



ОМБУДСМАН  
НА РЕПУБЛИКА БЪЛГАРИЯ

Ombudsman  
of the Republic of Bulgaria  
Annual Report  
Summary

2021

MARCH 2022

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### *Helping in spite of it all...*

*Helping in spite of it all! In spite of the emergency situation, in spite of COVID-19, in spite of the clumsy administration, in spite of the hard and complex public and political life – three consecutive parliamentary elections, caretaker governments. Intensified civil discontent with a number of health measures, including vaccination, issuance and admission on the basis of a green certificate, with the access to COVID diagnostics and treatment... Yet, the institution of the Ombudsman never deviated from its main priority – to help the citizens by all possible means and powers, to stand up for their rights and interests, to monitor strictly to ensure that they are not infringed upon or taken away, to amplify the voice of vulnerable groups so that it can be heard and so that the agenda of the institutions can be realigned to correspond to the agenda of people.*

*In 2021, almost 65 thousand citizens turned to the Ombudsman seeking advice, help, information or assistance. These citizens received the support they needed. There is no signal or complaint left without a response and this is something that makes us proud as a team. To live up to the trust and the enormous expectations, especially in pandemic conditions when the people's access was hampered and we gave them the possibility to reach out more easily and quickly as we published the mobile phones of all experts on the institutional website. Thus, in practice, from day one of COVID, we launched a 24/7 hotline which continues to function to this day.*

*Like a slow drip, we resolutely, consistently and insistently fought to ensure that people with a high count of antibodies would obtain a document, a statement to have the power of a certificate issued upon vaccination. And this “institutional pressure” of mine through letters and recommendations to the Health Minister, the European Ombudsman and the European*

*Commission yielded results. Thus, an obvious injustice affecting more than 100,000 Bulgarian was overcome. It would not have been possible without our institutional stubbornness.*

*We did our best to ensure that the National Health Insurance Fund would notify the people whose personal general practitioners had terminated their practice because those people would often find out that they had no personal doctor when they needed one. This was truly a serious issue because, in 2020 alone, close to 70,000 patients were not notified that they no longer had a personal doctor. Now patients receive an SMS notification. Again, it would not have been possible without our institutional stubbornness.*

*To me, as the Ombudsman, the interaction with the Constitutional Court given the lack of an individual constitutional complaint is essential. Five out of five – this is the score from the use of one of the most important tools in the powers of the Ombudsman – the submission of a constitutional complaint to the Constitutional Court. In 2021, the five complaints to the Constitutional Court on different matters resulted in five positive judgments. This is undoubtedly a success for the institution as well as for the citizens and the rule of law in the country.*

*However, the battle for justice rages on. As is tradition, in 2021 I again received numerous signals and complaints about high utility bills, service quality, undue action of private legal subjects – private enforcement officers, payday loan companies, collectors. The issue about introducing rules for the work of collectors and strengthening the control over such companies can no longer be postponed. The people are worried about the dramatic increase in the prices of electricity and natural gas, about their low income, the rising inflation, about not knowing if the money they get will be enough to cover their expenses – for medicines, food, utilities, debts to banks and especially to payday loan companies. That is why there need to be express provisions for the so called personal insolvency in order to resolve the issue with the “eternal debtor”. The adoption of the Insolvency of Individuals Act will allow for an assessment of the credibility of debtors and they will get a second chance. Bulgaria is the only European country without such an effective law while, at the same time, it ranks in the top for bad loans in Europe. It is high time to put an end to this injustice.*

*Thus, 2021 was a hard year in any aspect. Yet, there is no difficulty which cannot be overcome when you are guided by the desire and the motivation to work with dedication, expertise, professionalism, kindness. And a pinch of stubbornness!*



**PROF. DIANA KOVACHEVA, Ph.D.**  
**OMBUDSMAN OF THE REPUBLIC OF BULGARIA**

## ACTIONS AND RESULTS IN 2021

### THE OMBUDSMAN IN DEFENCE OF CITIZENS' RIGHTS IN 2021

A total of **64 936 citizens** and representatives of various organisations received assistance from the Ombudsman, of which:

- **20 825 persons** were received by the Ombudsman or by the Deputy Ombudsman, or were provided with services at the reception office;
- The number of citizens who sought the Ombudsman's assistance and whose requests concerning various issues were subsequently consolidated into petitions was **30 575**.

2019	2020	2021	
13,762	13,794	14 727	<b>1. Number of completed inquiries launched in response to citizen complaints and denunciations</b>
			<i>Of those finalised with:</i>
1,823	2,534	2 855	<i>Recommendation sent</i>
8,518	8,668	9 520	<i>Opinion expressed</i>
1,141	1,491	1 229	<i>Advice provided</i>
417	566	440	<i>Mediation</i>
1,863	535	683	<i>Complaints that fell outside the Ombudsman's remit</i>
12,916	13,244	13 536	<b>2. Complaints and denunciations submitted to the Ombudsman in 2020</b>
			<i>The largest share of those were:</i>
3,519	3,390	3 992	<i>Complaints and alerts from consumers and users of public services</i>
1,088	1,449	1 482	<i>Complaints and alerts regarding violations of the property right and economic freedoms</i>
666	870	1 213	<i>Complaints and alerts regarding the right to healthcare</i>
1 908	967	971	<i>Complaints and alerts regarding the right to pension</i>

## **MONITORING OF THE IMPLEMENTATION OF INTERNATIONAL ACTS IN THE FIELD OF HUMAN RIGHTS**

In 2019, the Ombudsman institution was accorded the highest “A” STATUS of the UN in accordance with the Paris Principles as a national human rights institution. This status allows the Ombudsman of the Republic of Bulgaria to step in and defend the citizens’ rights against breaches not only of public institutions but also companies from the private sector which also need to respect human rights.

A special chapter in this annual report is devoted to the finding of the monitoring on the implementation of the international acts in the area of Human Rights.

### **IMPACT ON THE REGULATORY FRAMEWORK**

In 2021, the Ombudsman used without hesitation the opportunity to influence the regulatory environment in order to draw the attention of the competent authorities and institutions and to initiate the search for possible solutions, including through proposals to amend the legislation and give opinions on submitted bills.

In 2021, the Ombudsman of the Republic of Bulgaria submitted five requests to the Constitutional Court to establish the unconstitutionality of a law in connection with the violation of civil rights. At the time of completing the preparation of the Ombudsman’s Annual Report in 2021, the Constitutional Court ruled to declare unconstitutional legislative provisions on four of these requests and ruled on the admissibility of the fifth request.

At the beginning of 2021, the Constitutional Court issued Decision No. 3/2021 at the request of the Ombudsman of 2020 to establish the unconstitutionality of Article 171, item 1, letter “e” and item 2, letter “k” of the Road Traffic Act (RTA), for which constitutional case No. 11/2020 was initiated. The disputed provisions of the Road Traffic Act concerning the coercive administrative measures applied to ensure the safety of traffic on the roads were declared unconstitutional. Thus, the decisions of the Constitutional Court in 2021, which find the Ombudsman’s requests for unconstitutionality of a law to be justified, are five in total.

2019	2020	2021	
<b>5</b>	<b>1</b>	<b>5</b>	Referrals to the Constitutional Court
<b>4</b>	<b>3</b>	<b>2</b>	Requests for interpretative rulings
<b>13</b>	<b>17</b>	<b>21</b>	Legislative initiatives and opinions

## KEY CHALLENGES IN 2021

### Political Rights and Freedoms, Electoral Rights

In the wake of the parliamentary elections held on 4 April 2021, it is necessary to point out the numerous citizen complaints received by the Ombudsman institution related both to restrictions of their voting rights and to the degrading treatment of the members of the section electoral commissions (precinct election boards) in the process of submitting the vote-count protocols. It is imperative, therefore, that every effort should be made to improve the *Electoral Code*'s provisions which should guarantee to the greatest extent possible citizens' fundamental rights and freedoms in the electoral process, and in particular:

- the voting rights of persons in quarantine because they either have COVID-19 or have had close contact with someone who has COVID-19;
- the voting rights of persons who are on a business trip on election day in a location other than their permanent place of residence
- removal of the limit on the maximum numbers of polling stations for Bulgarians living abroad in non-EU countries;
- legal order and organizational arrangements ensuring that all members of section electoral commissions (precinct election boards) enjoy equal conditions of work and participation in the process of submitting the vote-count protocols.

### Right to Protection against Domestic Violence

The problem of domestic violence is of equal importance. The Ombudsman has repeatedly brought this subject to the public's attention. The problem has been further aggravated in the context of the COVID-19 pandemic. According to data from civic monitoring, 25 women were killed within an intimate relationship in 2020. The two latest female homicide victims were killed in the period between April 5 and April 12, 2021. According to Ministry of Interior data, Bulgarian courts issued 3,057 domestic violence restraining orders. 349 of those were issued for violence against males and 898 – for violence perpetrated against children. These disturbing data show that anyone can become a victim of domestic violence irrespective of their gender, educational achievement, and socioeconomic status. This is exactly why the amendments to the regulatory environment concern a broad group of people. Such measures are even more necessary now to address the growing problem. Even though a bill was drawn up to amend the *Protection Against Domestic Violence Act* to reflect new realities, it was never submitted for consideration to the 44<sup>th</sup> National Assembly.

- The current requirement that an occurrence of domestic violence has to be a repeat offence to be classified as aggravated ought to be abolished. As of today, at least three cases of domestic or intimate partner violence must have been reported to the police for a court to impose a harsher penalty on an abuser. This, however, is not always possible since sometimes even the first occurrence of violence may result in death or in the victim's crippling or disablement;
- All forms of domestic violence ought to be criminalised. Clear and uniform definitions of economic and psychological violence ought to be adopted since the current lack of definitions makes it practically impossible to prosecute and punish the perpetrators of these forms of domestic abuse;

- Stalking also ought to be criminalised. Stalking may cause justified fear for the victim's sexual freedom, sexual inviolability, and honour, and not just fear for her or his life and health.

### **Children's Rights and Juvenile Justice**

Particular attention ought to be paid to the need to set up a modern juvenile justice system. The reform of juvenile justice in Bulgaria remains at an early stage. There are no adequate correctional-educational services compliant with the international standards for the protection of children's rights and interests in place yet. A comprehensive assessment needs to be made of the need for specialised judicial panels to handle cases for children and young people. It is imperative also to repeal the *Combating Juvenile Delinquency Act* in force since 1958 and to adopt a new *Diversion from Criminal Proceedings and Introducing Educational Measures for Minors Act*.

### **Consumer Rights – Access to Water**

The largest share of all complaints filed with the Ombudsman administration in 2020 related to the poor quality of water supply and sanitation (WSS) services in this country. Hundreds of consumers have been deprived of access to water – an integral part of the right to an adequate standard of living, explicitly recognised by the United Nations General Assembly and the United Nations Human Rights Council. Poor quality water supply services hamper the maintenance of good personal hygiene. In the context of the coronavirus pandemic, this poses a risk to citizens' health and even to their lives. I, therefore, believe that it is of particular importance to consider the enactment of a conceptually novel *Water Supply and Sanitation Act*.

### **Protection of Citizens from Unlawful Acts of Bodies Governed by Private Law**

A problem whose solution is a matter of urgency relates to citizen complaints regarding unlawful conduct on the part of collection agencies. The Ombudsman has repeatedly upheld the view that all matters regarding collection agencies and payday lenders ought to be the subject of comprehensive regulations governing all activities related to extrajudicial debt collection and debt transfer rules. It is imperative also to exercise enhanced scrutiny over collection agencies to prevent violations and to safeguard citizens' rights.

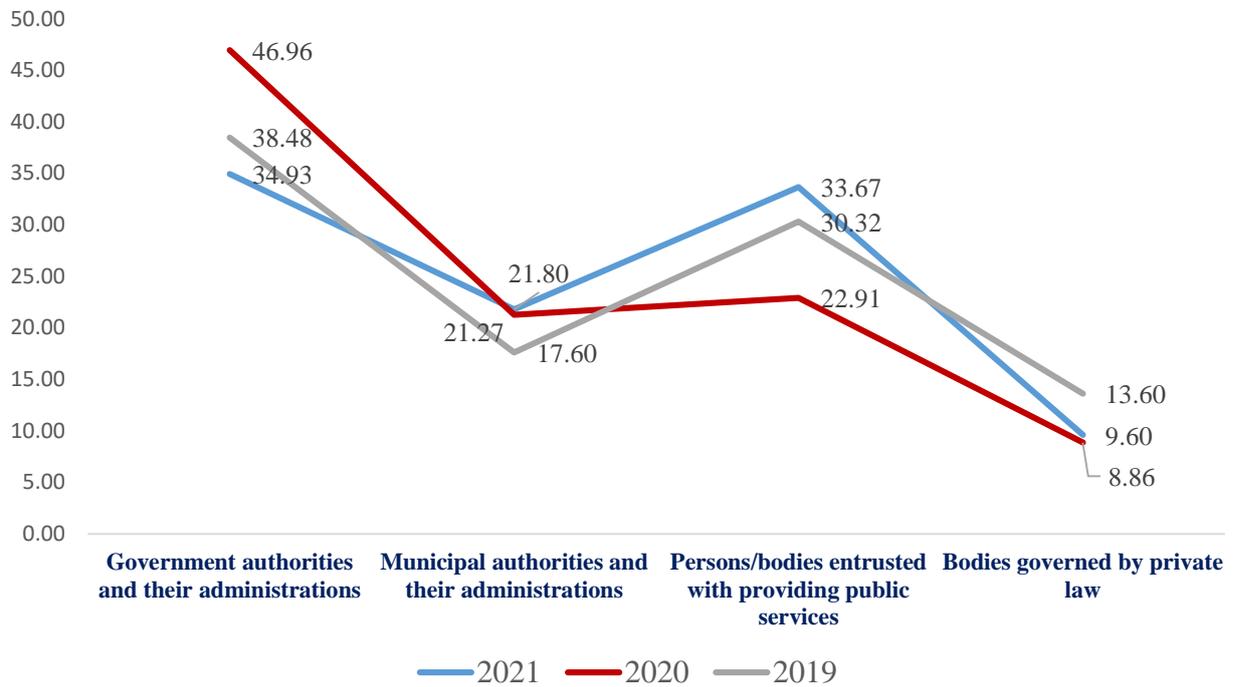
Furthermore, in the middle of the ongoing emergency epidemic situation which is associated, *inter alia*, with loss of income from employment, the comprehensive problem of the so-called “eternal debtor” remains unresolved. In view of the worrying upward trend of insolvent individuals (natural persons) who are permanently unable to pay their debts, the Ombudsman institution has consistently advocated support for the adoption of a law on personal bankruptcy. In this regard, I would like to recall that Bulgaria is the only European country that does not have such legislation in place while at the same time it ranks among the top places in bad loans in Europe.

## STATISTICS 2021

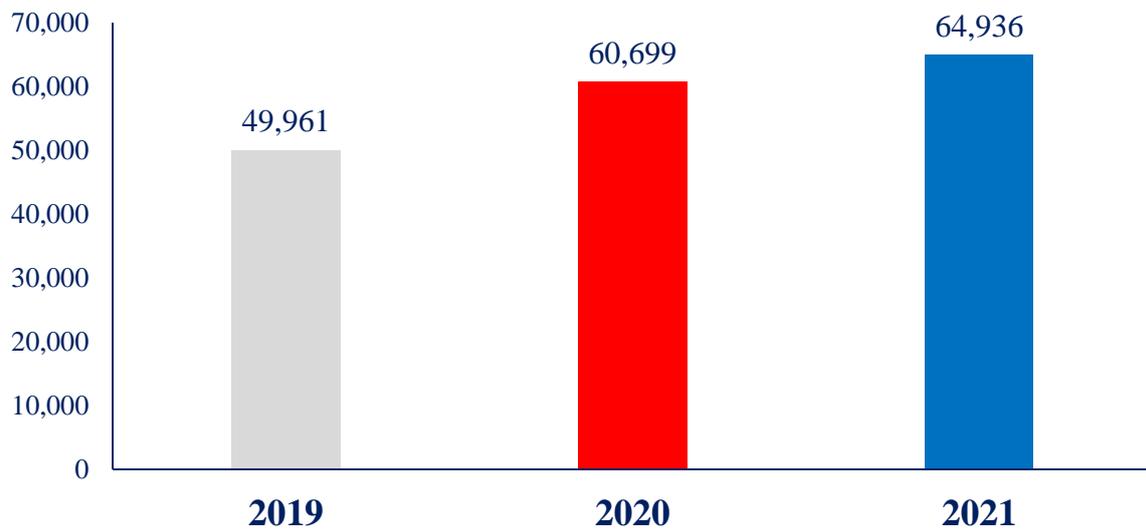
**Table 1:** Number and percentage of complaints and alerts by type of human rights violations in 2021 (in comparison with 2020 u 2019)

Categories of Violations	Number 2021	%	Number 2020	%	Number 2019	%
Consumer rights	3 992	29,50	3 390	25,60	3 519	27,25
Social rights, right to health, and right to education	2 894	21,40	3 150	24,24	3 088	23,91
Right to property	1 482	10,94	1 449	10,90	1 088	8,42
Right to good administration	988	7,29	982	7,41	1 118	8,66
National Preventive Mechanism and fundamental human rights and freedoms	806	5,95	832	6,28	716	5,54
Rights violated by bodies governed by private law – credit and financial institutions, private bailiffs, etc.	762	5,62	812	6,13	1 029	7,96
Children’s rights	526	3,88	450	3,40	492	3,81
Other human rights violations	524	3,87	518	3,49	705	5,46
Rights of the persons with disabilities	486	3,60	458	3,46	441	3,41
Absence of any specific violation	436	3,22	108	0,82	85	0,65
Right to a clean environment	384	2,83	535	4,04	412	3,19
Requests for regulatory changes	161	1,18	799	6,03	679	5,26
Requests for the Constitutional Court to be seized	68	0,53	83	0,63	46	0,36
Discrimination	17	0,12	11	0,08	15	0,11
Requests for an interpretive decision	10	0,07	13	0,10	9	0,07
<b>TOTAL:</b>	<b>13 536</b>	<b>100</b>	<b>13 244</b>	<b>100</b>	<b>12 916</b>	<b>100</b>

**Chart 1:** Number of complaints and alerts completed during the period 2019–2021 broken down by the wrongdoers identified therein



**Chart 2:** Number of citizens and representatives of organisations who received assistance from the Ombudsman during the period 2019–2021



## INSPACTIONS ON CITIZENS' COMPLAINTS IN 2021 – KEY RESULTS

The total number of finalised complaints and denunciations in 2021 was **14,727**. By acting upon complaints and denunciations, the Ombudsman forwards recommendations and opinions to the relevant institutions and organisations depending on the type of assistance sought or the type of wrongdoing committed. 14,044 complaints and denunciations were closed by issuing recommendations, opinions or counsel, or by carrying out mediation.

