984	Bulgarian
48.	Atanaska Dimitrova VASILEVA	2006	Bulgarian
49.	Zvezda Dianova VASILEVA	1966	Bulgarian
50.	Georgi Gankov YORDANOV	2008	Bulgarian
51.	Ognyan Gankov YORDANOV	2011	Bulgarian
52.	Anka Gankova YORDANOVA	2010	Bulgarian
53.	Ganka Ognyanova YORDANOVA	1992	Bulgarian
54.	Gyurga Gankova YORDANOVA	2007	Bulgarian
55.	Maria Gankova YORDANOVA	2012	Bulgarian

Application no. 36972/19:

No.	Applicant's Name	Year of birth / registration	Nationality
1.	Lyubo Lyubenov ASENOV	2000	Bulgarian