



The Global Initiative

for Economic, Social and Cultural Rights

**Parallel Report submitted by the
Global Initiative for Economic, Social and Cultural Rights (GI-ESCR)
to the
Committee on the Elimination of All Forms of Discrimination against
Women
related to the
Sixth Periodic Report of Bulgaria
during the Committee's 52nd Session**

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1. INTRODUCTION

1. The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) is an international non-governmental human rights organization which seeks to advance the realization of economic, social and cultural rights throughout the world, tackling the endemic problem of global poverty through a human rights lens. The vision of the GI-ESCR is of a world where economic, social and cultural rights are fully respected, protected and fulfilled and on equal footing with civil and political rights, so that all people are able to live in dignity.

2. The mission of the GI-ESCR is to strengthen the international human rights framework through creative standard setting, so that all people, and in particular marginalized individuals and groups, are able to fully enjoy their economic, social and cultural rights, and are able to do so without discrimination and on the basis of equality; provide innovative tools to policy makers, development actors and others on the practical implementation and realization of economic, social and cultural rights; enforce economic, social and cultural rights through international, regional and national mechanisms and seek remedies for violations of these rights, with a focus on creating beneficial jurisprudence aimed at transformative change; engage networks of human rights, women's rights, environmental and development organizations and agencies to advance the sustainable enjoyment of economic, social and cultural rights at both national and international levels; and work with advocates, social movements and grassroots communities at national and local levels to more effectively claim and enforce economic, social and cultural rights, including by engaging international mechanisms for local impact.

2. The importance of promoting and protecting women's rights to adequate housing and access to and control over land and other resources and the need for more clarity

3. In her 2012 report to the Human Rights Council, the UN Special Rapporteur on the right to adequate housing recognized the importance of that right to women, and importantly that "adequate housing for women goes far beyond addressing basic material needs" and that "because of the close connection that exists between the right to adequate housing and the right to equality, adequate housing for women goes to the heart of social inequality and discrimination."¹

4. The Special Rapporteur also drew attention to the fact that "ensuring that women have access to and control over vital resources such as housing and land is essential to challenging and changing gender power structures and patterns of gender inequality which continue to oppress, exclude and relegate women to the margins."²

¹ Report of the Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, UN Doc. A/HRC/19/53 (26 December 2011) at para. 3.

² *Id.*

5. CEDAW has increasingly recognized the importance of the right to adequate housing and rights related to land. For instance, in its Concluding Observations on Israel in 2011, CEDAW used language from the International Covenant on Economic, Social and Cultural Rights in explicitly addressing forced eviction and the right to adequate housing³ and recognized the importance of women's access to land.⁴

6. While the Committee on Economic, Social and Cultural Rights has provided general guidance on procedural and substantive content the right to adequate housing and the related prohibition on forced eviction, particularly in its General Comment No. 4 on the right to adequate housing and General Comment No. 7 on the prohibition on forced eviction, these General Comments do not provide clear guidance on the gender dimensions of the right to adequate housing, including what the substantive content of that right entails from women's perspectives.

7. The UN Special Rapporteur on the right to adequate housing, fortunately, has begun to examine this issue and has provided guidance and a gender analysis to the right to adequate housing. In her 2012 Annual Report, the Special Rapporteur examined the seven elements of the right to adequate housing from women's perspective, including the issue of access to and control over land and other resources.⁵

8. As for the issue of access to and control over land, the UN Commission on Human Rights has adopted several resolutions dealing not only with women and housing rights, but their right to equal ownership, access to and control over land.⁶ This issue of access to and control over land, in particular, is beginning to garner the attention it deserves. Access to and control over land provides access to and control over vital resources necessary to ensure women's right to an adequate standard of living and right to a livelihood, and thus highly relevant to, *inter alia*, the enjoyment of Article 14 of the Convention on the Elimination of All Forms of Discrimination against Women.

9. Additionally, the UN Special Rapporteur on the right to adequate housing has, in several reports, stressed that land, as a housing resource, is a critical element of the human right to housing,⁷ that land constitutes the main asset from which the rural poor are able to derive a livelihood,⁸ and that access to land is also critical for building socio-economic security.⁹ With respect to women, the Special Rapporteur has found that in many countries, the control and ownership of land, especially in

³ Committee on the Elimination of All Forms of Discrimination against Women, Concluding Observations: Israel, UN Doc. CEDAW/C/ISR/CO/5, (5 April 2011) at para. 29.

⁴ *Id.* at para. 44.

⁵ *See*, Report of the Special Rapporteur on the right to adequate housing, UN Doc. A/HRC/19/53 (26 December 2011).

⁶ *See, e.g.*, UN Commission on Human Rights resolutions 2005/25, 2003/22, 2001/34 and 2000/13.