**Table 2:** *Number and percentage of complaints and alerts completed in 2021 broken down by type of action taken by the Ombudsman institution.*

Actions Taken	Number	%
Complaints and denunciations within the Ombudsman's remit: <i>of those:</i>	<b>14 044</b>	<b>95,36</b>
✓ <i>Recommendation</i>	2 855	20,32
✓ <i>Opinion</i>	9 520	67,79
✓ <i>Advice provided</i>	1 229	8,76
✓ <i>Mediation carried out</i>	440	3,13
Complaints and denunciations outside the Ombudsman's remit	683	4,64
<b>TOTAL:</b>	<b>14 727</b>	<b>100</b>

**Table 3:** *Number and percentage of complaints and alerts completed in 2021 broken down by the wrongdoers identified therein*

Wrongdoers	Number	%
Government authorities and their administrations	<b>5 144</b>	<b>34,93</b>
Municipal authorities and their administrations	3 211	21,80
Persons/bodies entrusted with providing public services	4 958	33,67
Bodies governed by private law	1 414	9,60
<b>TOTAL:</b>	<b>14 727</b>	<b>100</b>

## KEY EVENTS AND INITIATIVES IN 2021

**The Ombudsman in the leadership of the global and the European organisations of national human rights institutions**



A key event in 2021 was the **election of the Bulgarian Ombudsman to the global and the European organisations of national human rights institutions – GANHRI and ENNHRI.**

This is a recognition of the achievements of the national Ombudsman and of the work of the institution in line with the highest UN standards of human rights protection. There are only four European representatives in the leadership of the Global Alliance and the Bulgarian Ombudsman is one of them. The prestigious election allows the Ombudsman of the Republic of Bulgaria to contribute to a more effective work of the human rights institutions and to making sure that the problems of the Bulgarian citizens will be heard more clearly and optimal solutions will be sought at the highest international level.



**Cross-border cooperation** – On 20 January 2021, the Balkan Ombudspersons discussed the state of human rights during COVID-19 in an online meeting of the Balkan Network of Ombudspersons which was initiated and established in Sofia in 2018 by the institution of the public advocate.

The main goal of the informal organisation of the Balkan Ombudspersons is to ensure cross-border cooperation and a fast track to mutual help in the event of problems and resolving specific cases.

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In 2021, the Ombudsman institution continued to work actively in COVID-19 conditions. A main priority for the team is to ensure strictly that the citizen's fundamental rights and freedoms will not be seriously infringed upon or taken away.

In a year of three consecutive parliamentary elections, caretaker government and intense public discontent with a number of health measures, including vaccination, the issuance of green certificates and admission based on them, the access to COVID diagnostics and treatment, the Ombudsman institution became a litmus test for the citizens' concerns. There was a significant increase in the number of complaints and close to 65,000 people sought assistance from the Ombudsman on different matters.

**On 10 June 2021, the Ombudsman referred to the Health Minister, the European Ombudsman and the European Commission about issues with the COVID-19 certificates of more than 100,000 Bulgarians who had recovered from COVID-19 and who were unable to obtain a digital EU COVID certificate, or the so called "green certificate".**



*Discontent with the green certificate in front of the doors of the institution – on 20 and 26 October 2021, the Ombudsman met with representatives of the protesters, familiarised them with the action taken in the topic of protection of the citizens' rights and interests.*

After the campaign of the Ombudsman, the Bulgarian Government introduced the possibility for the issuance of a certificate for recovery from **COVID-19 based on a rapid antigen test and a proven high count of antibodies.**

In February 2022, the European Commission (EC) also allowed the results of rapid antigen tests.

In order to live up to the trust and enormous expectations, the Ombudsman reorganised the work of the institution; **all mobile phone numbers of experts are posted on the website and available to the citizens for a quick contact.**

### Blue Summer National Campaign to support child mental health

On the Day of the Child, 1 June, Ombudsman Diana Kovacheva launched the Blue Summer National Campaign in support of child mental health targeted at students and teenagers. **The purpose of the initiative is to help children and their parents to overcome the consequences of the isolation brought about by COVID-19.** It is implemented in 12 cities in partnership with the local Ombudspersons, non-governmental organisations, the Bulgarian Red Cross. School psychologists provide advice to children and parents free of charge.



On 11 June, upon the proposal of nine-graders from Knyagina Evdokiya Sofia Vocational Secondary School, the Ombudsman **set up a hotline for students and teenagers for consultations with psychologists as part of the Blue Summer Campaign.**

On 30 August, the Ombudsman sent a recommendation to the Minister of Education and Science insisting that strengthened measures should be established for psychosocial support for students in the context of COVID and the children's transition to distance learning. According to the Ombudsman, school psychologists need to have a pro-active role to identify issues for the students early, including through online meetings and consultations.

## A campaign to adopt a Protection against Domestic Violence Act

An **online discussion of the Protection against Domestic Violence Bill** was held on 26 January 2021. The Ombudsman insists that the Bill should be reviewed by the National Assembly (NA) in the course of this mandate.



On 31 May, the Ombudsman met with the British Ambassador to Bulgaria H.E. Rob Dixon and one of the topics discussed was domestic violence.

On 10 December, the Ombudsman took part in the online discussion **Taking Real Action and Finding Appropriate Tools to Support Women Victims of Violence. Violence and Harassment against Women in the Area of Work**. The forum was organised by the Economic and Social Council.



## Protection of the citizens as consumers of public services

**2021 was a year of an energy crisis – the Ombudsman insistently and consistently defended the rights of consumers. The Ombudsman was the first to stand up for the household customers of natural gas demanding immediate measures for temporary compensation on the backdrop of the extremely high fuel prices – before the caretaker government and later before the Prime Minister.**



In letters to the gas distribution companies, the Ombudsman called for an interrupted service should there be any delay in payment and for an option for deferred payments: to heating companies – not to accrue interest on forecast bills; to electricity supply companies – to implement measures to guarantee citizens' access to electricity services during the winter period; to the 34 share allocation companies – to introduce personal SMS notifications to household customers for the two dates of regular reporting.

The Ombudsman brought the problems of utility users to the attention of the Members of Parliament on the very first working day of the 47th NA, while also making specific recommendations.

In 2021, the Ombudsman defended the citizens' rights and economic interests by taking part in all online public discussions of the Energy and Water Regulatory Commission (EWRC) about the prices of water and sewerage services and of heat energy as well as in sessions of the Energy Committee at the Parliament. **The Ombudsman stood up for the people's just demands for economically justified prices in line with the quality of the services provided. The Ombudsman insisted on the drafting of a new water and sewerage bill.**

## Protection of the citizens against private enforcement officers, collectors, banks and payday loans



In the beginning of 2021, upon a proposal of the Ombudsman, the Members of Parliament agreed to include in the Bill to Amend the Measures during the Extraordinary Situation Act express provisions that **funds provided by the State as social benefits may not be seized.**

These are the compensations in relation to COVID-19 **under the Protect Me Program which the State provides as financial support due to the impact of the pandemic on employment.**

In 2021, the Ombudsman continued to send **recommendations to the Association of Collection Agencies in Bulgaria** calling on them not to allow misleading practices on the part of the firms for collection of receivables which are members of their Association. **In discussion meetings, the Ombudsman heard citizens on the problems with execution and enforcement proceedings.**

**The Ombudsman drew the attention of the Members of the 45th NA and the 47th NA to the need to adopt an Insolvency of Individuals Act, the so called “Personal Bankruptcy Act”, in order to resolve the issue with the “eternal debtor”.**

Due to the intensifying **problems the citizens have with the firms for collection of receivables** (collectors) and payday loan firms, the Ombudsman insisted before the Members of the 45th NA and the 47th NA to resolve, at the legislative level, the matter with the introduction of rules for the work of collectors, including strengthening the control over these companies.

### Protection of rights of pensioners



**In 2021, more than 20,000 elderly people turned to the Ombudsman in collections of signatures to change the model of recalculating and updating pensions.** In this context, in order to resolve the issue with low pensions, the Ombudsman suggests the possibility for the next recalculation of pensions to use the average monthly insurance income in the country for the year preceding the update.

Another problem faced by the elderly which was brought to the attention of the Ombudsman is the amount of the **minimum pension which is below the poverty line and the maximum amount of one or more pensions received.**

In 2021, people who retired as of 1 September sought the assistance of the institution due to the **insufficient information about the terms and procedure to exercise the right to retirement and the amount of the second pension from the Second Pillar of the state social security.** The first citizens to be affected are the women born before 1960.

Provisions of the Social Security Code (SSC) effective as of 1 September 2021 changed the mechanism to determine the reduction in insurance income used to **calculate the individual coefficient in setting the amount of labour pensions for people born after 31 December 1959 and ensured in a universal pension fund.** The problem emerges because close to 70,000 citizens affected by the change need to submit applications for recalculations of their pensions. After the timely involvement of the Ombudsman, the case was analysed and the legislator adopted a provision for an *ex officio* recalculation of the pensions as of 1 September 2021.

In 2021, pensioners sought assistance to resolve an issue related to the amendment of the provision of Article 102, paragraph SSC in force as of 1 January 2021 pursuant to which the pension is subject to ***ex officio* recalculation when the pensioner acquired insurance length of service during the previous calendar year and did not submit an application by the date of *ex officio* recalculation.** The problem is that the *ex officio* recalculation of the pensions from 1 April loses amounts for four months from the increased pension which is for insurance length of service and insurance income for the period 1 January – 31 December of the previous year.

After numerous complaints concerning the **COVID pension benefits**, the Ombudsman proposed the adoption of express legislative provisions for the benefits to be paid out as a crisis measure and to become **unseizable in the event of distraint.**

## Monitoring Council for the Persons with Disabilities Act

In the capacity of Chair of the Monitoring Council, in 2021, the Ombudsman continued to organise and hold the regular meetings of the Council and to include on the agenda important and topical matters for the persons with disabilities.



An important moment in the 2021 meetings was the discussion of the amendments to the **Ordinance on Expert Medical Examinations**. The Ombudsman sent recommendations to the Minister of Health to resolve the issue with the failure to set an adequate percentage in terms of type and degree of disability/degree of permanent loss of fitness to work for the people with more than one illness.

**Recommendations were discussed and sent to provide for setting a life-long term for permanently reduced fitness to work/type and degree of disability for all cases where the lead disability is definitive.**

After the recommendations of the Ombudsman, action was taken to amend the Ordinance on Expert Medical Examinations which is an important step toward resolving the issues. In relation to the recommendations of the Ombudsman, the Ministry of Health (MH) issued clarifications to the Regional Health Inspectorates (RHI) in the country on the application of the new legislation.

The last meeting of the Monitoring Council presided by the institution of the Ombudsman of the Republic of Bulgaria was held on 8 July 2021. The work of the monitoring authority in the next two years will be administered by the Commission for Protection against Discrimination.

During the two years of its work, the Council sent 14 specific recommendations to the heads of the responsible institutions and more than ten of them were implemented in whole or in part. The Ombudsman drew up a special overview report on the work of the Council as presided by the Ombudsman which is posted on the institutional website.

## CHAPTER ONE

# THE OMBUDSMAN IN DEFENCE OF CITIZENS' RIGHTS

## I. COVID-19 AND ITS IMPACT ON HUMAN RIGHTS AND THE ROLE OF THE OMBUDSMAN TO DEFEND THEM

### 1. RIGHTS OF PERSONS WITH DISABILITIES IN COVID-19 CONDITIONS

The past year was yet another year with an increase in the number of complaints concerning persons with disabilities submitted to the Ombudsman institution. COVID-19 and the ensuing additional difficulties undoubtedly contributed to this result but the main reason remains the insufficient efforts to seek effective solutions to the challenges these vulnerable citizens face.

The findings of the Ombudsman and of the Monitoring Council and the action taken fall in the these areas:

#### **Organisation of the work to see citizens who wish to appear before medical expert examination authorities**

The Ombudsman received complaints about difficulties people faced when they appeared for examinations and re-examinations in the building of Stara Zagora RHI in the period 25 October 2021 – 26 October 2021.

Following recommendations from the Ombudsman, Stara Zagora RHI analysed and assessed all activities in the course of admitting and providing services to the citizens and approved measures to enhance the work organisation.

#### **Driving licences whose validity expired during the state of emergency or the emergency epidemic situation**

Due to the COVID-19 situation, regional transport medical committees continued to postpone scheduling examinations and, in some cases, the citizens were unable to have their driving licences renewed during the remaining validity.

The Ombudsman sent an opinion to the caretaker Deputy Prime Minister and caretaker Minister of the Interior and to the caretaker Minister of Transport, Information Technology and Communications describing the complaints of persons with disabilities in the process of issuance/re-issuance of their driving licences.

Options to improve the organisation were sought in relation to the recommendations.

#### **Access to the Information System for control of medical expert examinations and possibilities for electronic submission of documents for certification/re-certification to the authorities of medical expert examinations**

In relation to incoming complaints and the findings that the Information System launched in 2020 on which both the Ombudsman and the Monitoring Council had insisted repeatedly in their recommendations did not work for persons with disabilities, recommendations were made to take action in order to ensure adequate access for citizens with disabilities and their representatives to the Information System within the shortest term possible.

The response to the recommendations makes it clear that specific actions were taken upon the recommendations.

### **Exemption from the fees to use social services in COVID-19 conditions**

The Ombudsman and the Monitoring Council expressed an opinion to the Speaker of the 45th NA that users of the services at Social Rehabilitation and Integration Centres, Temporary Accommodation Centres, Mother and Child Units, and Daycare Centres should be exempt from fees after 1 January 2021 as well.

### **Access to assistant support for persons with disabilities without the right to support from others established by authorities of medical expert examinations**

The Ombudsman and the Monitoring Council sent a recommendation to the Minister of Labour and Social Policy that urgent measures needed to be taken to ensure access to assistant support for citizens with permanent disabilities who had a certain type and degree of disability/degree of permanently reduced fitness to work but without the right to support from others.

## **2. RIGHTS OF CHILDREN IN COVID-19 CONDITIONS**

In 2021, in the capacity of an independent monitoring authority for the protection of the rights of the child, the Ombudsman took a number of important actions to sound the alarm for the public and the institutions as regards the risks children faced.

In 2021, children again were not a priority group for support due to the opinion that they were not directly exposed to risk from the point of view of the illness itself. The measures were focused on businesses, rather supporting employed people and some vulnerable groups; **however, measures targeted clearly at children as a group with its own peculiarities of development were not taken.**

**Children remain in the position of being an object of measures which are not adjusted or child-friendly**, failing to take into account their rights and interests. Note should also be made of the inappropriate language and manners used by media and politicians to talk about children as a risk group.

The greatest challenge for children continues to be the **social isolation and the closing of schools**. The children are left without their ordinary educational environment for a very long time which has a serious impact on their **mental health**. The closing of nurseries, kindergartens and schools, of social services and extracurricular activities exerts an impact not only on the children's education but also on their nutrition, growth, physical and social development, and protection. In this way, **children bear a disproportionate burden from the consequences of the COVID-19 pandemic** whose impact has not been measured yet and, hence, no adequate measures have been planned either to make up for the educational deficiencies or to boost the children's health and development.

The lengthy isolation in combination with the economic consequences for the families, the loss of jobs and the lack of financial means give rise to new and more intense crises in families which often unlock violence and harassment. This has a negative impact on the children with even a higher risk for abandonment of children which necessitates urgent measures for protection such as, for example, removal from families of children at risk of violence. According to data of the Ministry of the Interior (MoI), 935 orders for immediate protection of children were issued in 2021 (898 such orders in 2020). The total number of orders for immediate protection issued by the court in 2021 was 3,244 (3,057 such orders in 2020).

According to MLSP information, the cases of violence against children on which Ministry structures worked in 2021 were 475. On the other hand, in 2021 the SACP registered an increase in the cases of violence against children by 116, totalling 499. The signals received at the National Hotline 116 111 were 738.

In the beginning of 2021, the Ombudsman prepared a special report **Children and COVID. Impact of the Crisis on the Rights and Interests of Children**. The report analyses the state of the rights of children and the impact of the emergency measures on them. The study identifies risk groups of children who are visibly subject to a negative impact from the measures or the pandemic itself.

In the course of the participation in a project of the European Network of Ombudspersons for Children (ENOC) whose main goal was to assess the impact of COVID-19 on the rights of children, an Ombudsman team and an independent assessor performed an expert study – an assessment used as a foundation for **Report on the Impact of the Measures against COVID-19 on the Rights of Vulnerable Groups of Children in Bulgaria**.

Three key topics were identified which were presented in detail in view of the data analyses:

- Isolation imposed on children by the services of residential care and the institutions for children living in Roma quarters;
- Reality of distance learning for children who live in separation from their families and children whose families do not provide the necessary conditions and support for studies at home;
- Access to social support, protection and services for vulnerable families and children in the context of the restriction measures.

In relation to the dozens of letters from parents to the Ombudsman in which they express concern for the situation of their children changing as a result of the online training and the measures against COVID-19 as well as in relation to the monitoring carried out by the Ombudsman, on 1 June 2021 the institution launched the **Blue Summer National Campaign for Student Mental Health** aimed at supporting child mental health and easing the impact of online training.

In the period March – July 2021, the Ombudsman institution took part in the project of the European Network of Children **Let's Talk Young, Let's Talk about the Impact of COVID-19 on Children's Rights** which is an initiative of ENYA, a part of ENOC. Bulgaria was one of 17 States which prepared a group of young counsellors who took part in an international forum in the period 1-2 July 2021. The topic of the forum was related to the challenges the pandemic posed for children, especially groups of children living in vulnerability and with a limited access to services from public sectors.

### **Main groups of problems identified based on the complaints submitted to the Ombudsman in the area of rights of children during COVID-19**

#### **Challenges to the rights of the child during a crisis:**

- The deteriorating social-economic position of families exerts a serious impact on children. There is a growing share of complaints related to requests for support and individual treatment of parents who find themselves in a difficult situation.
- Lack of a plan for social support which is adequate to the newly emerging needs of people – measures are applied which are effective in an ordinary risk environment but they do not reflect the specific risks brought about by COVID-19.
- An increased risk of abandonment of children and their placement at social services of residential type due to the lack of adequate family support.
- Serious changes in the functioning of social services which makes the care for children with disabilities very hard. The closing down of daycare centres for children with

disabilities and the centres for special educational support has resulted in de-evolution in the development of a large group of children with disabilities.

- The protection system is failing to adapt adequately to the situation. Almost every other complaint is about the work of social workers and the lack of coordination in their actions. This called for a public discussion on “Where do children at risk fa(i)ll in the protection system?”; more than 30 issues were identified based on the stories from it and recommendations were sent to the Minister of Labour and Social Policy.

- There is an increase in the cases of domestic violence against children.
- Insufficient support for foster families due to the impossibility for home visits and mobile work.

- Restriction of the movement of children in residential services and signals about complete physical closure of children and young people at family-type placement centres.

- Discontent with the restriction measures imposed on sport activities for children and movement outdoors as well as with the prohibition for visits to parks.

- Restricted access to online training for children with special educational needs (SEN). The parents complain about pro-forma training and lack of sufficient work with specialists – model teachers, speech therapists, psychologists. More than 20 recommendations were sent, both based on specific complaints and generally, concerning the rights of children with SEN, an online discussion was held with the Minister of Education and Science about online training and the right of children to education.

- The emergency situation has a highly negative impact on the rights of the child to maintain contacts with both parents as it restricts the possibility for contacts with the parent the child does not live with.

- In the area of juvenile justice, there were again no actions; there were even no discussions about the new legislative bills. The children placed in correctional institutions as an educational measure do not exceed 150 but the lack of adequate actions seriously infringes upon their rights.

- Problems related to the closing down of homes for medical and social care for children and the emergency relocation of children at the end of the year with no preparation of the children and with no support for the staff.

- Insufficient monitoring of the new services for children to strengthen the progress achieved.

