



## Eviction of Roma from a settlement in the Bulgarian capital would breach their human rights

In today's Chamber judgment in the case [Yordanova and Others v. Bulgaria](#) (application no. 25446/06), which is not final<sup>1</sup>, the European Court of Human Rights held, unanimously, that in the event of any future enforcement of the removal order against the applicants, there would be:

**A violation of Article 8 (right to private and family life)** of the European Convention on Human Rights.

The case concerned the Bulgarian authorities' plan to evict Roma from a settlement situated on municipal land in an area of Sofia called Batalova Vodenitsa.

The Court found that the removal order had been based on a law, and reviewed under a decision-making procedure, neither of which required the authorities to balance the different interests involved.

### Principal facts

The applicants are 23 Bulgarian nationals who live in the Batalova Vodenitsa settlement, a neighbourhood in the outskirts of Sofia, which houses about 250 other Roma.

They arrived and settled there in the 1960s and 1970s, often with their extended families; the more recent arrivals were in the 1990s. Their homes are makeshift and built without authorisation. There is no sewage or plumbing. The people who live there use water from two public fountains.

The land on which they settled was first owned by the State and then, as of 1996, by the Sofia municipality. The applicants, like the rest of the settlement's inhabitants, never sought to regularise the houses they had constructed. The applicants claimed that they could not apply for regularisation because they were poor and isolated from the rest of society. Furthermore, the relevant law did not make it possible for them to obtain ownership of their houses.

It is undisputed that the applicants' homes do not meet the basic requirements of the relevant construction and safety regulations and could not be legalised without substantial reconstruction.

As from the beginning of the 1990s, tension grew in several regions of Sofia between Roma people living in settlements and their non-Roma neighbours. The issue of Roma settlements was widely debated and a number of leading politicians spoke about the

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<sup>1</sup> Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution)

need to empty the "Roma ghettos" in Sofia. Until 2005, neither the State, nor the municipal authorities ever attempted to remove the applicants and their families.

In May 2006, the Sofia municipal council transferred ownership of land adjacent to that occupied by the applicants to a private investor. A few months before that, on 17 September 2005, the district mayor had ordered the applicants' forcible removal, which had been stayed by the courts pending appeal against it. In January 2006, the Sofia City court held that the removal order had been lawful, which was later confirmed by the Supreme Administrative Court. The courts, ignoring the applicants' argument that a removal would be disproportionate as they had lived in the settlement for decades, found that as they had not shown a valid legal ground for occupying the land, the removal order had been lawful.

In June 2006, the municipal authorities announced their intention to evict the unlawful residents of Batalova Vodenitsa, including the applicants, within a week and to demolish their homes. As a result of political pressure, mainly from European Parliament members, the eviction did not take place. However, the mayor publicly stated that it was not possible to find alternative housing for the settlement's inhabitants, because they had not been registered as people in need of housing and the municipality could not give them priority over other people who had been on the waiting list for many years. The mayor insisted that the removal order had to be enforced and the fact that the Roma families had nowhere to go was irrelevant.

Following another attempt to remove the applicants, in June 2008 the Court indicated to the Bulgarian Government under its rule on interim measures, that the applicants should not be evicted until such time as the authorities assured the Court of the measures they had taken to secure housing for the children, elderly, disabled or otherwise vulnerable people. The district mayor informed the Court that she had suspended the removal order pending the resolution of the housing problems of the settlement's residents. The Court then lifted its interim measure.

In the meantime, a ten-year national programme was adopted for the improvement of the housing conditions of Roma in Bulgaria. A monitoring report of 2010 did not record any progress made in housing for Roma. On the other hand, media reports suggested that construction of housing for Roma was underway in several regions in Bulgaria.

## Complaints, procedure and composition of the Court

The applicants alleged that if the authorities' eviction order of September 2005 were enforced, it would breach their rights under Article 3 (prohibition of inhuman or degrading treatment), Article 8 (respect of private and family life), Article 13 (right to an effective remedy), Article 14 (prohibition of discrimination) and Article 1 of Protocol No. 1 (right to property).