⁷ *See, e.g.*, Reports of the Special Rapporteur on the right to adequate housing, UN Docs. E/CN.4/2001/51, E/CN.4/2002/59, E/CN.4/2005/48, E/CN.4/2005/43 and E/CN.4/2006/118.

⁸ Report of the Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Miloon Kothari, UN Doc. A/HRC/7/16 (13 February 2008) at para. 67.

⁹ *Id.* at para. 69

rural areas, by women is critical to their livelihoods, food security, economic independence and physical security, including of their children.¹⁰

10. As such, CEDAW should increasingly provide clarity on both the gender dimensions of the right to adequate housing and on women's access to and control over land and other resources.

3. Discrimination against Roma women

11. Roma in Bulgaria generally face discrimination in enjoyment of social rights, including the right to adequate housing. Given that Roma women disproportionately are responsible for the home and often have income generating activities tied to the home, this general discrimination against Roma can have a disproportionate impact on Roma women.

12. As the Special Rapporteur on the right to adequate housing has noted in her 2012 report, women's strong links to the home are based on social and cultural norms that are themselves discriminatory with respect to gender roles. However, advocating for and enforcing women's housing rights are not aimed at acquiescing to those gender roles but rather acknowledge gender as a social construct which fundamentally impacts the ways in which women experience their housing situations. Advocating for and enforcing women's housing rights are aimed at eradicating all gender-based discrimination and at equalizing women's economic, political and social status.

13. Roma continue to face discrimination in Bulgaria with one result being a lack of access to adequate housing. Discrimination against Roma generally and Roma women in particular is evident in the areas of education and employment, both of which indirectly result in discrimination in the area of housing. In addition, segregation directly impacts housing rights of the Roma community.

14. Adequate housing entails seven key elements, including availability of services, materials, facilities and infrastructure, including access to water and sanitation, heating, cooling, lighting, and energy. Roma communities in Bulgaria disproportionately live in housing that lacks some or all of these necessary components of adequate housing. For instance, tenements and informal settlements often have limited access to water and sanitation, and access to electricity is often limited by those that provide electrical service.

15. As the Special Rapporteur on the right to adequate housing made clear in her 2012 report, "taking into account women's perspectives on these issues is vital given that fact that women tend to spend more time at home, and are often disproportionately burdened with household chores which depend directly on the availability of such services, materials, facilities and infrastructure."

16. Another element of the right to adequate housing, that of adequate location, is also highly relevant to Roma in Bulgaria, particularly due to segregation. For instance, the community of Fakulteta is located in an area of Sofia with poor access to

¹⁰ *Id.* at para. 71.

schools, employment options, and health care services. The Fakultete area hosts 6,000 Roma households and around 58,000 persons. Other Roma communities in Sofia and elsewhere suffer from similar segregation and resulting inadequate housing location. The Republic of Bulgaria should prioritize bringing essential services such as schools and health care facilities to these locations and should ensure affordable transportation to employment and other opportunities.

4. Forced evictions: Disproportionate impact on Roma women

17. One of the more egregious manifestations of discrimination against Roma in Bulgaria is the practice of forcibly evicting Roma communities.

18. Roma households are at higher risk of forced eviction on account of lack of security of tenure, another key element of the right to adequate housing, and poor quality of housing, also related to the adequate habitability element of the right to adequate housing. Roma neighborhoods often face forced eviction to make way for urban development designed to benefit individuals and groups with higher economic status. This type of urban development, however, violates the right to development and the human rights-based approach to development, both of which require marginalized communities to be prioritized in development programs.

19. Another cause of forced eviction in Bulgaria is to remedy ostensible property rights claims by private individuals over the land on which these long-standing communities reside. However, remedies for enforcing property rights should not and indeed can not lawfully be implemented by carrying out a gross violation of human rights,¹¹ particularly when the rationale for such evictions is the unwillingness of the Republic of Bulgaria to fulfill the right to adequate housing without discrimination, including by providing the minimum degree of security of tenure necessary to protect against forced eviction as required under international human rights law.¹²

20. Under international human rights law binding upon Bulgaria, evictions can only be justified in highly exceptional circumstances and after all feasible alternatives to eviction have been explored in meaningful consultation with the persons affected.¹³ In the context of such forced evictions in Bulgaria, not only is this process rarely adhered to, but there exist feasible alternatives to remedying a property rights claim that do not entail committing a gross violation of human rights. For instance, Bulgaria could provide compensation to the ostensible owner of the land in question and then meet its obligation to respect, protect and fulfill the right to adequate housing by regularizing the communities in question including by providing them with a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.¹⁴

¹¹ The international community has stated that forced evictions amount to “the practice of forced eviction ... constitutes a gross violation of a broad range of human rights, in particular the right to adequate housing.” See, UN Commission on Human Rights resolution 1993/77 and 2004/28.

¹² See General Comment No. 4 on the right to adequate housing.

¹³ See Committee on Economic, Social and Cultural Rights, General Comments. Nos. 4 and 7.