### **Children and families in vulnerable situations**

The Ombudsman registered a higher risk of exclusion from the educational process with respect to a large group of children which was defined as digital exclusion. In this regard, several recommendations were sent to the Minister of Education and Science in which the Ombudsman sounded the alarm that more than 70,000 students were not covered by distance learning and the reason, most often, was the lack of a device and/or internet connection. It has been found that despite the efforts of the Ministry of Education and Science (MES) to provide internet access at places with difficulties to connect or no connection at all, computers and tablets were purchased, digital exclusion and digital poverty are becoming serious challenges and the failure to resolve them may have negative consequences for a long time going forward.

During the said period, the Ombudsman institution received more than 2,000 complaints and signals about the rights of children in the area of civil and social rights of children, of

education, health, social activities and services, family environment and alternative care, rights of children with disabilities. Based on the complaints, more than 100 main recommendations were sent in every letter addressed to the competent authorities for a specific complaint.

### **Rights of children with special educational needs (SEN)**

In terms of education, children with SEN are among the most vulnerable groups. In their complaints and signals to the Ombudsman, parents say that the problems with the children's training become ever more visible during online training and are related to the lack of sufficient hours of work of the children with model teachers and specialists, the lack of skills and possibilities of the children to deal with this kind of training. Many parents also lack sufficient skills to support their children and to manage with their professional commitments, personal obligations and online training. A large number of the children are not covered due to the lack of adapted technical means or appropriate training materials. This situation brings to the fore the need to introduce new approaches and forms of additional support for the personal development of children and students with SEN. The continued absence of a therapeutic and training process results in the exacerbation of the problems with children as regards their development, motivation to learn and loss of social skills.

### **Rights of children with disabilities**

Despite the efforts of the State to ensure the rights and protection of children with disabilities, a significant part of them remain invisible due to the lack of accessibility, quality services and support which makes them a seriously vulnerable group. Still not overcome are the risks for these children in relation to family separation, placement in residential services and services in the community. A large part of the children with disabilities remain outside kindergartens and nurseries. Healthcare, education and adequate social measures for support are among the main challenges and they are areas in which the children with disabilities and their families face additional difficulties.

The access to social services for children with disabilities is most impacted by the emergency situation and the ensuing measures due to the fact that a large part of the services take place entirely in the conditions of a restrictive/prohibitive regime. Very strong is the impact of the closure of daycare centres for children with disabilities.

### **Children in parental conflicts**

In 2021, the complaints from parents that they were prevented from communicating with their children appropriately continued to make up a significant part of the complaints to the institution. This issue is ever more salient in the conditions of the state of emergency. For example, the refusals of the parent raising the child to comply with the judgment issued by the court as regards the part concerning the personal relations of the child with the other parent are justified based on the pandemic situation. In other cases, one parent takes that personal relations can only take place through electronic communication means which is not accepted by the other parent. Unfortunately, in such situations the protection system fails to find the necessary and appropriate balance and applies measures which are not adapted to the new circumstances.

## **3. SOCIAL RIGHTS IN COVID-19 CONDITIONS**

### **3.1. Access to healthcare in COVID-19 conditions**

#### **Rights of people living in border areas affected by the anti-epidemic measures upon entering the country**

In relation to complaints, a collection of signatures and a petition from organisations from the Western Outlands as well as to individual complaints from public figures, the Ombudsman sent recommendations to the Minister of Health to remove the restrictions.

Provisions were adopted for the free passage of border area workers, pupils, students and Ph.D. students and the border check point which is most convenient for them is included in the orders.

### **Citizens' rights stemming from the digital EU COVID certificates needed in the case of travel**

Before the implementation of the EU COVID certificate, the Ombudsman expressed a firm position before the Minister of Health and the European authorities that a certificate for recovery should also be issued on the basis of a rapid COVID-19 antigen test and a positive result from a test for antibodies against SARS-CoV-2.

Albeit at a later stage, the EC adopted Commission Delegated Regulation (EU) 2022/256 of 22 February 2022 amending Regulation (EU) 2021/953 of the European Parliament and of the Council as regards the issuance of certificates of recovery based on rapid antigen tests.

### **Requirement to pay for the issuance of a COVID-19 vaccination certificate introduced by certain medical institutions**

After a recommendation of the Ombudsman to the Minister of Health, an annex to the National Framework Agreement in Healthcare provided for free issuance of certificates to all citizens.

### **Restrictions for people arriving in the country from a red-zone state and inequality between vaccinated and recovering persons**

As early as the publication of the order of the Minister of Health, the Ombudsman sent a recommendation insisting on a review of the restrictions before its entry into force. The Ombudsman also insisted on a possibility to lift the quarantine.

The same day the caretaker Minister of Health issued a new order providing that entry in the country from red-zone states could also be granted based on a digital EU COVID certificate for recovery or an analogous document and that the quarantine could be lifted in the cases laid down in the order.

### **Introduction of a requirement for the so called “green certificate” as a condition for access to a number of public places and activities**

After recommendations given by the Ombudsman, provisions were adopted for the possibility for all citizens who had recovered from COVID-19 as evidenced by a positive result of an antigen test to be able to download a certificate. The term of validity of the digital EU COVID certificate for recovery was extended on the territory of the country.

Provisions were also adopted for the issuance of certificates for SARS-CoV-2 antibodies.

The Ministry of Health provides rapid antigen test to medical institutions based on contracts; unfortunately, they are often insufficient and are not completely free of charge for the citizens.

### **Lack of information provided to the citizens about the termination of the contracts with the NHIF of the general practitioners they have chosen**

After recommendations from the Ombudsman to the caretaker Minister of Health and the NHIF Governor, an NHIF mobile application for feedback to the citizens was launched.

### **Citizens' access to COVID diagnostics and prescriptions for home treatment medication**

Complaints and signals in relation to the work of the COVID zones, the amount and quality of the medical assistance provided there, including: they do not cover the entire country evenly and have limited working hours; COVID-19 is evidenced only through a rapid antigen test; failure to prescribe home treatment medication paid for by the NHIF.

Several recommendations were issued to the Minister of Health and the NHIF Governor but the prevailing part of the problems remains unresolved.

### **Civil rights affected by the suspension of medical activities**

The Ombudsman turned to the caretaker Minister of Health with a recommendation noting that activities related to terminating pregnancies and diagnostic activities during pregnancies were relevant to the exercise of reproductive rights and insisted that they be included in the exceptions laid down in the order.

The recommendation was taken into account and the next order of the Minister of Health included activities related to terminating pregnancies among the exceptions.

## **3.2. Education and COVID-19**

### **Complaints requesting that the MES publish examples for the upcoming 2022 state matriculation examinations (SME) in profile subjects upon completion of grade 12**

Students and teachers sounded the alarm that there were no examples for every matriculation examination in every subject and the teachers did not know what tasks to direct their students to in the course of their preparation which hampered the preparation and resulted in tension between teachers and students.

The recommendation was taken into account. In the beginning of the school year, to help the graduating students, the MES published on its website training and examination programs with expected training results which would be assessed as well as the types of tasks in the 2022 SME.

### **Complaints about lack of clarity in scoring for admission to higher education institutions (HEI) in 2020**

Students, parents and teachers turned to the Ombudsman for assistance due to the lack of information on matters related to admission to HEI – scoring, forms and content of the examinations in 2022 as well as the documents HEI will require with applications. The students were from the first class completing their secondary education under the new Pre-School and School Education Act.

The Ombudsman alerted the MES about the issue and recommended that the rules be clarified in the beginning of the school year so that the applicant students would have clarity and time to prepare.

The recommendation was taken into account, the MES complied with the opinion of the Ombudsman and required of universities to publicize their 2022 admission requirements by the end of October 2021.

### **Complaints about examinations to acquire the capacity to practice a legal profession – more than a year and two months after their graduation, more than 450 intern lawyers are unable to attend examinations and, hence, have no prospects for career development**

A recommendation was sent to the Minister of Justice to look for options to set sooner dates for the examinations to acquire the capacity to practice a legal profession while observing

the anti-epidemic measures so that their career and professional development would not be hampered.

The recommendation was taken into account – a date for the examinations was set.

### **Complaints about the intention of MES to require of parents and schools to pay for the tests for children as a condition for their return to class rooms**

The Ombudsman turned to the Minister of Health and the Minister of Education and Science expressing the position that such a measure would result in a property criterion for access to education which was discriminatory and inequitable treatment of children. This would restrict the children's access to education which is their constitutional right.

The recommendation was taken into account – the MES gave up on the idea.

### **3.3. Labour relations and COVID-19**

The problems in the area of labour relations are related mainly to the failure of employers to ensure safe and healthy working conditions, the abuse of the requirement for a “green certificate” or the requirement for vaccination as a condition to allow people to their work places, and the termination of the labour relations with workers and employees in a vulnerable social position. The Ombudsman's attention was directed mainly to resolving these issues and to protecting the rights of workers and employees seeking assistance to deal with the above problems. Support was provided mainly to workers and employees during and after the termination of labour relations.

As a result of the Ombudsman's intervention through recommendations to the control authorities of the Labour Inspection, NSSI and RHI, the rights of these vulnerable groups of citizens were protected.

### **3.4. Pension rights and COVID-19**

In the period 1 January 2021 – 31 December 2021, the Ombudsman of the Republic of Bulgaria received more than 350 individual complaints and numerous collective complaints from citizens who voiced their problems, ideas and suggestions related to improving their social security and pension rights.

### **The main question people in retirement age raised during the emergency epidemic situation was related to their low pensions**

After the Ombudsman addressed the responsible ministers and the NA, the Government continued to pay out the additional funds to all pensioners in 2021.

By an update to the 2021 State Public Social Security Budget Act, the NA decided that the addition to all pensions for the months from October to December 2021 would be BGN 120. As of 25 December 2021, the minimum pension was increased from BGN 300 to BGN 370 and the maximum one from BGN 1,440 to BGN 1,500. All pensions are recalculated with a ratio of 1.35 from the weight of the average social security income.

After the recalculation of the pensions as of December 2021 and the reduction of the addition to the pensions from BGN 120 to BGN 60, more than one million pensioners received less money with the January pensions in comparison to the December ones. Next came a reaction from pensioners and the Ombudsman about the resulting decrease in the final amount of the recalculated pensions and the so called “Covid addition”. By the Bill to Extend the Effect of Provisions of the 2021 State Budget of the Republic of Bulgaria Act until 31 March 2022 and the 2021 State Public Social Security Budget Act, the NA adopted provisions that, for the first quarter of 2022, an amount would be paid with pensions which would be the difference between the amount of the monthly pension or the monthly sum of pensions recalculated as per

paragraph 7f of the Transitional and Final Provisions (TFP) of the Social Security Code together with the additions and compensations, including with the additional amount of BGN 60.

Upon the Ombudsman's insistence, it was decided that interim measures would not be imposed and no actions of involuntary enforcement would be taken with respect to funds paid to pensioners as compensation under the State Public Social Security Act and a CoM act in relation to overcoming the consequences of COVID-19. It was also decided that any distress notices on such receivables would not be subject to enforcement, including from funds paid to their bank accounts or other checking accounts.

## **4. CONSUMER RIGHTS IN COVID-19 CONDITIONS**

### **4.1. Electricity supply**

In 2021, due to the hard epidemic and economic situation which resulted in restricting income, the citizens sought assistance from the Ombudsman in relation to difficulties to pay for their electricity bills.

The Ombudsman is of the position that the access to electricity could be guaranteed through deferral of obligations, extended terms for payment of electricity bills and not resorting to suspending the service. In this regard, the Ombudsman sent a recommendation to the three electricity supply companies.

### **4.2. WSS services**

In relation to complaints against the frequent and lengthy interruptions in the water supply services, the Ombudsman sent recommendations to the respective WSS operator and the local administration: to guarantee the citizens' right to quality and uninterrupted water supply services; to provide sufficient quantities of water through water supply trucks or bottles.

### **4.3. District heating**

Due to incidents at facilities of Toplofikatsia-Pernik AD in December 2020 and January 2021, the Ombudsman turned to the Ministry of Energy with a recommendation for an extraordinary inspection of the company. The inspection found a number of violations.

After three insistent recommendations from the Ombudsman on the matter, the EWRC ordered the company to compensate, by 15 May 2021, the customers who had suffered varied quality of heat supply in the two periods 17 December 2020 – 21 December 2020 and 11 January 2021 – 20 January 2021.

The pandemic conditions hamper the annual campaign of companies for equity distribution of heat to take actual measurements of the devices for equity distribution of heat.

In July 2021, the Ombudsman turned to the 34 companies for equity distribution of heat with a recommendation to introduce personal sms notifications to household customers about the two dates of regular reporting.

During the period for objections and claims in relation to the balancing bills for the 2020/2021 heating seasons, the Ombudsman acted as an intermediary for an extraordinary reading of the devices for equity distribution of heat and for timely review of the amounts charged for heat.

The Ombudsman supported through an opinion the amendments to the Energy Act (promulgated, SG, issue 21/12.03.2021) implementing the requirements of Directive (EU) 2018/2002 of the European Parliament and of the Council on energy efficiency introducing heat measurement devices and equity measurement devices which allow for remote reading. The

Ombudsman turned to the Minister of Energy with a recommendation for financial support for vulnerable households to purchase the devices.

### **An initiative of the Ombudsman before the 2021/2022 heating season on measures for benefits in the payment for heat and natural gas**

On 18 November 2021, the Ombudsman turned to the caretaker Prime Minister in relation to the need for measures to protect household customers of natural gas and heat as well. The Ombudsman insisted on a review of the applicability of the measures proposed by the EC to tackle with the rising energy prices as per Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions (Brussels, 13.10.2021, COM(2021) 660), such as: lowering VAT for energy; setting a ceiling for energy prices during the winter months; non-accrual of interest on delayed payments during the winter months; non-suspension of power supply in the case of delayed payments until the end of the heating season.

In December 2021, the 47th NA imposed a moratorium on the changes in regulated prices of electricity, WSS services and heat for the period from 16 December 2021 till 31 March 2022.

With regard to households using natural gas, the Ombudsman recommended the principle of compensation for prices per megawatt hour consumed. Such a decision was taken in January 2022 by the Parliament-elect Government.

In November 2021, the Ombudsman turned to the 12 heating companies with a suggestion to extend temporarily the payment deadline and not to accrue interest in the case of delay for the heating season. In response, EVN Bulgaria Toplofikatsia EAD, Toplofikatsia – Pleven AD, Veolia Energy Varna EAD, Toplofikatsia – Ruse AD and Toplofikatsia – Sliven EAD said that allowances had been introduced in the payment deadlines along with discounts from the prices of heat.

In November 2021, the Ombudsman sent a recommendation to 21 gas supply companies to extend temporarily the deadline for payment of the monthly supplies of natural gas for household customers and not to suspend the supply of natural gas in the event of delay. Positive responses were received from Citygas Bulgaria EAD, Sevlievogas-2000 AD, Gastrade Sliven EOOD, Kavarna Gas OOD and Gas-Energy Company – Elin Pelin EOOD.

#### **4.4. Mobile services**

At the end of 2021, the Ombudsman addressed the Chief Executive Directors of A1 Bulgaria, Telenor and Vivacom with an appeal – in the conditions of an emergency epidemic situation, not to index the prices of telecommunication services. The Ombudsman emphasised that the increase in the prices of mobile operators was unjustified, disconcerting and unfair given the measures taken by the NA and the Government to tackle the price crises.

As a result, the prices of the monthly subscriptions were indexed solely for the 2021 inflation and not for the two preceding years, as the initial intention had been.

#### **4.5. Transportation services**

There was an increase in the number of signals about passengers not allowed to board a plane due to non-compliance with epidemic requirements, with a request for reimbursement of the amounts paid for plane tickets. The Ombudsman assisted, through Directorate General Civil Aviation Administration, for the resolution of each specific case.

Signals were also received about the non-observance of the anti-epidemic measures on trains, intercity buses, the metro and urban transport systems. The issues were referred to the competent control authority.

#### **4.6. Financial services**

Citizens reached out to the Ombudsman for assistance due to the inability to pay timely their obligations under loan agreements and due to the lack of understanding on the part of payday loan firms and receivables collection firms for the problems they had with payments.

In a letter to the Members of the 47th NA, one of the issues necessitating resolution listed by the Ombudsman was the introduction of rules for the work of collectors and payday loan firms and for strengthening the control over such companies.

Also in a letter to Deputy Prime Minister and Minister of Energy and Industry Kornelia Ninova, the Ombudsman emphasised the need for urgent legislative amendments to provide for the work of collectors and proposed specific legislative measures.

#### **4.7. Other consumer disputes**

The pandemic also placed tour operators in a situation of objective inability to provide tourism services which **results in numerous complaints with requests for reimbursement of amounts** under purchased tourist packages. In a large number of cases, conversations and consultations were held with the Ministry of Tourism and the Consumer Protection Commission as well as intermediation before tourism agencies to ensure reimbursement of amounts when trips did not take place.

## **5. ADMINISTRATIVE SERVICES IN COVID-19 CONDITIONS**

### **Issues with extending the validity of identity documents**

In view of the epidemic situation in the country, citizens insisted on an extension of the term of validity of the Bulgarian identity documents (BID). The Ombudsman was informed by the MoI about the measures implemented to make things easier for the citizens such as: possibility to submit applications for the issuance of BID with an electronic signature or in a district department of their choosing; units working with extended hours and on Saturdays; citizens abroad are given the possibility to submit applications through the MoI automated information system without a requirement for a qualified electronic signature, and others.

The MoI is of the opinion that it is not appropriate to take measures for yet another extension in the BID term of validity.

## **6. RIGHTS OF PERSONS IN CLOSED INSTITUTIONS AND COVID-19**

In 2020, the Ombudsman introduced in the practice of monitoring the rights of children at risk with the law the new special principles and standards adopted by the High Commissioner for Human Rights together with UNICEF and the Alliance for Child Protection in Humanitarian Action. Main purpose: to ensure the rights of children who are isolated in closed institutions by providing information about the international human rights standards and guidelines to tackle the COVID-19 crisis. Due to the risk of a disproportionate effect on the rights of children who are placed in closed institutions, the States must guarantee that the human rights of every child deprived of liberty will be fully respected, protected and implemented. The main recommendations to the States are to introduce a moratorium on the detention and placement

of children in closed institutions, to release any children who have been detained, and to take measures to protect the health and well-being of children who are in closed-type institutions.

Special measures need to be planned to protect the children whose vulnerability has been increased additionally as a result of the pandemic such as children deprived of liberty or placed in closed-type institutions. A special emphasis has been laid on the rights of those children to maintain regular contacts with their families. Every measure needs to be assessed in terms of the impact on children, both in the short term and the long term, to be adapted and understandable to children, including children with disabilities, children from vulnerable groups and children with limited access to the internet.

The Ombudsman, as the National Preventive Mechanism (NPM) and through the Rights of Children Directorate, recommended to the Minister of Education to take the necessary action to overcome the mental consequences of the social isolation of children in social and pedagogical boarding houses and correctional boarding schools.

In 2021, the inspections at places for deprivation of liberty with the Ministry of Justice (MJ) found observance of the COVID-19 anti-epidemic measures. Directorate General Execution of Punishments adapted timely the orders issued by the MH to be implemented in the penitentiary system. After the information campaign held among persons deprived of liberty on the vaccination against COVID-19, more than 1/3 of the persons deprived of liberty at prisons were vaccinated.