The application was lodged with the European Court of Human Rights on 23 June 2006.

Judgment was given by a Chamber of seven, composed as follows:

Lech **Garlicki** (Poland), *President*,  
David Thór **Björgvinsson** (Iceland),  
Päivi **Hirvelä** (Finland),  
George **Nicolaou** (Cyprus),  
Ledi **Bianku** (Albania),  
Zdravka **Kalaydjieva** (Bulgaria),  
Vincent A. **de Gaetano** (Malta), *Judges*,

and also Fatoş **Aracı**, *Deputy Section Registrar*.

## Decision of the Court

### Article 8 (right to private and family life)

The Court observed that as the applicants had lived with their families in the makeshift houses for many years, those houses had become their homes, irrespective of whether they occupied the houses lawfully or not. If the applicants were expelled from their settlement and community, their home as well as their private and family lives, would therefore be negatively affected.

The Court considered that it was legitimate for the authorities, for the purposes of urban development, to try to recover land from people who occupied it unlawfully. There was no doubt that the authorities were in principle entitled to remove the applicants who occupied municipal land unlawfully. However, for several decades the authorities had tolerated the unlawful Roma settlements in Batalova Vodenitsa. That had allowed the applicants to develop strong links with the place and to build a community life there.

Notwithstanding the above, there was no obligation under the Convention to provide housing to the applicants. However, an obligation to secure shelter to particularly vulnerable individuals might flow from Article 8 in exceptional cases.

The Court noted, that under the relevant law at the time, the municipal authorities had not been required to consider the proportionality of a possible removal of the people who lived at the settlement, or the various interests involved. The Court found that approach in itself problematic as it failed to comply with the principle of proportionality.

In the applicants' case, it was undisputed that their houses did not meet basic sanitary and building requirements, which entailed safety and health concerns. The Court noted, however, that the Government had not shown that alternative methods for dealing with those problems, such as legalising buildings where possible, constructing public sewage and water-supply facilities and providing assistance to find alternative housing where eviction was necessary, had been studied seriously by the relevant authorities. Therefore, the Government's assertion that the applicants' removal was the appropriate solution was weakened.

In addition, before issuing the removal order, the authorities had not considered the risk of the applicants becoming homeless if removed, and had instead declared that that risk was irrelevant.

The Court also emphasised that, in the context of Article 8, the applicants' specificity as a socially disadvantaged group, as well as their particular needs, had to be considered in the proportionality assessment which the national authorities were obliged to undertake, but had not done.

Finally, as regards the Government's argument that the applicants' neighbours had complained against them, the Court noted that some of the complaints, such as those about health risks and offences allegedly committed by Roma, could have justified appropriate measures if the principle of proportionality had been observed. The authorities had not investigated allegations about such offences. Other complaints, however, contained illegitimate demands.

The Court concluded that the 2005 removal order had been based on a law, and reviewed under a decision-making procedure, neither of which required that the order be proportionate to the aim it pursued. There would, therefore, be a violation of Article 8, if the removal order were enforced.

## Other articles

The Court found that no separate issue arose under Article 14, and that it was unnecessary to examine the applicants' other complaints separately.

## Article 46 (enforcement of the judgment)

The Court held that the general measures the authorities would have to adopt in order to implement the judgment, so as to avoid future similar violations, had to include a change in law and practice to ensure that orders to recover public land or buildings, even in cases of unlawful occupation, identified clearly the aims pursued with the recovery, the individuals affected and the measures to secure proportionality.

As regards the individual measures needed to put a stop to the violation and provide redress for any damage caused to the applicants, the Court held that the 2005 removal order had to either be repealed or suspended pending measures to ensure that the Bulgarian authorities had complied with the Convention requirements, as clarified in the judgment.

## Just satisfaction (Article 41)

The Court held that its finding of a violation of Article 8 constituted in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicants. As for costs and expenses, the Court held that Bulgaria had to pay the applicants 4,000 Euros.

*The judgment is available only in English.*

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.