¹⁴ This is essentially the process used by the Republic of South Africa in the case of *Modder East Squatters and Another v Modderklip Boerdery (Pty) Ltd* (SCA 187/03).

21. Recently, the European Court of Human Rights, in the case of *Yordanova and Others v. Bulgaria* (Application no. 25446/06), essentially ordered that the above international human rights legal framework on the prohibition of forced eviction be strictly adhered to in the context of long-standing Roma settlements in Bulgaria. In its decision on the merits, the European Court unanimously ruled that forced eviction, even from informal settlements, violated the European Convention for the Protection of Human Rights and Fundamental Freedoms and that the Bulgarian authorities must consider alternatives to eviction including regularizing and upgrading existing housing.

5. Domestic violence

22. As the Special Rapporteur noted in her 2012 report, “women’s housing security is vital to their ability to leave a violent relationship.” While it is crucial to have services including shelters for survivors of domestic violence, it is also important to craft legislation and policies that protect a survivor’s present enjoyment of the right to adequate housing.

23. In 2010, the Gender Project, a Bulgaria organization, reported that 25% of women in Bulgaria are survivors of domestic violence. In its 2011 Concluding Observations on Bulgaria, the Human Rights Committee found that very few cases of domestic violence are actually brought to justice and that under Article 161(1) of the Penal Code the State can not initiate a criminal investigation if bodily harm is “light or average.”¹⁵

24. While Bulgaria has some good examples of dealing with domestic violence and the right to adequate housing, such as the law which provides for courts to issue an order for the removal of the perpetrator from family housing regardless of the perpetrators tenure status, such laws need to be fully implemented, women need to be aware of such protections, and NGOs that provide services for women in situations of domestic violence need to be fully funded in order to women to remain secure in their housing.

25. Additionally, after women leave situations of domestic violence they may be required to leave their home if tenure is not in their name or if they are unable to afford the costs of their housing. Consequently, the Republic of Bulgaria should ensure that subsidized and transitional housing is available to all women in need of housing after leaving a situation of domestic violence.

5. Recommendations:

Recommendation regarding CEDAW

26. Information on housing rights and access to and control over land and other resources should be included as explicit categories in State Party periodic reports.

¹⁵ Human Rights Committee, Concluding Observations: Bulgaria, UN Doc. CCPR/C/BGR/CO/3 (25 July 2011) at para. 12

27. Information on housing and access to and control over land and other resources should be included as explicit categories in List of Issues and Concluding Observations.

28. As the UN Special Rapporteur on the right to adequate housing suggested in his 2006 report and reaffirmed in her 2012 report, CEDAW should consider drafting and adopting a General Recommendation on women's right to adequate housing and land.¹⁶

Recommendations regarding the Republic of Bulgaria

29. CEDAW should reiterate the Concluding Observation of the Human Rights Committee adopted 25 July 2011 regarding the prohibition on forced evictions, namely that forced evictions "constitute potential gross violations of a wide range of internationally recognized human rights and may only be carried out under exceptional circumstances and in full accordance with international human rights law [and that] the State party should strictly limit the use of forced eviction through the adoption of all feasible alternatives to the evictions, and always guarantee alternative housing for the affected families."

30. CEDAW should reiterate General Comment No. 4 of the Committee on Economic, Social and Cultural Rights which requires that "Notwithstanding the type of tenure, all persons [including women] should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats" and that "States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups."¹⁷

31. CEDAW should reiterate the European Court of Human Rights ruling in *Yordanova and Others v. Bulgaria* (Application no. 25446/06) and call upon Bulgaria to respect that ruling throughout Bulgaria.

32. The Republic of Bulgaria should comprehensively harmonize its domestic legislation and policy with international human rights standards, including those related to the right to adequate housing and the prohibition on forced eviction.

33. The Republic of Bulgaria should adopt and fully implement the 2009 recommendation of the Commission for Human Rights of the Council of Europe on the implementation of the right to adequate housing, including section 4.3.6. of the recommendation calling upon States to "to protect women victims of violence through specific legal and policy initiatives including the provision of specialized emergency shelters and other alternative housing" and section 5 which urges States to adopt

¹⁶ See, Report of the Special Rapporteur on the right to adequate housing, UN Doc. E/CN.4/2006/118 (27 February 2006) at para. 81 and Report of the Special Rapporteur on the right to adequate housing, UN Doc. A/HRC/19/53 (26 December 2011) at Para. 75.

¹⁷ International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200A (XXI), 21 U.N.GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, *entered into force* 3 January 1976, at para. 8(a).

national housing strategies that apply a gender perspective, identify disadvantaged and vulnerable groups and include positive measures for ensuring their effective enjoyment of the right to housing and to adopt anti-violence provisions in housing legislation and policies and ensure that domestic violence laws include provisions to protect women's right to housing, including the right to privacy and security.

34. The Republic of Bulgaria should ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

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