Order No. LS-04-587/28.10.2021 of the Deputy Minister of Justice introduced additional rules for access which restricted the rights of the persons deprived of liberty, detainees and visitors during visitations which did not take into account the objective situation and the capabilities of the system at places for deprivation of liberty. The Ombudsman, as the NPM, reacted timely expressing the opinion that the mechanical implementation of Order No. RD-01-856/19.10.2021 of the Minister of Health supplemented by Order No. RD-01.861/21.10.2021 was incorrect and inapplicable and sent a recommendation to the MH to review and amend Order No. LS-04-587/28.10.2021 in order not to allow violations of the rights of persons at places for deprivation of liberty in keeping with the health anti-epidemic measures in accordance with the specifics of the system.

Since 2020, the State Agency for Refugees (SAR) at the CoM has applied preventive anti-epidemic measures in order not to allow dissemination of COVID-19 among staff and foreigners accommodated at agency territorial units. The orders of the Minister of Health are executed and so are the recommendations, guidelines and instructions for the work in epidemic conditions issued by the RHI.

On 10 April 2020, the Ombudsman sent a recommendation to the respective institutions in relation to the measures they needed to take at Specialised Centres for Temporary Accommodation of Foreigners at the MoI Migration Directorate and the Registration and Reception Centres at the CoM SAR in relation to the COVID-19 pandemic. The recommendation emphasises that every restriction measure taken with respect to persons deprived of liberty with a view to preventing the dissemination of COVID-19 needs to be based on the law and to be necessary, proportionate, respecting human dignity and limited in time. The persons deprived of liberty must receive exhaustive information about any such measures in a language they understand. The Medical Institute of the MoI Hospital develops and regularly updates the anti-epidemic instructions for the Specialised Centres for Temporary Accommodation of Foreigners in line with the MH provisions.

In 2020, a recommendation was given to the SAR Harmanli Registration and Reception Centre to put an end to the double quarantine for foreigners and, as of today, the

recommendation has been implemented. Approximately 50% of the foreigners at the Centre are vaccinated against COVID-19 and the process continues.

The issue with the vaccination against COVID-19 of migrants without identity documents concerns the protection of public health and the Ombudsman of the Republic of Bulgaria is committed to resolving it. In view of the development of the epidemic in the country and in order to prevent the emergence of epidemic centres in the detention places, recommendations were sent to the Minister of the Interior and the Minister of Health to ensure vaccination against COVID-19 of all foreigners willing to have one (including those without identity documents) at the Specialised Centres for Temporary Accommodation of Foreigners at the MoI Migration Directorate.

## II. THE OMBUDSMAN'S RECEPTION OFFICE

In 2021, the Ombudsman's Reception Office continued to work in compliance with the measures associated with the emergency epidemic situation declared in the country.

### Communication channels and ways to make queries, receive advice, hold in-person meetings and lodge complaints:

- In person at the Reception Office;
- By post;
- Via the permanent phone;
- By fax;
- By mobile phones;
- Via e-mail;
- Via the website of the Ombudsman.



In 2021, the Reception Office was visited by **1,778** citizens and representatives of organisations while **6,866** calls were received for information and/or advice at the permanent phone at the Reception Office. The total number of visits and calls at the Reception Office in 2021 stood at **8,644** which is 993 more in comparison to 2020 when the number of visits and calls was 7,651.

The publication of the mobile numbers of all experts at the institution on the official website in 2020, including being prominently displayed at the entrance to the institution, helped to distribute the calls and reduce those to the permanent phone at the Reception Office. The maximum publicity and the possibilities provided for immediate contact with representatives of the institution allowed **12,181** citizens to receive timely information and advice on matters of concern to them.

### Reception days of the Ombudsman

The established practice for the Ombudsman and the Deputy Ombudsman to see citizens in person continued in 2021.

During the period of effect of the orders of the Minister of Health regarding the emergency epidemic situation, the reception days of the Ombudsman for citizens were held remotely.

The online reception days are seen by the citizens as an effective way to talk to the Ombudsman which gives them the opportunity to raise an issue and receive the assistance they need without having to expose their health at risk.



The constant increase in the trust in the institution to resolve matters of high public interest which affect a large number of citizens can be seen beyond any doubt in the increased number of citizens united in initiative committees or other forms who submit collective complaints accompanied by collections of signatures and petitions. **The number of citizens who signed collective complaints, signals and petitions lodged in 2021 was 30,575 which is 28.13% more in comparison to the number in 2020, namely 23,864.**

### **Complaints and signals completed in 2021**

The complaints and signals completed in 2021 were **14,727** or an increase by 7% in comparison to the number of complaints and signals completed in 2020.

Of those, 12,375 were closed with recommendations and opinions to institutions and organisations depending on the type of assistance sought or breach committed. 1,669 complaints and signals were completed with advice or intermediation provided.

**In 2021, there was a significant increase in the number of recommendations given by the Ombudsman** – on average by 12% in comparison to 2020 and by 27% in comparison to the pre-crisis year 2019. The same **upward trend is also in place with respect to the opinions issued by the Ombudsman** which, in 2021, were on average 10% more than those in 2020 and 2019.

Essential to the effect of the Ombudsman's work is the number of recommendations fulfilled as a result of inspections upon complaints and signals from signals. **In 2021, a total of 2,494 recommendations of the Ombudsman were fulfilled (in whole or in part) or more than 87%.**

The categories of offenders referred to in the citizens' complaints include, first, state authorities and their administrations (34.93%) and the entities tasked with providing public services (33.67%).

Even though the Ombudsman administration received 683 complaints and signals lacking legislative grounds for review in 2021, in more than 64% of them advice was provided to the citizens in relation to their rights.

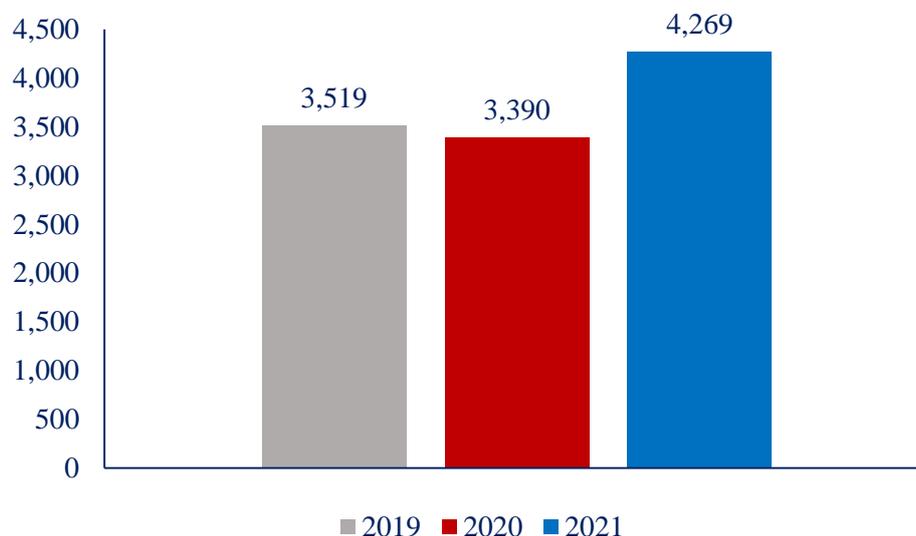
### **Citizens and their organisations receiving assistance from the Ombudsman in 2021**

The tendency for an increase in the number of citizens and their organisations obtaining assistance from the Ombudsman continued in 2021 as well – in the past year, the increase was by 7% in comparison to 2020 and by 25% in comparison to the baseline year 2019.

### III. CONSUMER RIGHTS

The complaints against suppliers of public services in 2021 again had the greatest share among all complaints received by the Ombudsman institution.

**Chart 3 - Complaints and alerts filed by consumers in the period 2019-2021, number**



**Table 4 – Complaints and alerts filed by consumers by industry in the period 2019-2021, number**

Industry	2019	2020	2021
Electricity supply	542	275	<b>1 503</b>
Water supply and sanitation (WSS)	1 410	1 097	<b>1 060</b>
District heating	327	954	<b>583</b>
Electronic communication services	331	322	<b>313</b>
Waste collection	34	37	<b>278</b>
Financial services	424	302	<b>234</b>
Transport services	167	153	<b>49</b>
Collection companies	102	44	<b>44</b>
Gas supply	17	31	<b>67</b>
Postal services	25	16	<b>33</b>
Insurance services	54	22	<b>16</b>
Other consumer disputes	86	137	<b>90</b>

In 2021, the complaints of consumers of electricity supply services came first before WSS services, followed by complaints against heating companies, mobile operators, waste collection firms, banks and payday loan firms.

### 3.1. ELECTRICITY SUPPLY

The institution received 1,503 complaints or 1,228 more in comparison to the previous year. The inspections upon 1,448 case-files were completed.

#### **Right to a quality service**

1,305 complaints were registered in relation to breaches concerning electricity supply, including collections of signatures from citizens of whole population centres.

The Ombudsman turned to the respective electricity distribution companies with recommendations to take the necessary steps to normalise the electricity supply in their regions and to provide a reliable, uninterrupted and quality energy service to subscribers.

The Ombudsman is of the opinion that the mechanism for compensation of the subscribers affected by frequent and lengthy interruptions in the electricity supply is unfair.

#### **Right to pay an economically justified price for a service actually used**

There is an ever greater number of citizens who have difficulties with paying their debts and express concerns about the possibility for the electricity supply in their homes to be suspended.

During the public discussion of the draft decision to approve the prices in the Electricity sector for the regulatory period 1 July 2021 – 30 June 2022, the Ombudsman presented specific arguments about the forecasted increase of more than 4% before the Energy and Water Regulatory Commission (EWRC).

The Ombudsman is of the opinion that it is more necessary than ever to give a statutory definition of the concept “energy poverty” and it should encompass as many consumers as possible.

There is still a large number of complaints against recalculations of obligations when the electricity supplied was not measured or was measured inaccurately. The General Terms and Conditions of ERP Sever currently in effect do not contain a specific procedure to notify clients in the case of adjustment. During the public consultations on the draft General Terms and Conditions of the company, the Ombudsman made a recommendation to that effect.

The General Terms and Conditions of CEZ Elektro Bulgaria AD, EVN Bulgaria Elektrorazpredelenie EAD and Energo-Pro Sales AD still contain clauses obligating the owners of properties to take on joint and several liability with lessees when electricity identification numbers are re-registered. The Ombudsman is of the opinion that those should be removed because they are contrary to the legislative provisions.

Also contrary to the effective legislation is the practice of some electricity supply companies to accrue electricity for industrial needs to sites which are used for residential purposes, such as studios. Such signals are received mainly against EVN and Energo-Pro.

The Ombudsman has stated repeatedly that the distinction between household and non-household customers should be based on the purposes electricity is bought for and not on the type of property.

#### **Right to access to the service**

The complaints are mainly about the suspension of electricity supply due to the failure to pay electricity bills within the deadlines and about the delayed process of connecting sites to the electricity distribution networks.

The inspections mostly do not find breaches on the part of the energy enterprises.

### **Right to information**

The complaints about inspections/replacement of commercial metering devices (CMD) in the absence of the customers continue.

The Ombudsman is of the opinion that in order to guarantee sufficiently the rights of consumers and the objectivity of an inspection, companies need to take all possible actions to inform the customers in advance.

As regards the customer service numbers beginning with 0700 of Energo-Pro Sales AD and Elektrorazpredelenie Sever AD, the Ombudsman turned to the two companies with a recommendation – to consider the possibility to provide a customer service number free of charge.

In response, the companies emphasised that, as of the time, they did not find it justified in terms of costs and benefits to transform the service offered via the phone number 0700 16 161.

#### **Main recommendations in the Electricity Supply sector:**

1. Electricity distribution companies need to comply strictly with their obligations as per their General Terms and Conditions to provide a reliable, uninterrupted and quality service to their subscribers and, to this end, to target their efforts at renovation and timely replacement of the energy facilities in the areas with unstable voltage and frequent interruptions of the electricity supply.

2. The General Terms and Conditions of the electricity supply companies need to be aligned to the effective regulatory provisions through: removal of any clauses setting out joint and several liability for consumers in cases outside those laid down in the law; those of ERP Sever need to set out a specific procedure to notify customers in the case of adjustments.

3. Studios used for residential purposes need to be registered as household sites for electricity in line with the provisions of the Energy Act and the Spatial Development Act.

4. Electricity distribution companies need to provide their customers with timely information about upcoming inspections or planned replacement of commercial metering devices.

### **3.2. WSS SERVICES**

In 2021, the Ombudsman institution received 1,060 complaints (7.8% of all signals). The inspections in 1,071 case-files were completed.

#### **Right to a quality service and a fair price**

In 2021, 880 complaints were received in relation to: constant failures in the WSS network; regime of water supply instituted; water unfit for drinking or household needs (muddy, contains manganese and other admixtures); failure to ensure an alternative water source in the event of prolonged stoppage of water supply, and others.

The Ombudsman sent recommendations, in view of the respective competence, to WSS operators, municipalities, the MRDPW; WSS associations in separate territories; RHI and Bulgarian WSS Holding.

Arguments continue to be adduced regarding the lack of funds to improve the WSS service which the Ombudsman does not accept as valid. By a decision of December 2020, the EWRC approved higher prices for the WSS service for 2021 in 8 regions in the country. Respectively, in January 2021 the Ombudsman turned to the managing directors of: WSS –

Varna OOD, WSS OOD – Kardzhali, WSS OOD – Pernik, WSS OOD – Pleven, WSS OOD – Plovdiv, Vodospadnyavane – Dunav EOOD, Razgrad, Sofiiska Voda AD and WSS EOOD, Haskovo, insisting on not to apply the new prices – not accepted.

In relation to the public discussions of draft Instructions on the Application of the Ordinance Regulating the Quality of Water Supply and Sewerage Services for the 2022-2026 Regulatory Period and Instructions on Pricing the Water Supply and Sewerage Services Based on the Upper Price Limit Method for the 2022-2026 Regulatory Period (“the Instructions”) held at the EWRC on 6 April 2021, the Ombudsman sent opinions to the regulator noting that the EWRC again adopted the price regulation method of upper price limit without offering any arguments in support of its choice. The Ombudsman highlighted problems which remained unresolved in the draft Instructions.

In relation to the intentions stated by WSS operators to raise sharply the prices of WSS services during the 2022-2026 regulatory period, the Ombudsman sent an alarming opinion to the EWRC that the prices suggested did not correspond to the quality of provision of the service and, being unjustified, they should not be approved by the regulator.

The moratorium imposed by the NA on the increase in prices of electricity, water and district heating cancelled all sessions scheduled to approve business plans and price proposals of WSS operators for the said regulatory period.

#### **Right to pay for a service actually used**

191 signals were received about breaches of the right to pay for a service actually used; 47% of them are against the allocation of the so called cost of general consumption water.

The inquiries into the majority of cases did not find breaches of the regulatory provisions or the General Terms and Conditions of the companies.

#### **Main recommendations in the WSS sector:**

Develop and adopt a completely new WSS Act which will:

1. Protect the right of consumers to receive quality services for an economically justified price.
2. Set out measures to provide grants for water supply to vulnerable groups of citizens.
3. Provide for a clear procedure to apply lower prices for water which does not meet the statutory requirements for quality.
4. Guarantee effective control over the work of WSS operators.

### **3.3. DISTRICT HEATING**

The number of complaints in 2021 dropped by close to 39% in comparison to the previous year which is due mainly to the end in 2020 of the campaign to reimburse to customers amounts from the retroactive reduction in prices of heat energy and the shortening of the duration of the summer repair works of the heat transmission system of Toplofikatsia Sofia EAD.

Given the scale of the operations of Toplofikatsia Sofia EAD, the greatest number of complaints in 2021 was again against the heating company in the capital.

The citizens complain mostly about: inexplicably high monthly and balancing heating bills; lack of an option for an individual rejection of the heating service; poor quality of the service provided; unclear information in the balancing bills from CEDH and in notices to

invoices issued by heat transmission companies; irregular delivery of paper-based invoices to the postal addresses of places using heat energy.

It is becoming ever more pressing to assess the effect of Ordinance No. F-RD-04-1/12 March 2020 on Heat Supply (“Heat Supply Ordinance”).

The Ombudsman sent a series of opinion letters to the Ministry of Energy about adverse consequence of the application of texts of the Heat Supply Ordinance such as: possibility to set a very high specific cost for warming hot water – up to 150 kWh/m<sup>3</sup> and lack of effective adjusting measures when the threshold is exceeded; high tolerance to the share of heat energy for the building installation which could reach 50% of the energy for heating in a condominium ownership without provisions for mandatory adjusting measures; lack of a possibility for the citizens to file objections (claims) against adjustments in the equity distribution of heat after 31 August in the year of reporting for the heating season. Also unresolved is the issue with the control of the fulfilment of the obligations of heat transmission enterprises related to the technical maintenance of the customisations and automatic regulation of distribution stations in accordance with the actual consumption of heat in the condominium ownership.

After recommendations of the Ombudsman for control of the maintenance of the distribution stations of Toplofikatsia Sofia EAD in January 2021, the Ministry of Energy expressed readiness for inspections upon signals while the EWRC assigns it to the company to check the fulfilment of its obligations.

### **Right to pay an economically justified price**

The Ombudsman finds the two drastic increases in the prices of heat energy as of 1 July 2021 and 1 January 2022 proposed by heat transmission companies and, later, by a EWRC working group to be unjustified and unacceptable.

Yet again, the Ombudsman insisted on a review of Ordinance No. 5 of 23 January 2014 on Regulating the Prices of Heat Energy in order to reduce the role of forecast factors in pricing and to increase control over costs and transparency.

On 15 December 2021, during the public discussion of the draft to increase the prices of heat energy, the Ombudsman gave a recommendation to EWRC to withdraw the proposal and to review the amount of price increases. On the same day, the NA voted for a moratorium on the changes in regulated prices of electricity, heat energy and drinking water until 30 March 2022.

### **Right to pay for a service actually used**

The citizens complain most often about the inexplicably high bills for heat energy.

The Ombudsman asked the Minister of Energy for an opinion on a review of the lower limit under Article 63, paragraph 2, item 2, littera (f), sub-littera (dd) of the Heat Supply Ordinance of the share of heat energy of the building installation which, by a decision of the general assembly of the condominium ownership, may not be less than 20%.

Also unresolved is the issue with the prices of services provided by CEDH which are currently set by the heat transmission enterprises but paid for by final customers.

### **Right to a quality service**

Dozens of complaints are received about planned and unplanned interruptions in heat supply on the part of Toplofikatsia-Pernik AD.

In the beginning of 2021, the Ombudsman sent insistent recommendations to the Ministry of Energy and the EWRC about extraordinary inspections of the heat transmission enterprise. As a result, the Security of Electricity Supply and Crisis Situation Management Directorate of the Ministry of Energy confirmed periods of deviations from the temperature

schedule set by the heat transmission company which was in breach of the Heat Supply Quality Indicators approved by the regulator.

Based on the findings, the Ombudsman recommended to the EWRC to take action to ensure payment of a fair compensation to the affected customers of the company. Respectively, the regulator ordered Toplofikatsia-Pernik AD to compensate, by 15 May 2021, 5,473 consumers who had experienced a deterioration in the quality of heat supply for more than 48 hours in December 2020 and January 2021.

A significant number of unplanned stoppages in the heat supply in Pernik were also announced in September 2021 and over the next heating months of 2021 due to failures in main heat sources.

### **Right to information**

The issue with not receiving paper-based invoices from heat transmission enterprises continued in 2021.

The Ombudsman sent a recommendation to Toplofikatsia Sofia EAD that Article 8 of the Accountancy Act should be observed in the case of adjustments of balancing bills prepared by CEDH. The recommendation was fulfilled in part – the heat transmission enterprise provides debit notes about the adjustments under general invoices upon requests from customers.

Citizens complain about the complex electronic access to individual customer information on the website of Toplofikatsia Sofia EAD.

Also a problem proves to be the impossibility to receive extracts from Toplofikatsia Sofia EAD about accrued (unpaid) obligations for a period longer than five years. The company does not offer such a service while, at the same time, cases are instituted for delayed payments for a period which is longer than the statute of limitation set out in the law.

In 2021, Toplofikatsia Sofia EAD fulfilled the commitment it had taken on before the Ombudsman to introduce a new template of a general invoice for customers with annual reporting of heat consumption.

### **Main recommendations in the District Heating sector:**

1. Prioritise the review of the statutory provisions for heat supply as part of the work of the legislature, the executive and the EWRC.
2. Ensure coordination and interaction of the control units at the Ministry of Energy and the EWRC in order to carry out effective inspections of the quality of the heat supply services and not to allow re-assignment of the inspections to the controlled entities themselves.

## **3.4. ELECTRONIC COMMUNICATION SERVICES**

The complaints concern mainly: excessive bills; insufficient or misleading information when contracts are concluded; service quality; amounts accrued for unwanted services. When lengthy contracts are signed, the information is presented quickly and, in many cases, in a way which is hard to understand. It is impossible for elderly people, and not only for them, to become familiar with the contracts in the course of mere minutes.

Upon inspections, in some cases in view of a customer's age or health, the mobile operator either restores the previous contractual terms or terminates the contract.

In the conditions of an epidemic situation, the poor coverage of mobile operators poses serious difficulties for those working remotely or for students in online learning. In the cases

when breaches were found, following the Ombudsman's intervention citizens were compensated for inconveniences caused.

In relation to the intentions of A1 Bulgaria and Telenor announced in the end of December 2021 to index, as of February 2022, the prices of the monthly subscription plans based on the average annual consumer price index for 2020 and 2021, the Ombudsman turned to the mobile operators asking them not to change the prices of telecommunication services during the emergency epidemic situation.

**Main recommendations in the Electronic Communication Services sector:**

1. Mobile operators need to provide timely accurate information about the parameters of contracts before the contracts are concluded.
2. Guarantee quality mobile coverage through optimisation of the networks of mobile operators.

### 3.5. WASTE COLLECTION

There was a significant increase in signals about the poor quality of service delivery.

Complaints continue to be filed against the setting of the household waste collection fee in an amount which does not correspond to the type and quality of the services provided or to the actual costs of municipalities to provide the services.

Numerous complaints are received from citizens of the Municipalities of Pernik and Nova Zagora in relation to the increased household waste fee for 2021:

- For the Municipality of Nova Zagora, the household waste fee for 2021 for residential properties was set as 5 per milles of the property tax assessment given 1.34 per milles in previous years;
- For the Municipality of Pernik – 19.06 per milles of the property tax assessment given 2.25 per milles for 2020.

The Ombudsman addressed the competent municipal authorities about information regarding the reasons leading to the significant increase in the amount of the household waste fee as well as to the National Audit Office and the State Financial Inspection Agency.

The National Audit Office responded that the 2022 audit work program did not envisage audits for compliance in the management of public funds and activities of the Municipalities of Pernik and Nova Zagora; therefore, it was impossible to carry inspections of the facts and circumstances adduced by the Ombudsman.

**Main recommendations in relation to waste collection:**

1. Municipalities need to set the amount of household waste fees in view of the type and quality of the services provided under Article 62 of the Local Taxes and Fees Act as well as on the basis of the actual costs of service delivery.
2. Municipal authorities need to monitor strictly the quality provision of the services of household waste cleaning, collection and transportation, to take timely steps in the case of signals about irregularities and, if breaches are found, to take effective action to remedy them.

### 3.6. FINANCIAL SERVICES

In 2021, the institution received 234 complaints of which 166 against banks, 57 against payday loan companies and 11 against others.

The complaints about banks are related mainly to:

- difficulties with repaying obligations under loan agreements related to the COVID-19 pandemic;
- refusals from banks to defer or re-schedule debts;
- accrual of fees on bank accounts with no balances for years;
- newly introduced or increased bank fees.

In relation to signals against the new fee introduced by DSK Bank EAD for depositing cash in a checking account at the bank, the Ombudsman was informed that the reasons to introduce new fees and commissions or to change existing ones were subject entirely to the economic demands in the conditions of the free market in which the Bulgarian banks operated. The customers were notified about the said change in the bank tariffs two months in advance as per the requirements of Article 62, paragraph 1 of the Payment Services and Payment Systems Act.

Citizens filed complaints about problems with First Investment Bank AD, Municipal Bank AD and DSK Bank EAD which had claims from them for obligations accruing for years for monthly fees to service empty accounts. In some cases, a fee was accrued without the customer knowing for more than 10 years.

The Ombudsman turned to the banks noting that they should have reminded their customers in a reasonable time when their accounts had not been in use that they still had contractual relations and associated fees. The passive behaviour leaves the impression that the purpose was an intentional growth in obligation which undermines the trust between the bank and the customer. After the action taken by the Ombudsman, in some cases **it was decided not to collect the fees accrued and accounts were closed *ex officio***.

The citizens' complaints about receivable collection companies are related to:

- excessive interest rates, default and fees as well as inequitable clauses in loan agreements;
- refusal to provide reference information about the current value of an obligation;
- psychological harassment in the case of delay to repay debts;
- lack of a preliminary examination of the borrower's financial situation and their actual ability to repay obligations timely.

#### **Main recommendations:**

1. Take measures to prevent cases of overindebtedness among borrowers and to reduce the level of bad loans by introducing more stringent requirements for the assessment of the credit reliability of users of financial services.
2. Strengthen the control over the work of payday loan companies and the preventive control over inequitable clauses in the General Terms and Conditions of loan agreements.
3. Ensure compatibility between the amount of bank fees and commissions and the nature of the service provided.

### 3.7. GAS SUPPLY

The main reason for complaints in 2021 was the abrupt increase in the prices of natural gas for household customers in the internal market in the second half of 2021.

The Ombudsman turned to the caretaker Prime Minister and the caretaker Minister of Energy with a recommendation to develop, in the shortest term, a mechanism for temporary compensation of all household customers of natural gas during the autumn-winter season.

On 3 December 2021, the first working day of the 47th NA, the Ombudsman focused the attention of the Members of Parliament on the high prices of natural gas, electricity and heat in the pandemic conditions. The Ombudsman listed the following as possible measures to tackle the problem: extension of the term of payment of obligations to suppliers of public services; prohibition to stop the service in the event of non-payment of obligations with an opinion to re-schedule the latter. An additional possible measure is the reduction of VAT for energy in the VAT Act.

At the end of December 2021, the Ombudsman again addressed the Prime Minister with a proposal to discuss the possibilities and develop immediately adequate measures to protect the household customers of natural gas who were unfairly the only ones left to depend on the exchange fuel prices.

Later, the CoM announced an approved program to compensate household customers of natural gas in relation to the increase in fuel prices.

### 3.8. TRANSPORT SERVICES

The citizens draw the Ombudsman's attention to issues related to:

- suspension or less frequent urban transport due to a decrease in passengers resulting from the dissemination of COVID-19;
- lack of bus services for small population centres;
- bus schedules which do not take into account work commitments;
- access to board a plane denied due to the absence of required documents to enter a country aiming to restrict the dissemination of COVID-19;
- frequent cancelation of trains at the last minute and lack of convenient train schedule which makes it hard to arrive at work on time.
- 

#### **Main recommendations:**

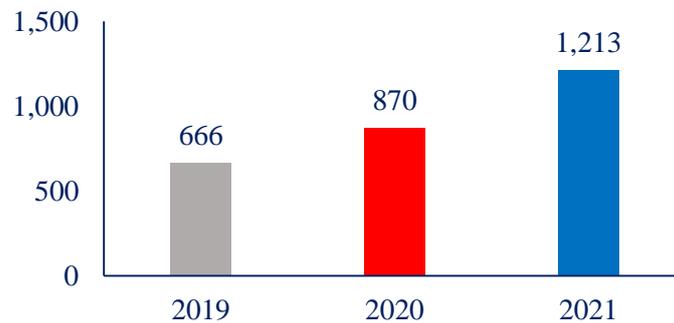
1. Ensure public transport for people living in small population centres.
2. Align the schedule of intercity buses and trains to the passengers' work commitments.

## IV. RIGHT TO HEALTHCARE

In another year completely under the sign of the COVID-19 pandemic, healthcare and access to it remained one of the most sensitive topics for the citizens. The Ombudsman's attention was drawn to harsh problems in the system whose resolution had been postponed in the past years.

The alerts and complaints received at the institution in 2021 in relation to rights to healthcare are 1,213 or an increase by 40% in comparison to the previous year when they were 870 and by 82% in comparison to the number in 2019 – 666.

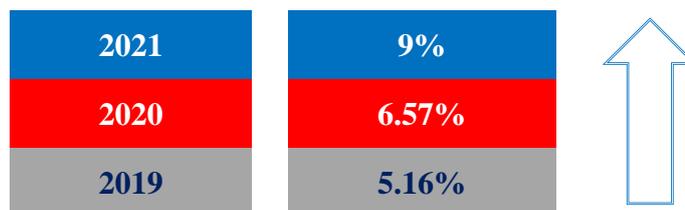
**Chart 5 - Healthcare-related complaints and alerts received in the period 2019-2021, number**



The Ombudsman made 326 recommendations in relation to 818 complaints.

The share of complaints in relation to rights in healthcare of the total number of complaints has been on a steady rise in the past three years:

**Chart 6 – Healthcare-related complaints and alerts received in the period 2019-2021, share in total number (%)**



It should be taken into account that a large number of complaints and signals concern more than one problem and only the leading one is recorded below for the sake of statistics. It is important to note that the complaints and signals accompanied by a collection of signatures and those from patient, professional and trade organisations concern the rights of larger groups of people. Many of the individual complaints also raise problems concerning the rights of a large group of people.

For the second year in a row, the largest number of complaints and signals is related to the temporary anti-epidemic measures instituted by orders of the Minister of Health in relation to the COVID-19 pandemic – 553, which accounts for an increase by 72% in comparison to

2020. The other complaints are in relation to: medical expert examinations – 179, quality of medical services – 90, access to medical services – 84, health insurance rights – 46, the others concern issues such as: labour and professional rights of people working in the system, proposals and opinions in relation to statutory changes, immunisation, health control, access to health information and others. 6 complaints are outside the competence of the Ombudsman.

Recommendations in relation to breaches of rights in healthcare are addressed most often to the Minister of Health – 170, to the Governor of the National Health Insurance Fund (NHIF) – 41, to the Director of the National Expert Medical Commission (NEMC) – 38, and to control authorities.

The inspections recommended by the Ombudsman were carried out and, in response, information was received about the actions taken. Most recommendations were fulfilled in whole or in part. The citizens were also informed about the opinion of the Ombudsman and the actions taken in relation to the issues they had raised; advice was also provided to them.

The starting point of the Ombudsman is to guarantee the rights of patients and to ensure timely access to medical services of sufficient volume and quality in view of the latest achievements and innovation.

#### **4.1. RIGHT TO MEDICAL EXPERT EXAMINATION**

##### **Assessment of the permanently reduced fitness for work/type and degree of disability**

The analysis shows that the reason in the majority of cases is the 2018 amendments to the Ordinance on Medical Expert Examinations when changes were made in the starting points for assessment of the permanently reduced fitness for work and of the type and degree of disability in percentages and the methodology for their assessment.

It should be taken into account that the large number of complaints related to medical expert examinations and the associated rights show the expectations of the citizens for support due to their low income and the inability of persons with disabilities to find appropriate jobs.

##### **Delays in medical expert examinations**

A serious problem which caused numerous complaints and signals about breaches of civil rights is the delay in medical expert examinations at TEMC and NEMC.

Despite the statutory amendments in the past years, in certain areas of the country there is still a significant delay in the process of medical expert examinations at TEMC.

##### **Right to invalidity pension due to a general illness**

The tying of the right to invalidity pension due to a general illness with the requirement for social security service acquired as of the date of invalidisation is the reason for discontent among many citizens.

##### **Impossibility for a sick leave certificate to be issued for caring for a healthy child sent back from an educational institution due quarantine**

Citizens note that a provision of the Child Protection Act requires of them not to leave children under 12 years of age unattended. At the same time, they are given refusals to be issued sick leave certificates for their children when they are sent back from school due to a quarantine at the educational institution.

##### **A large number of contested expert decisions of medical committees at territorial units of the National Social Security Institute**

The lack of clear criteria and the frequent appeals give rise to concerns about inobjectivity, striving to “make savings” for the institution’s budget at any cost and reporting a

greater amount of work.

Unfortunately, this practice in combination with the NEMC practice to cancel TEMC decisions and remand them for new examinations deprive the citizens of the use of their rights and benefits for lengthy periods of time.

#### **Main recommendations as regards the right to medical expert examinations:**

1. Discuss and provide for changes in the Methodology to apply the starting points for the assessment of the permanently reduced fitness for work (type and degree of disability) in percentages and, using them, take into account all disabilities regardless of their percentage when the overall assessment is made.
2. Take measures to speed up the expert examinations of citizens by TEMC and holding such in reasonably short terms on the territory of the entire country.
3. Speed up the expert examinations at NEMC and discuss provisions for a mandatory opinion of NEMC with the final expert decision in the cases of a repeated appeal of a cancelled expert decision which was remanded to TEMC.
4. Strengthen the control over the work of TEMC, analyse their activities and provide methodological support to increase the quality of their work and to reduce the cases of cancelled decisions.
5. Reconsider the rule for social security length of service acquired up to the date of invalidisation as a requirement to grant an invalidity pension due to a general illness.
6. Expand the cases in which a life-long term is set and recognised for the permanently reduced fitness for work/type and degree of disability and to determine the need for external assistance.

## **4.2. QUALITY OF MEDICAL SERVICES**

### **Hospital medical assistance**

There is still a great number of complaints and signals in which the citizens voice dissatisfaction with the volume and quality of the medical assistance provided to them and their relatives.

The Ombudsman is of the opinion that in addition to strengthening the control over the observance of medical standards there need to be reforms and adequate measures to overcome the problems and to guarantee the patients' right to access to medical services in the necessary volume and quality.

### **Outpatient medical care**

The citizens most often turn to the Ombudsman with complaints and signals in which they express their discontent with the volume and quality of the medical assistance provided to them by general practitioners or doctors from substitute on-duty offices.

### **Emergency medical assistance**

Although smaller in number than previous years, there are still very disconcerting complaints from citizens about the emergency assistance provided to them by the teams of emergency centres and branches as well as by hospital emerge wards. The analysis shows that, in pandemic conditions, the emergency assistance in the country is ever busier and it often plays the role of urgent services as well.

Resolving the problems and ensuring access of non-urgent patients to primary medical assistance day and night as well as on working and non-working days are a necessary

prerequisite to reduce the burden on emergency assistance which should take care of the true emergencies.

In relation to the complaints and signals received at the institution, recommendations were issued to the competent control authorities – Medical Supervision Executive Agency, NHIF, regional health inspectorates and regional health insurance funds which perform inspections and, upon finding errors or breaches, impose the sanctions laid down in the statutory provisions on doctors and/or medical institutions.

#### **Main recommendations as regards the quality of medical services:**

1. Change the way in which hospitals are funded, tie the financial result not only to the quantity but also to the quality of the work performed while taking into account the patients' satisfaction.
2. During hospital stay, conduct treatment for all illnesses and not just follow the algorithm of the clinical path based on which a patient was admitted to the hospital.
3. Create conditions and provide for the performance of a greater number of activities, where possible, in outpatient medical care.
4. Create a mechanism to ensure the long-term financial stability of state and municipal hospitals as well as available staff in order to guarantee the quality of the medical services provided.
5. Pursue a long-term strategy to retain healthcare specialists in the country, including through worthy payment for their work and creating possibilities for independent activities in outpatient care.
6. Create incentives to retain medical staff in the country and to maintain and increase their qualifications.
7. Provide for accessible possibilities for medical specialisations; ensure the necessary conditions for work and worthy payment after that.
8. Ensure an accelerated adoption of rules for good medical practices in all specialties and control over their observance.

### **4.3. ACCESS TO MEDICAL ASSISTANCE**

#### **Access to primary outpatient medical care**

As seen from the signals and complaints received, the access of citizens from very small, remote or hard-to-reach population centres to primary outpatient care is very difficult and, in some cases, non-existent.

#### **No access to medical assistance outside the working schedule of doctors**

For yet another year, the Ombudsman received information that there was no 24-hour access to medical assistance for the citizens in many areas of the country.

Outside the working schedule of doctors during the week as well as on holidays and non-working days, the citizens in many parts of the country are deprived of access to medical assistance or receive such via the emergency assistance system which is an additional burden to the latter and which poses a risk of delay in the services of truly urgent cases.

#### **Access to specialised outpatient medical care**

For yet another year, the citizens draw the attention of the institution to the limited number of referrals for consultations with specialists and to expensive medical and diagnostic

examinations. Note is also made of the difficult access to specialists from outpatient care who refuse home visits. Patients in a hard situation who are unable to move cannot attend a number of consultations and examinations, including such that they need for medical expert examinations.

### **Access to COVID diagnostics and treatment in outpatient care**

Citizens provide information about numerous problems with the work of COVID zones which do not cover the entire country evenly and have limited working hours as well as about the fact that COVID-19 is established there solely with a rapid antigen test. They also note that they are not prescribed medication for home treatment paid for by the NHIF despite the availability of such an option.

### **Rights of pregnant women without health insurance**

It is highly disconcerting that this is the reason why the pregnancies of these women are not monitored throughout but only before birth in most cases and why the necessary screening tests are not held on time which poses serious risks for the life and health of both mothers and babies.

### **Access to inpatient medical assistance**

In pandemic conditions, the citizens provide information about problems with hospitalising both patients with COVID-19 and people with other illnesses. Adequate measures need to be taken throughout the country, including building a uniform and quickly updated information system about the available hospital beds by specialties.

### **Access to lengthy treatment and rehabilitation, palliative and health care**

For yet another year, the Ombudsman's attention is drawn to the matter of the missing access of patients to medical assistance after the end of active treatment which is often limited to the minimum stay and the patient and the patient's relatives are told that "the path has been used up".

At the same time, certain clinical paths for lengthy treatment and early rehabilitation and for physical therapy and rehabilitation entail a limited hospital stay as do those for palliative care which apply only to oncological diseases.

### **Main recommendations as regards the access to medical assistance:**

1. Elaborate a strategy and plan measures to ensure access for citizens from small, remote and hard-to-reach population centres to primary and specialised outpatient medical care, including financial incentives for general practitioners, providing cross-country transportation, setting up mobile teams, and others.
2. Take measures to ensure 24-hour actual access of patients from throughout the country to primary and specialised outpatient care.
3. Use public funds for lengthy treatments and rehabilitation as well as for palliative and health care of sufficient volume and duration, including palliative care provided by hospices and health care – by healthcare clinics.
4. Take measures to preserve the hospitals in areas with small populations, create structures for short-term stay and monitoring as well as in outpatient care institutions.
5. Adopt a national strategy for a guaranteed access of children to quality medical assistance.

#### **4.4 ACCESS TO MEDICINAL PRODUCTS, MEDICAL DEVICES, AND DIETARY FOODS FOR SPECIAL MEDICAL PURPOSES**

##### **Access to medicinal products, medical devices, and dietary foods for special medical purposes**

The high levels of amounts paid by patients for healthcare are among the main problems in the system. An example of such a statutory additional payment is with a number of medicinal products for home treatment and for medical devices and dietary foods for special medical purposes.

##### **Access to medicinal products and payment with public funds**

The citizens emphasise the difficulties they have and the risks for their health related to the need to visit, oftentimes frequently, general practitioners and specialists and, if necessary, a specialised committee at inpatient care institutions, to certify protocols for expensive medication at RHIF and, finally, to obtain it at a pharmacy.

For yet another year, there is no guaranteed access to medicinal products in small and remote population centres in which there are no pharmacies.

##### **Lack and shortages of medications**

The lack and shortages of medicinal products in pandemic conditions have also been brought to the Ombudsman's attention repeatedly.

In every specific complaint, the Ombudsman turns to the authorities and institutions competent to resolve the issue; in response, the Ombudsman is informed and provides information to the citizens about the results from the inspections and the measures taken.

##### **Access to medical devices**

For several years now, no solution has been found to the problem with the non-payment or insufficient payment with public funds for medical devices and expensive consumables in inpatient care.

Experience shows that, in the majority of cases, they are not covered by the social assistance system.

#### **Main recommendations as regards the access to medicinal products and medical devices:**

1. Take measures to ensure the access to medicinal products for citizens in small places where there is no pharmacy.
2. Discuss the possibilities for the State to pay for the medicinal products for home treatment of children.
3. Guarantee the citizens' access to new medicinal products and their right to access to innovation.
4. Increase the level of payment for medicinal items with public funds, of payment for new medical devices and expensive consumables in inpatient and outpatient care.
5. Optimise the procedure to ensure and pay with public funds for medicinal products for home treatment in the cases where they are not available in pharmacies for a number of reasons.
6. Discuss the possibility to provide for exceptions and pay with public funds for the treatment of grave diseases with medicinal products outside the indications listed in the brief profile.

#### 4.5. HEALTH INSURANCE RIGHTS

##### **Restoration of suspended rights and medical services for citizens without health insurance**

Citizens with suspended health insurance rights who need medical assistance provided within the scope of health insurance turn to the Ombudsman for help, noting that they do not have the required funds to pay up the amounts due for the past 60 months.

Permanently unemployed citizens without health insurance also seek assistance to have their rights as they need to use medical services.

##### **Restoration of health insurance rights**

Citizens who have acquired right to a pension – either for disability or for social security length of service and age, note that even though they have already been given health insurance by the State, they are unable to use the medical assistance they need as amounts are due for health insurance for previous periods.

##### **Restoration of health insurance rights of citizens returning from abroad**

For yet another year, the Ombudsman's attention is drawn to the matter of delayed receipt of the form E104/S041 requested *ex officio* from EU Member States and the UK as it is needed to add the health insurance periods and restore the health insurance rights in Bulgaria.

##### **Payment for treatment in the country and abroad with public funds**

Although rarely, the institution has also received complaints and signals about delayed approval and treatment abroad or reimbursement by the NHIF of amounts citizens paid for treatment abroad.

##### **Cash benefits for temporary unfitness for work**

Citizens turn to the Ombudsman for assistance and express disagreement with the restrictions in the payment of cash compensation for the care provided for a sick family member – respectively, up to 60 calendar days a year for the care for a sick child up to the age of 18 in total for all insured family members and up to 10 calendar days for the care for an elderly person.

At the same time, the lack of access and the non-payment with public funds for palliative and health care at the home forces the citizens to hire medical staff to provide care for their sick parents.

##### **Main recommendations as regards health insurance rights:**

1. Discuss measures to expand the scope of persons from vulnerable groups insured by the State and the access of women without health insurance to a sufficient number of examinations and tests during pregnancy.
2. Provide for a mechanism, for example through deferred payment, to pay contributions for past periods for persons who have been provided with pensions.
3. Take measures to improve the citizens' awareness of their health insurance rights, including Bulgarian citizens who have medical insurance abroad.
4. Guarantee the right of persons who have returned to the country permanently to access to medical assistance until the arrival of the form needed to calculate the health insurance periods from the State in which they had medical insurance.
5. Reconsider the restrictions set out in the Social Security Code for the payment of

compensation to provide care for sick family members, mainly children.

6. Discuss the possibilities to provide for the issuance of sick leave certificates, respectively use leave and obtain compensation for temporary unfitness for work with respect to children up to 12 years of age sent back from school due to a quarantine of the school or of the child.

7. Speed up the approval by the RHIF of the treatment of citizens in the country and abroad as well as of the reimbursement of amounts paid for treatment.

Some of the general recommendations are identical in content to those from previous years because, unfortunately, those problems remain unresolved. Hoping that they will finally be overcome and the citizens' rights will be guaranteed, the Ombudsman makes the following general recommendations:

**GENERAL RECOMMENDATIONS:**

1. Ensure equal access for the citizens throughout the country to COVID-19 diagnostics and treatment, including medicinal products for home treatment paid for by the NHIF.

2. Take measures to overcome the cases of refusals and delays in hospitalisations, both of coronavirus patients and urgent patients with other diseases.

3. Conduct reforms in the system, including strengthening prophylaxis and changing the way in which medical institutions are funded.

4. Pursue a long-term strategy to ensure and retain staff in healthcare.

5. Discuss and adopt comprehensive measures to ensure equal access to a full volume of medical services for all citizens, regardless of where they live.

6. Reduce the level of additional payments by patients, provide fully free child healthcare.

7. Change the system of medical expert examinations and guarantee fair assessment and timely procedures.

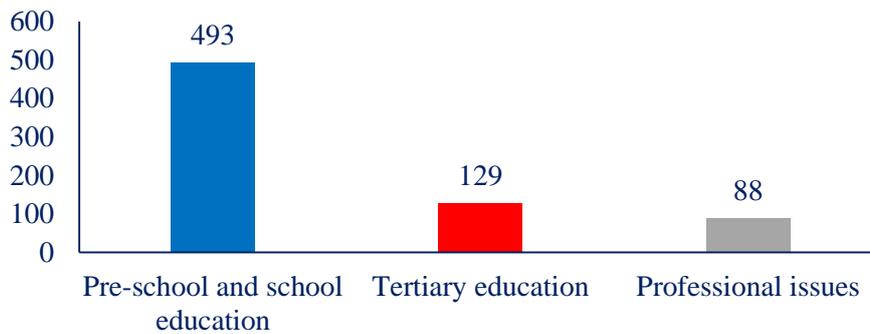
8. Ensure an accelerated implementation of fully electronic healthcare, development of mechanisms for quality control and take into account patients' satisfaction.

## 5. RIGHT TO EDUCATION

The number of complaints in the past three years is shown clearly on the chart below:

A total of 710 complaints, signal and open letters in the area of education were received in 2021, of them:

**Chart 7** – *Complaints and alerts received in the field of education in 2021, number*



### 5.1. PRE-SCHOOL EDUCATION

The most frequent issues over the period are related to the insufficient number of vacancies in kindergartens and nurseries on the territory of Sofia Municipality and to the receipt of compensation for children who have not been admitted to childcare due to the lack of vacancies. Parents note that there are different approaches to the application of the ordinance in the different districts of the capital.

The Ombudsman alerted the institutions about problems with the implementation of the Ordinance on the terms and procedure to provide and pay funds from the state budget to compensate costs incurred by parents to raise and educate children who have not been admitted to state or municipal kindergartens or schools due to the lack of vacancies.

**A recommendation given in relation to the problem:** To MES and the Mayor of Sofia Municipality, to take action to issue clear instructions to district mayors in order to streamline the practice with the implementation of the Ordinance so that it would not place the citizens at a disadvantage.

Other problems brought to the Ombudsman's attention are related to the observance of the anti-epidemic measures at childcare facilities; the number of absences of kids included in mandatory pre-school education during the pandemic; the period of adaptation of the children at the institutions, the number of kids in a group, the need to increase the number of staff taking care of the children. Note is made of the matters regarding children's playgrounds on the territory of kindergartens and the situation of the facilities located in them.

Complaints continue to be filed in relation to the closing down of kindergartens in towns and villages; the right of children to quality care and an appropriate educational environment; possibilities and conditions for physical activity; additional pedagogical activities in childcare institutions; lengthy renovation works at kindergartens and nurseries and the ensuing inconveniences for children and parents.

#### **Main problems in the area of pre-school education:**

- Need to modernise the childcare institutions for pre-school education, schools and universities;

- Insufficient investment to increase the number of kindergartens with a view to improving the scope of pre-school education;
- The fees for kindergartens prove to be an obstacle to the equal access to education for children from vulnerable groups;
- Practice in kindergartens to demand additional payments from parents in different forms;
- Interaction with parents in the process of the children's adaptation at the childcare institutions.

**Main recommendation as regards pre-school education:**

1. Introduce mandatory pre-school education for 4-year-old children in the country and, in parallel, provide alternative forms to raise and educate them.
2. Remove fees for kindergartens in support of young parents and families as well as to provide equal access to education.
3. Terminate the practice to demand additional payments from parents in different forms.
4. Introduces classes in Bulgarian at kindergartens for children whose mother tongue is not Bulgarian.
5. Ensure better conditions for physical activities, sports and outdoor games for children.
6. Increase the investments to modernise childcare facilities and build new ones in order to achieve high quality and accessibility.
7. Sofia Municipality should look for options to designate construction sites for childcare facilities in new residential areas in order to ensure vacancies in kindergartens and nurseries for all applicants.
8. Work towards achieving a high quality of the service provided by childcare facilities.
9. Ensure an active dialogue and joint work to build trust between parents and those working in childcare facilities.
10. Update the training programs for pedagogical specialists and people working in the system of pre-school education.

## 5.2. SCHOOL EDUCATION

The topics the citizens raise in relation to issues in school education are numerous and diverse yet again.

The complaints concern: implementation of anti-epidemic measures related to restricting the dissemination of COVID-19; creation of safe conditions at schools for the health of students and teachers when transitioning to an in-person form of training; need for psychologists at schools; difficulties related to distance learning in an electronic environment (DLEE or distance learning); content and complexity of curricula, lack of a sufficient number of classes in certain subjects for exercises and revision, a problem with establishing students' absences in prolonged distance learning; mandatory examinations from the national external assessment (NEA) for grade 4 and grade 10; insufficient extracurricular activities and sports at schools; scope of the topics included in NEA and state matriculation examinations (SME) after

grade 12; content of the SME examination materials in profile subjects; amount of scholarships for students' excellent results; poor state of gymnasiums and lack of such.

Requests are also made for free textbooks and notebooks for all students with respect to whom education is mandatory as well as for a decrease in the number of textbooks published in a certain subject.

***Complaints with a request for the MES to publish examples for the upcoming 2022 SME in profile subjects upon completion of grade 12 which will be held in accordance with the requirements of the new Pre-School and School Education Act, effective as of 2016, for the first time***

Students and teachers sounded the alarm that there were no examples for every matriculation examination in every subject and the teachers did not know what tasks to direct their students to in the course of their preparation. The lack of examples for these examinations hampered the preparation and resulted in tension between teachers and students.

The recommendation was taken into account. In the beginning of the school year, to help the graduating students, the MES published on its website training and examination programs with expected training results which would be assessed as well as the types of tasks in the 2022 SME.

***Complaints from parents about the urgent order for children to transition to distance learning in an electronic environment (DLEE) immediately at the schools for the third consecutive year (in October 2021)***

The Ministry of Health did not accept the proposal of the Minister of Education and Science to extend, by two days, the in-person learning for the pre-school groups and the classes of grades 1 through 4 in the capital and the municipalities with a high incidence rate so that the parents of younger students could have more time to arrange for the care for their children at home during their online training.

The citizens request that the students from grades 1 through 4 continue their in-person learning and that free child-friendly tests be introduced, such as saliva-based rapid tests, as is the practice in some European countries, in order to check if they are healthy and can carry on with their in-person learning.

The recommendation was taken into account – students from grades 1 through 4 returned to in-person learning with the use of child-friendly tests twice a week.

***Complaints about the intention of the MES to require of parents and schools to pay for the tests for children as a condition for them to go back to class rooms***

The Ombudsman turned to the Minister of Health and the Minister of Education and Science expressing the position that such a measure would result in the introduction of a property criterion for access to education which was discriminatory and inequitable treatment of children. It was emphasised that such an action would restrict the children's access to education which was their constitutional right.

The recommendation was taken into account – the MES gave up on the idea.

***Complaints in relation to the third consecutive year of distance learning for the students in grades 5 through 12. Insisting that all students should go back to class***

A recommendation was sent to the MH and the MES about the need to look for solutions to ensure that children would go back to school as soon as possible and to guarantee equal rights of all Bulgarian students in order not to exacerbate the educational inequalities.

Note is made of the parents' request to reduce the threshold of 50% of parental consent for students to return to in-person learning.

The recommendation was taken into account – the MES returned children to class rooms as of 6 December and, as of 15 December, reduced the threshold of parental consent for one class to 30%.

### **5.3. Matters related to the exercise of the teaching profession**

A large number of questions brought to the Ombudsman's attention concerns problems teachers face in their professional everyday life. The need to implement distance learning for the students prompted by the dissemination of COVID-19 posed serious challenges to teachers and school leadership teams. Even though, as a whole, the educational system in the country has been able to manage successfully with the implementation of distance learning, it should be noted that a significant portion of the teacher community still experience difficulties in this regard.

Based on the analyses of the complaints and signals received, the public advocate is of the opinion that the teachers' technical capabilities for work in the conditions of distance learning are still not good enough. Many pedagogical specialists work with personal electronic devices while the few which have been given out do not have good technical parameters.

Another problem which emerges is the lack of a system to control the qualification courses for teachers; hence, there are fictitious qualifications. Often, the topics of qualification courses are not up-to-date and do not cover problems the teachers face in their everyday work.

The teachers express dissatisfaction with the training on working with electronic educational platforms which is not effective enough. They say that there is no training about the methodology of teaching in an electronic environment. Proposals are made to create more platforms to share and exchange best practices in support of teachers.

A large number of complaints to the Ombudsman raise questions related to the procedures for competitions for principals of educational institutions; introducing terms of office for principals; lack of transparency in the selection of teachers; malpractice in school management; inadmissible behaviour of school principals; poor control over the work of principals; deteriorating relations between principals and teachers; working hours of teachers and fatigue due to distance learning; failure to implement the Collective Labour Agreement for the educational system and failure to fulfil commitments to increase the individual work salaries of the teachers in some schools; administrative burden on the teachers; failure to observe financial discipline on the part of principals of schools in the country; providing transportation for students to larger schools or combined schools.

#### **Main problems in the area of school education:**

- Insufficient electronic devices and internet access for the students in need upon transitioning to distance learning;
- Lack of internet connectivity for the children from vulnerable groups and in remote and mountainous areas of the country;
- Lack of specialised platforms for work with children with SEN;
- Irregular school attendance by children from minority groups and lack of striving to master the Bulgarian language;
- Lack of good facilities at schools – gymnasiums and sanitary premises in school buildings. Insufficient possibilities for free sport activities for children;
- Complex learning content which the children often struggle to understand and lack of sufficient classes for revision;
- Need to update the curricula;

- Upcoming crisis as regards the pedagogical staff caused by the aging of teachers;
- Poor control over the work of school principals;
- Great administrative burden on teachers.

### **Main recommendations as regards school education:**

1. Modernise the facilities and provide funds for the implementation of innovative practices at schools.
2. Use actively new technologies in the training process and provide incentives for educational innovations.
3. Provide effective training for teachers, including on the methodology for teaching in an electronic environment.
4. Provide electronic devices and ensure internet connectivity for the students in need upon transitioning to distance learning.
5. Build Wi-Fi networks with open free internet access.
6. Apply measures to overcome the deepening imbalances in the students' educational results following the online training.
7. Encourage cooperation among the institutions to ensure that students from vulnerable groups who have dropped out of school could return to the educational system through the mechanism for joint work of the institutions to encompass and retain children and students in the educational system.
8. Introduce sustainably mediators in places with a high concentration of vulnerable communities.
9. Appoint psychologists at schools.
10. Review the curricula content to alleviate the volume of information and the academic style in which it is presented so that the learning content will be appropriate for the students' age.
11. Create specialised platforms for work with children with SEN.
12. Pursue an overall policy of a sustainable increase in extracurricular activities and sports at schools outside participation in projects and national programs;
13. Allocate funds for scholarships for the students' educational results and define exact parameters for excellent results which will be the same for all schools.
14. Improve the facilities at schools – gymnasiums and sanitary premises in school buildings and the capabilities for free sport activities for children.
15. Introduce a system of performance evaluation of school principals.
16. Work actively to involve parents and local communities in school life in order to achieve trust and partnership.

### **5.3. TERTIARY EDUCATION**

The incoming complaints concern mainly the problems university students and professors face upon the suspension of in-person training at higher education institutions in relation to the measures to restrict the dissemination of COVID-19; conducting examinations,

student workshops and internships during the pandemic; observance of the anti-epidemic measures during in-person training at higher education institutions; postponement of state examinations because of the measures to restrict the dissemination of COVID-19; stay and fees at student dormitories.

University students turn to the Ombudsman insisting on assistance so that all graduates in law in the universities in the country in January and February 2021 to be treated equitably and to be able to sit for the bar examination before the end of the year.

***Complaints accompanied by collections of signatures about the bar examinations – more than a year and two months after their graduation, more than 450 intern lawyers are unable to sit for examinations and, therefore, they have no possibilities for career development***

A recommendation was sent to the Minister of Justice to look for options to set sooner dates for the examination to acquire legal professional capacity in line with the anti-epidemic measures so that there would be no obstacle to their career and professional development.

As a result of the timely action on the part of the institution, the recommendation was taken into account and a date for the examinations was scheduled.

Other problems are related to setting the scores upon admission at medical universities in 2022; the quality of learning at higher educational institutions; the need to update the curricula and teaching methods; the modernisation of the system of tertiary education so that it will be in line with the needs of society and businesses.

The Ombudsman's attention is also drawn to issues related to the procedures to occupy academic positions and to the low and demotivating payment to Ph.D. students at universities and to researchers and Ph.D. students at the Bulgarian Academy of Sciences.

***Complaints from students and parents in relation to the lack of clarity as to the scoring upon admission to HEI in 2022***

The lack of information on the matters related to HEI admission – scoring, forms and content of the 2022 examinations – resulted in discontent on the part of students, parents and teachers who turned to the Ombudsman for assistance.

According to the citizens, it is also not clear which documents HEI will require for admission because the secondary education diploma will only show results in the subjects studied during the second stage of the secondary education.

The changed rules for applications affect the students who, in 2022, will be the first class to complete their secondary education pursuant to the new Pre-School and School Education Act.

The Ombudsman referred to the MES about the problems and recommended that the rules should be clarified as early as the beginning of the school year so that the applicant students would have clarity and time to prepare.

The recommendation was taken into account – the MES complied with Ombudsman's comments and required of universities to share their 2022 admission requirements by the end of October 2021.

**Main problems in the area of tertiary education:**

- Need to include the higher education institutions in international educational and research networks;
- Incentives for research work at higher education institutions and development of innovations in them;

- The training of university students is not always targeted at gaining more skills during training;
- There is no link between higher education institutions and businesses;
- Poor control over the procedures for competitions to occupy academic positions;
- Greater transparency in the management of higher education institutions;
- Some higher education institutions continue the practice to set prices for administrative services which exceed many times the costs to provide those services;
- Need for urgent measures to overcome the imbalances related to the average age of academic panels;
- Insufficient control over the procedures for competitions to occupy academic positions;
- Low remuneration of Ph.D. students at universities and lack of incentives for young people to be involved in research activities;
- Low remuneration for the scientists at the Bulgarian Academy of Sciences;
- A high interest rate for loans for university and Ph.D. students in order to contribute to the access to education of young people who are unable to provide the necessary funds to pay fees and tuition due themselves.

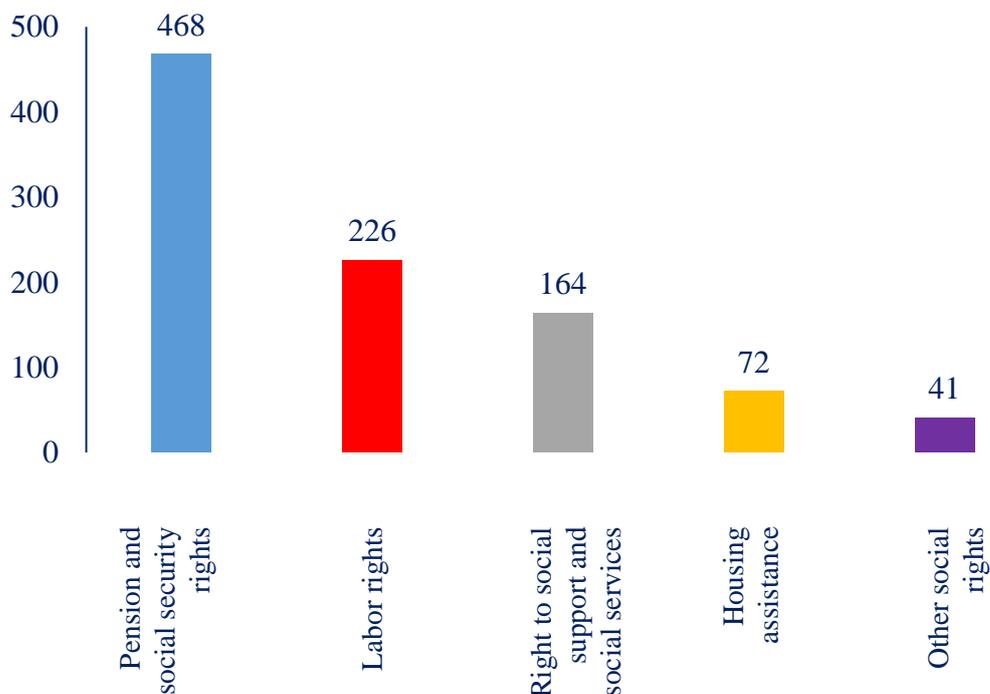
#### **Main recommendations as regards tertiary education:**

1. Increase the quality of tertiary education and its compatibility with the European systems to integrate it in the common European Education Area.
2. Include higher education institutions in international educational and research networks.
3. Provide incentives for research and development activities at higher education institutions and for the development of innovation in them.
4. Increase the relevance of tertiary education to the labour market.
5. Ensure transparency in the management of higher education institutions.
6. Take urgent measures to overcome the imbalances related to the increase in the average age of academic panels.
7. Tie, to a greater extent, the model of funding of higher education institutions to the assessment of the quality of education in them and not to the number of students.
8. Exercise stricter control over the procedures for competitions to occupy academic positions.
9. Increase the funds for remuneration of Ph.D. students in order to provide incentives for young people to become involved in research work.
10. Reduce the interest rate for loans for university and Ph.D. students in order to contribute to the access to education of young people who are unable to provide on their own the necessary funds to pay the fees and tuition due.

## 6. SOCIAL RIGHTS

A key focus, which has a global impact on all areas of human life, both in the country and globally, is COVID-19. The work of the Ombudsman in the field of social policy in 2021 was focused on delivering support to persons seeking assistance from the institution.

**Chart 8** – *Complaints and alerts received by type of affected rights in 2021, number*



The largest share of complaints concerned pension rights – 357 individual and collective complaints, followed by those related to labour rights and employment – 226, affected rights in the field of social security and benefits – 111, and those related to social assistance and social services – 164.

Most complaints were directed against:

- the National Social Insurance Institute;
- the Executive Agency “General Labour Inspectorate”;
- the National Employment Agency;
- the Agency for Social Assistance;
- employers.

### 6.1. CITIZENS’ PENSION RIGHTS AND SOCIAL SECURITY RIGHTS

Complaints relating to payment of benefits for temporary incapacity to work are 12, maternity-related complaints are 18, and unemployment-related complaints are 63. They mainly state persons’ discontent of the NSSI suspending or delaying their payment of cash benefits for temporary incapacity to work due to various reasons, such as suspicion of abuse of social security rights and inspection of social security insurers, long period of inspections. Complaints and alerts relating to citizens’ pension rights in 2021 amount to 357, both individual and collective.

## **Pension entitlements**

Folowing up on the complaints and issues relating to pensions and pension entitlements lodged by citizens with the institution, 125 recommendations were made to competent authorities and institutions, most of which have been fulfilled. The opinions given were 220.

The issues that were most frequently raised in the period concerned were low pensions, the need for their updating, and the lack of the much-awaited policy on recalculation of all pensions based on the average social security income after 2016.

### **Main recommendations regarding pension entitlements:**

1. Setting up a legal mechanism for establishing a minimum amount of retirement pensions that would bring annually their amount closer or equal to the poverty line.
2. Recalculating, from time to time, all pension amounts based on the average social security income for the country after 2020 or based on the previous year's one.
3. Taking urgent actions to protect the interests of Bulgarian citizens who have acquired pension and social security rights in EU Member States, in particular the Hellenic Republic.

## **Right to unemployment benefits**

During the period of epidemic emergency, the Ombudsman was approached for support by persons who have been registered as unemployed in the Labour Office directorates and have received cash benefits for a certain period. After the expiration of such period, if during the state of emergency they had not been able to find a job on the labour market, they were not entitled to a new monetary benefit or social support.

### **Recommendations implemented after intervention by the Ombudsman of the Republic of Bulgaria:**

- A recommendation was made to the minister of labour and social policy to review the provisions of the Social Insurance Code regarding the conditions and time-limits for granting and payment of unemployment benefits.

The recommendation was implemented, and the deadline for payment of unemployment benefits, within a three-year period from the previous payment of unemployment benefits, was increased from four to six months. The **daily minimum** unemployment benefit amount for 2021 was changed from BGN 9 to BGN 12. The daily maximum unemployment benefit amount for 2021 remains unchanged at BGN 74.29.

## **6.2. LABOUR RIGHTS**

In 2021, the epidemic emergency situation and anti-epidemic measures imposed by the Bulgarian authorities to prevent the spread of COVID-19 in the workplace continued.

The Ombudsman supported workers and employees whose employment was terminated in 2021, including vulnerable groups of workers and employees, in order to keep their jobs, mainly with employers who retained or restored their economic activities, i.e. Hospitality; Restaurants; Food and Drinks; Cinemas, Tourism; Passenger and Air Transport; Artistic and Creative Activities, etc.

Employees, including vulnerable groups of employees, sought assistance after termination of their employment. The increase in the requests and complaints received from workers seeking assistance from the Ombudsman in case of non-payment or delayed payment of wages remained steady.

In other cases, the Ombudsman's assistance was sought to ensure safe and healthy working conditions by employers, as well as in cases of abuse by employers and officials in the company with the requirement for holding a green certificate or the requirement for vaccines as a condition for admission to workplaces.

### **Recommendations implemented after intervention by the Ombudsman of the Republic of Bulgaria:**

- To the control bodies of the Executive Agency "General Labour Inspectorate" to assist workers and employees, including those with already terminated employment, to receive unpaid wages or benefits from employers.
- To the control bodies of the Executive Agency "General Labour Inspectorate" in regard to employers' allocation and implementation of financial support for the anti-epidemic measures without passing the costs incurred to workers and employees.
- To provide assistance to workers and employees with deteriorating health to apply the legal measures entitling them to special protection while in force and in case of termination of employment.

### **6.3. RIGHTS OF CIVIL SERVANTS**

Some of the civil servants' complaints related to violations in conducting competitive procedures, including violations in ranking or hiring a person who had not been ranked first. Other complaints related to violations in the annual performance evaluation of employees and the possibility for remuneration increase related to the annual performance evaluation for the position.

In 2021, employees in the public administration sought assistance from the Ombudsman in regard to the fact that they were deprived of additional remuneration for their years in service and professional experience to which all employees under employment contracts are entitled.

Some civil servants reported unprotected health or safety at work, including work environment associated with high levels of stress in the workplace and deteriorating micro-climate in the work environment.

### **Recommendations implemented after intervention by the Ombudsman of the Republic of Bulgaria:**

Recommendations to the appointing authorities or line ministers and to the inspectorates of the respective ministries to take action to eliminate the violations committed.

### **6.4. RIGHT TO SOCIAL SECURITY AND BENEFITS**

Complaints relating to payment of benefits for temporary incapacity to work are 12, maternity-related complaints are 18, and unemployment-related complaints numbered 63. The main dissatisfaction of the citizens was that the NSSI delayed or suspended the payment of cash benefits for temporary incapacity to work due to various reasons, such as: suspicion of abuse of social security rights and inspection of social security insurers, long periods of inspections, often carried out over long periods of time.

### **6.5. RIGHT TO UNEMPLOYMENT BENEFITS**

In the period of the emergency epidemic situation, the Ombudsman was approached for support by persons registered as unemployed in the Labour Office directorates and who had received cash benefits for a certain period of time. On expiration of that period, if during the state of emergency they had not been able to find a job on the labour market, they were not entitled to a new cash benefit or social support.

## **Recommendations implemented after intervention by the Ombudsman of the Republic of Bulgaria:**

- To revise the provisions of the Social Insurance Code regarding the conditions and time-limits for granting and payment of unemployment benefits.

The recommendation was implemented, and the deadline for payment of unemployment benefits, within a three-year period from the previous payment of unemployment benefits, was increased from four to six months. The daily minimum unemployment benefit amount for 2021 was changed from BGN 9 to BGN 12. The daily maximum unemployment benefit amount for 2021 remains unchanged at BGN 74.29.

### **6.6. RIGHT TO SOCIAL SUPPORT AND SOCIAL SERVICES**

The year 2021 saw a significant increase in the complaints related to the need of social support. 164 complaints were filed by citizens regarding problems with social support and social services.

The complainants were mainly persons registered as unemployed in the Labour Office directorates and who had received cash benefits for a certain period of time. After the expiration of that period, they failed to find a job on the labour market and were not entitled to any other cash benefits or social support.

Another group were citizens who had been refused targeted heating assistance or citizens seeking support to receive any kind of social assistance.

### **6.7. FAMILY ALLOWANCES FOR CHILDREN**

Complaints regarding family allowances for children in 2021 related to the income criterion for award of monthly allowance for a child until completion of secondary education under the Family Allowances Act. The requirement causing discontent among people was the evaluation of the right to family allowances for children, taking into account the gross amount of the family income, including social security contributions, deductions, compulsory supplementary pension insurance.

The parents of twins sought support in regard to the monthly allowance for raising twins under Article 7, paragraph 6 of the Family Allowances Act so as to increase the amount of the allowance which currently is BGN 75.

### **Recommendations of the Ombudsman of the Republic of Bulgaria:**

All parents, regardless of their income, should receive the support they need from the state to raise their children.

### **6.8. TARGETED HEATING SUPPORT**

The complaints received related mainly to the criteria for determining the right to be granted such support. One of the concerns was the payment of a supplement of BGN 50 to pensions as an anti-crisis measure, which affected the final amount of the income eligible for receiving targeted heating support.

As a result of the timely actions taken by the institution, it was decided not to include the supplement to the pensions as income to be taken into account when assessing the right to targeted heating support.

## 6.9. HOUSING ASSISTANCE

In 2021, citizens continued to seek the Ombudsman’s assistance to find solutions to their housing problems, insisting on urgent rehousing, deferment of utility bills, or revocation of eviction orders.

### Main recommendations:

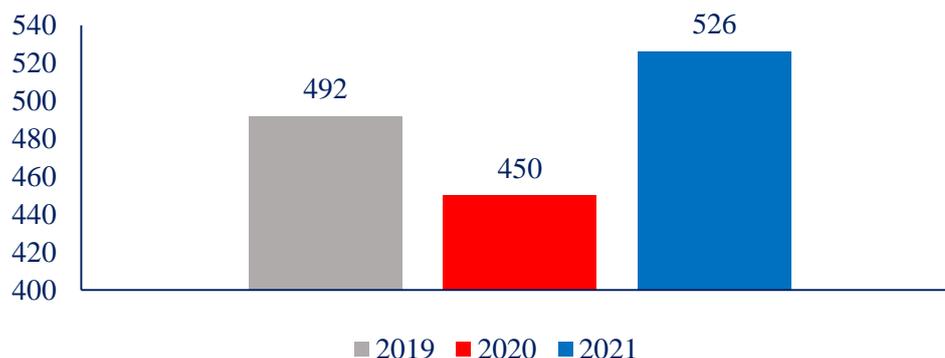
1. Urgent measures are needed to improve and expand the municipal housing stock.
2. The eligibility criteria for accommodating citizens in need of municipal housing ought to be updated to provide opportunities for emergency accommodation.

## 7. CHILDREN’S RIGHTS

As an independent monitoring body for the protection of human rights, the Ombudsman has an irrevocable commitment to the protection of children’s rights, set out in law in the Ombudsman Act with the amendments of 2012.

In 2021, children were still in the situation of being defined as the group which was less affected by COVID-19, while identified as being at greater risk of spreading it, despite the lack of any scientific evidence or public data for this. Based on this approach, the group of children became the subject of protection, of extraordinary restrictions and measures introduced by the state. Many of the social measures introduced restricted children’s rights and jeopardized their right to development, as well as their right to participate.

**Chart 9** – *Complaints and alerts received related to children and their rights in the period 2019-2021, number*



In 2021, complaints regarding children and their rights increased as a result of the pandemic, and particularly vulnerable groups of children and their families suffered most.

The complaints of citizens were most commonly associated with:

- The economic stability of the families, which were severely shaken by the sharp decline in incomes, the suspension or restructuring of jobs in various areas of employment, the closure of retail food outlets.
- The closure of crèches, kindergartens and schools without prior preparation and plan to address the risks for families with young children led to serious difficulties for thousands of families.

- The impact of long-term online learning on children and students, with parents sharing that they were stressed, demotivated, irritable, aggressive and/or depressed. Post-traumatic fears of parents were transmitted to their children, they developed a depressive syndrome, which is not typical for their age.
- The children themselves are particularly sensitive to the prohibitions of sports activities and the closure of dance schools. The closure of children's entertainment and educational centers triggered a wave of discontent.
- A number of complaints related to changes in the functioning of social services in the community, the closure of which put many families to the test, and this had a particularly negative impact on children with disabilities.
- The ban on leaving residential institutions and services, the ban on access for outsiders, including parents, the ban on visiting parks and playgrounds.

Parents, families, relatives of children, organisations and associations turned to the Ombudsman for assistance and support regarding:

- the need to provide financial and social support for parents raising their children alone, who were left without income;
- provision of adequate child medical treatment;
- assistance for opening day centres for children with disabilities and special education support centres;
- protection of the child rights in parental conflicts;
- support of young people leaving public care;
- complaints about the quality of foster care and lack of support for foster families;
- mental problems of children as a result of long online learning;
- problems of children with disabilities and with special education needs;
- lack of supervision in socio-pedagogical boarding schools;
- support of children raised by parents with addictions, including drug addiction, mental disorders, whose condition had worsened as a result of the pandemic;
- request to extend support measures for children with disabilities;
- against actions of protection system employees and complaints about the lack of adequate measures;
- protection of child victims of violence;
- proposals for legislative changes in the field of children's rights.

## **THE CHILDREN AND THE OMBUDSMAN**

Complaints filed by children raised various issues and questions:

- a student complained about the behaviour of his/her teacher, who used insulting words against him;
- a child claimed to have been beaten in public by an elderly woman in the center of the town where she lives;
- against the intention to extend the school year;
- restore the flu holidays;
- a 16-year-old girl claimed that she had been promised by her parents to a boy of her ethnicity, but asked for support to marry her boyfriend without the consent of her parents;
- a boy sought support for his mother, who had lost her job and did not have the financial means to support her children.

## **“Young Advisers” project**

The institution of the Ombudsman of the Republic of Bulgaria participates in the **ENYA (European Network of Young Advisers)** project implemented under ENOC. With this project, ENOC aims to explore how anti-epidemic measures and practices in European countries have affected the protection of children’s rights and what steps can be taken in the future to strengthen the readiness and capacity of countries to respond in a responsible manner to such challenges.

The institution of the Ombudsman of Bulgaria participates in the initiative with a group of 30 youths. The participants are students aged 13 to 18 years from Sofia, Varna, Stara Zagora and Silistra: from William Gladstone 18<sup>th</sup> High School, from Thomas Jefferson Second English Language High School, from the National School for Ancient Languages and Cultures “Saint Constantine-Cyril the Philosopher”, from Peyo Yavorov Language High School of Silistra, young people from Agapedia Foundation and the Megafon band to the National Network for Children, from the group of young advocates at Lumos Bulgaria Foundation.

### **7.1. THE CHILDREN AND COVID-19**

In 2021, the Ombudsman conducted an independent assessment of children’s rights and measures, and based on it a special **Report on the assessment of the impact of measures against the spread of COVID-19 on the rights of vulnerable groups in Bulgaria** was prepared.

Many of the children from vulnerable groups, who took part in the Ombudsman’s consultation, saw the restrictive measures as more or less dramatic, as being unfair, all too often comparing them to punishment. The main reason for this is the feeling that these measures have been imposed more severely than necessary (according to their own understanding of the pandemic situation).

The children and young people involved in the consultation considered it unfair that adults had a choice whether or not to follow the measures while the children did not have a choice. Many children tell how they witnessed daily violations of prohibitions by adults. The study was conducted within the European Network of Ombudsmen for Children (ENOC) project with the financial support of UNICEF Bulgaria.

In early 2021, the Ombudsman published a special report entitled “Children and COVID. Impact of the Crisis on Children’s Rights and Interests”, which summarizes and analyzes the complaints received by the institution regarding children’s rights and measures against the spread of the virus during the state of emergency, which was in force from 13 March 2020, as well as during the emergency situation, extended by orders of the Minister of Health until 31 July 2021. The report highlights the problems faced by children, focusing on the most vulnerable groups of children. It explores practices that do not meet the standards and principles of the UN Convention on the Rights of the Child, and makes recommendations for improving the short-term and long-term policies in order to support children and families more effectively, particularly in times of crisis.

### **7.2. NURSERIES AND KINDERGARTENS**

The quality of care in nurseries and kindergartens, the lack of appropriate environment and equipment for children with disabilities, the attitude of staff towards children and communication with parents are often cited as a systemic problem in the complaints. It is often reported by parents that their child was a victim of violence in the kindergarten or nursery: slaps, beatings, punishments, and even locking in isolated rooms; use of education methods that undermine the dignity of the child. Parents and relatives of children with chronic diseases state that children continue to be unwanted in nurseries and kindergartens.

## **Findings**

Inspections show that staff in childcare facilities are often unaware of child protection legislation, which leads to non-compliance. No alerts are submitted of a child victim of violence, an obligation arising from the Child Protection Act. There is no sensitivity to various forms of violence, there is a lack of specialized training of the teams, especially in nurseries. The dialogue between parents and those who take care of children has been disrupted. There are no standards for child care and work methods in nurseries.

In connection with the **fees for kindergartens and nurseries**, which often prove to be a serious barrier to the access of children from vulnerable groups to these services, the Ombudsman in partnership with NGOs launched a national campaign to eliminate fees in kindergartens, sent a number of recommendations to the Ministry of Education and Science (MES) and to the Ministry of Finance. As a result of this pro-active work and the campaign a commitment was made from the national budget to eliminate fees for all children from 2022.

### **Recommendations:**

1. Analysing the accumulated challenges to the care in nurseries.
2. Amendments to Ordinance No. 26 of 18 November 2008 for the structure and activities of nurseries and children's kitchens, issued by the Minister of Health.
3. Taking appropriate measures to improve the quality of the care in nurseries, including human resources.
4. Creating a regulatory opportunity for the appointment of more pedagogues and speech therapists in children's institutions.
5. Developing and introducing standards for care and methodologies for work in nurseries, meeting the current trends for early childhood development and care.
6. Preparing individual care plans in childcare facilities.
7. Regular trainings of the medical staff taking care of children with chronic diseases.
8. Improving the dialogue with parents, who should become part of the children's care.

### **7.3. KINDERGARTEN AND SCHOOL INFRASTRUCTURE**

The Ombudsman's institution receives complaints, often accompanied by petitions seeking the Ombudsman's support in securing funding for urgent renovation of kindergartens and schools.

Another serious issue that requires a change in the rules and approaches by the Ministry of Education and Science concerns the provision of school buses.

### **7.4. THE CHILD IN PARENTAL CONFLICTS**

In 2021, complaints of parents who could not have personal relations with their children prevailed. Though filed by parents, the Ombudsman considers the complaints in the light of the child's right to have personal relations with both parents, explicitly proclaimed in Article 9, paragraph 3 of the UN Convention on the Rights of the Child. Violation of the child's right to have a personal relationship with a parent is most often the result of a parental conflict, which is sometimes extremely violent and prolonged and the child is involved in this conflict. Based on the ECtHR case-law, the Ombudsman always emphasizes that it is the duty of the state to provide mechanisms and means for the implementation of the child-parent relationship after a decision on the exercise of parental rights or personal relations, including interim measures.

Unfortunately, in 2021 no progress was made in changing the work and effectiveness of child protection authorities.

### **Recommendations:**

1. Making a precise assessment of the child's interest, on the basis of which measures and actions to be taken.
2. Creating a methodology for screening and respectively guaranteeing the best interests of children, enshrined in the current legal framework and unequivocally applied by experts in the field.
3. Changing the child protection system to empower and ensure the impartiality and professional approach of social workers to cases.
4. Enabling employees in the social system to take, if necessary, stricter measures against parents who refuse to cooperate in social work.
5. It is necessary to consider the possibility of assigning social reports required by the court to experts.
6. Actions to be taken in a reasonable time due to the fact that children are particularly vulnerable in conflict situations between parents and it is unacceptable that their childhood should pass during that conflict.

## **7.5. CHILDREN IN VULNERABLE SITUATION**

Children with specific vulnerabilities (e.g. deprived of parental care, in conflict with the law) are a major concern, especially in times of crisis. Undoubtedly, the COVID-19 pandemic has affected everyone, but most affected are children in vulnerable situations. For many of these children, access to education and health care is limited because they live in poverty or because of their ethnicity. The pandemic is widening inequalities, and this will be difficult to compensate for over the years unless a special plan for children and compensation of the impact is drawn up.

## **7.6. CHILDREN WITH DISABILITIES**

In the context of the coronavirus pandemic and the restrictions that have been imposed, children are facing many difficulties in gaining adequate access to healthcare, education and support they need. The closing of schools and the shift to remote learning, the insufficient opportunity to attend appropriate social services through significant periods of the year have adversely affected the psyche of children with disabilities and have created conditions for increasing their social isolation.

- problems with handling funds from the special bank account opened for the treatment of a child and delay of the court decision on granting consent. These cases are not exempt from the state fee for examination;
- regulatory problems faced by families of children with disabilities who use municipal housing when applying for accessible environment for people with disabilities;
- a proposal to provide free textbooks for students with disabilities in the secondary education;
- problems with the use of municipal transport services for people with disabilities in the town of Pernik. The inspection found that action should be taken to change it at national level to ensure the right of children with disabilities to travel to and from school;
- in connection with the monthly allowance under Article 8e of the Family Benefits for Children Act, parents propose that monthly allowance be paid for children with disabilities

after they reach the age of 20 as well, when the child studies and interrupts his/her education due to medical reasons;

- strengthening control at local level in issuance of blue coupons for preferential parking for people with disabilities;
- limited and difficult access to aids for children and people with disabilities.

### **7.7. CHILDREN IN ALTERNATIVE CARE**

In 2021, due to the lack of adequate family support and resources, there was a trend of higher risk of abandonment of children and therefore it was often necessary to place them in social services of residential type. It is important for the Ombudsman, especially during a crisis that increases the risks for children, to give priority to accommodation with relatives and friends, as well as in foster care. The Ombudsman emphasized that any removal of a child from the family and placement in alternative care should be considered in the best interests of the child and in accordance with the principles enshrined in the UN Guidelines for the Alternative Care of Children, namely the principle of need and the principle of appropriateness. In the summer of 2021, in the framework of a national study on the impact of COVID-19 and its anti-proliferation measures on the rights of vulnerable groups of children in Bulgaria, the Ombudsman met with children and young people accommodated in resident and educational services. Children told the Ombudsman that for months the entrance doors of the buildings had been locked and unlocked only for incoming staff, that it was a difficult and unpleasant period for them, and they had no choice but to accept it.

#### **Recommendations:**

1. Development of a clear state policy regarding young people leaving alternative care (residential services and foster care) in order to introduce a comprehensive approach to supporting them.
2. Ensuring constant monitoring and support of residential services by public authorities, development of foster care and the quality of care provided by family-type accommodation centers.
3. Analysis of the development of children and young people accommodated in residential services and preparation of criteria for life quality assessment.
4. Existing policies and programmes should focus on supporting families in vulnerable situations to prevent separation of children from their families.

### **7.8. ROMA CHILDREN**

As regards the results of the inquiries carried out on complaints and policy monitoring, the Ombudsman notes the lack of a targeted family policy and the effectiveness of social payments for Roma communities. Access to social benefits is often difficult for Roma families due to the lack of knowledge and information, heavy administrative barriers, restrictive conditions and guidelines. Discriminatory societal attitudes, stigma and unequal treatment of vulnerable groups of children lead to their further exclusion. Following the introduction of distance learning in e-learning environment, the Ombudsman found that access to education for Roma children was very limited.

In the opinion of the Ombudsman, targeted action is needed to improve the implementation and effectiveness of Roma inclusion measures, their participation in decision-making and inclusion, which will significantly improve the environment in which children live and develop. Special attention should be paid to issues of marginalization, social exclusion and poverty, especially young Roma men and women.

## 7.9. VIOLENCE AGAINST CHILDREN

Bulgaria faces significant difficulties in establishing child-sensitive procedures, including availability and appropriate use of blue rooms for child-friendly interrogation, ensuring that interviews are conducted in an appropriate manner by adequately trained judicial staff, preventing re-victimization and trauma of children, and that child-friendly procedures are followed in courts with trained staff, including taking steps to testify without the presence of the accused perpetrator.

In her work, the Ombudsman found that the rights of child victims and witnesses of violence and crime were not guaranteed, that they had limited access to specialized services, counselling, psychosocial support and compensation.

### **Recommendations:**

1. Taking urgent actions for the full transposition of Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime.
2. The meaningful transposition of the Directive will make it possible to ensure professional intervention in cases of violence, such as individual assessment of victims of domestic violence, hearing and questioning of children using professional methods, clearer written criteria for assessing the best interests of children by the protection bodies, availability of support precisely through the assessments and for the court, taking timely and adequate measures under the Domestic Violence Protection Act and the Child Protection Act.
3. Adopting a comprehensive approach to dealing with cases of violence.
4. Gathering integrated data and introducing a unified system for registration of cases of violence against children.
5. Adopting a long-term National Programme for Prevention and Combating Violence against Children, with clear deadlines, funding and measurement indicators.
6. Children who are victims of violence should be guaranteed the right to individual assessment, setting up mechanisms for protection against secondary or repeated victimization, reduction of the number of interrogations and their minimization.
7. Introducing a complete legal ban on corporal punishment of children.

In early 2022, the Ombudsman organized a discussion on **Mental health at school – possible and necessary measures**, and then she sent specific recommendations to the Minister of Education and Science on the measures to prevent and tackle aggression and bullying among students:

- introducing a specialized module in the Class Plan of the class teacher;
- development of special profiles in mobile applications for consultation of students by specialists. Providing access to school forums for discussions on violence, aggression and cyberbullying;
- development and introduction of training opportunities, including online trainings, for teachers and school staff on the rights of the child, violence and its various forms and manifestations, harassment and aggression;
- carrying out a concrete and comprehensive inspection of the implementation by the schools of the Mechanism for Combating Harassment and Violence, which shall cover all schools in the country, and based on the results, outlining measures for its update and effectiveness;

- introducing tools for feedback from students on the operation of the Mechanism for Combating Harassment and Violence, such as the use of permanent questionnaires, resources of student government, specialized chat with school psychologists and specialists;
- implementing a system for regular assessment of the characteristics of the school environment, which will provide information for the planning of measures based on needs;
- creating a database and a general register of children, victims of violence and bullying at school;
- existence of clearly defined school rules and policies for: work with parents, active participation of students, prevention and response to violence through rehabilitation practices, inclusion;
- providing a range of good practices and online resources to involve parents as partners in building a partnership environment that is intolerant of violence by means of active feedback channels, group work at classroom level, parent discussion forums, etc.

### 7.11. JUVENILE JUSTICE

Bulgaria continues to be strongly criticized for the lack of reforms in the field of juvenile justice. The requirements of Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime have not been transposed yet in full in the 2017 amendments to the Criminal Procedure Code (CPC). The amendments to the CPC aimed at transposing Directive 2016/800/EU on procedural safeguards for children who are suspects or accused persons in criminal proceedings have not become part of our national law yet.

#### **Recommendations:**

1. Urgently addressing the issues in the new legislation related to the establishment of the minimum age for criminal liability, which should be over 14 years of age.
2. Defining “anti-social behavior” and “status violation”.
3. Imprisonment should only be used as a last resort and in very limited cases as soon as possible.
4. Mandatory specialization in the judiciary, as well as delivery of ongoing training on the rights of children to judges, prosecutors, police officers, social workers.
5. Ensuring access for children to specialised legal assistance at every stage in dealing with children in conflict with law.
6. Mandatory coordination of the systems to organize their work, united behind the best interests of the child.
7. Applying appropriate standards to assess and determine the best interests of the child, including child participation.
8. Establishing a new system, integrated with the child protection system, for children in conflict with the law, which provides alternatives to detention that are effective and efficient in terms of rehabilitation and reintegration of children.

### 7.12. PROTECTION SYSTEM

Parents and citizens are particularly sensitive to the operation of the protection system, especially child protection departments within the structure of the Social Assistance directorates (SAD). In 2021, there was an increase in complaints submitted by prospective adoptive parents. They complained about the lack of support by social workers during the period they expected to be offered a child.

### **Recommendations:**

1. Increasing the capacity of professionals working with children to build a better early warning system in the presence of risk factors
2. Mandatory interinstitutional cooperation and coordination regarding case work.
3. Development of integrated services for children and family support.
4. The requirement for appropriate higher education or professional experience should be added to the criteria for the position of a social worker.
5. Development of a methodology for assessment of the workload of social workers, which should include criteria for assessment of the area in which they work.
6. Setting out a Strategy for the development of human resources in the social sector, which will ensure higher professionalization and specialization of social workers – opportunities for career development, training, qualification, planning and change in pay of workers in the social sphere.

### **GENERAL RECOMMENDATIONS ON CHILDREN'S RIGHTS:**

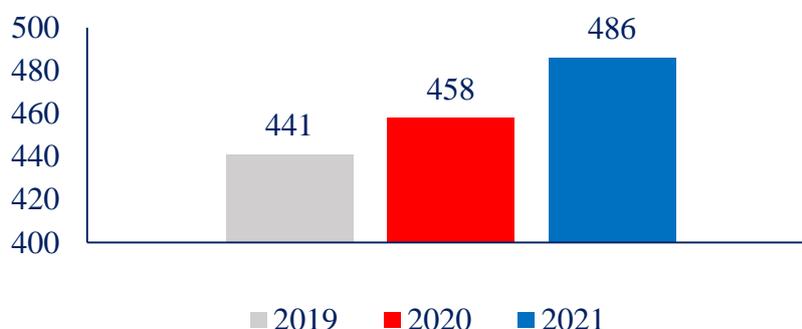
1. Adoption of a special programme to support children who have lost a parent or a guardian as a result of COVID-19.
2. Strengthening the capacity of the protection system to effectively implement preventive actions, work aimed at risk prevention, so as not to respond only to cases of violations of children's rights.
3. Ensuring quality surveillance and monitoring of new residential services for children, which will enable rapid response and support measures.
4. Analysis of the work of school psychologists and measures for schools without psychologists.
5. Special measures at school to support the mental health of children.
6. Increasing the number of health and educational mediators.
7. Integrated efforts to improve the public environment – playgrounds, schoolyards, abandoned buildings and dangerous buildings in urban environment.
8. Improving the database for children and creating an integrated information system that takes into account the specific situation of the child and its development.
9. Introducing a unified methodology for assessing the best interests of the child in all public sectors – education, social activities, healthcare.
10. Specific legislative proposals, action plans, budgets and monitoring systems are needed in all areas affecting children and their families, such as employment, gender equality, access to health services, education and affordable housing.
11. Measures to ensure a safe public environment for children – playgrounds, childcare centres.
12. Introducing a system of juvenile justice in accordance with the international and European standards for the protection of the rights and interests of children.
13. Providing access to justice and legal assistance to children.

14. New policies and measures to support the adoption institute.
15. Targeted integrated family support policy, developing a specific concept including a comprehensive approach to measures.
16. Adopting a new national vision for the development of pre-school and school education.
17. Development of mechanisms for active child participation.
18. Adopting a National Strategy for Early Childhood Development, which is fundamental for the implementation of integrated policies in the field of early care and is the best investment in the child and his family.
19. Adoption of key strategic documents in the field of children's rights – National Strategy for the Child and a Plan for its implementation.

## 8. RIGHTS OF PERSONS WITH DISABILITIES

Given the ongoing global pandemic and the complex political situation in the country in 2021, the observance of the rights of people with disabilities was at a serious risk. Crises in key areas of public life like healthcare, social policy, and education had the worst impact on the vulnerable groups of the population.

**Chart 10** – *Complaints and alerts received related to the rights of persons with disabilities in the period 2019-2021, in numbers*



The long-awaited changes in policies directly related to people with disabilities have not been implemented, e.g. the update of standards for social services, funding and provision of aids and medical devices, the reform of the medical expertise and the working capacity expertise, the establishment of a state agency for people with disabilities.

The epidemic also causes additional difficulties in the provision of medical services, inclusive education, the work of the Regional Expert Medical Commissions/the National Expert Medical Commission and the Transportation Regional Expert Medical Commissions (TREMCM)/the Transportation Central Expert Medical Commission (TCEMCM).

The complaints received by the Ombudsman show that the problems in other main areas such as socio-economic protection, accessible environment, administrative services, employment, etc. remain unresolved.

The problems in the above-mentioned areas, the increased risk of violating the rights of citizens with disabilities, as well as the active work of the Ombudsman again led to a greater number of complaints about the rights of people with disabilities, received by the institution in 2021.

The presented statistics show that over the last three years there has been a tendency towards a permanent increase in the number of complaints about the rights of people with disabilities. Expressed as a percentage, the increase in complaints in 2021 is as follows: an increase of 6% compared to 2020 and 10% compared to 2019.

As regards complaints in which violations were found, 47 recommendations were made and 50 opinions were submitted. Over 45 of the recommendations were fully or partially implemented.

Mediation was carried out in 5 of the cases, and in 3 cases it was successful, while in 2 there was a partial success. Advice was given on 3 of the complaints.

As regards the complaints in which no violations were found, 225 recommendations were made, of which 222 were implemented. Mediation was successful in 4 of the cases. Opinion was given on 42 complaints and advice was given on 41 of them.

In 2021, most complaints related to social services and personal mobility and socio-economic protection of people with disabilities. In the majority of cases, citizens found it difficult to obtain the necessary assistance, as they did not fall within the scope of the Personal Assistance Act and the Social Services Act.

## **8.1. PROBLEM AREAS WHERE RIGHTS OF PERSONS WITH DISABILITIES WERE VIOLATED**

### **Social services and personal mobility**

At a discussion at the meeting of the Supervisory Board it was found that citizens with permanent disabilities who have a certain type and degree of disability/degree of permanent disability, but without a certain right to external assistance, do not have access to the necessary assistance support after 1 January 2021.

Based on this finding, a recommendation was sent to the Minister of Labour and Social Policy:

- to take urgent measures to adequately address the problem and to guarantee the rights of the citizens concerned in the current year;
- a broad public consultation should be conducted and action taken for regulatory amendments to address the issue in a fair and definitive manner.

In connection with the exemption of people with disabilities from paying fees for certain social services, the Ombudsman and the Monitoring Council propose to MPs the following:

- actions to be taken to extend the term of the provision of Article 12, paragraph 8 of the Act on the Measures and Actions during the State of Emergency in a way that enables the users of the social services listed in the text not to pay for their use until the end of the emergency epidemic situation;
- actions to be taken to organize the reimbursement of the fees paid by the citizens concerned after 1 January 2021 as soon as possible.

### **Financial support**

The institution of the Ombudsman of the Republic of Bulgaria continued to receive complaints in connection with the problem with the payment of the monthly financial support under Article 70 of the People with Disabilities Act in cases where people with disabilities had

died after the end of the month for which the respective funds were due when the funds were received by mail.

In order to resolve the problem and ensure the rights of citizens, a recommendation was made to the Minister of Labour and Social Policy to take action through which the heirs of people with disabilities will be able to enjoy their rights equally, regardless of whether the monthly financial support under Article 70 of the People with Disabilities Act is paid by mail or via bank transfer.

Complaints continued to be received regarding the amount and unfair grouping of persons entitled to receive monthly financial support under Article 70 of the People with Disabilities Act, in regard to which the Ombudsman sent many opinions, including to the National Assembly.

Affected were persons with over 90% disability receiving a military disability pension, those who have chosen a survivor pension instead of a personal social pension, those receiving a pension for length of service and age and who are entitled to external assistance, as well as persons with 71% to 90% disability.

### **Assistive devices and medical devices**

Regarding the complaints about a new postponement of the deadline for transfer of aids and medical devices from the MLSP system to the healthcare system and in order to guarantee the rights of people with disabilities, recommendations were made to the heads of responsible bodies to take urgent action to provide adequate information to the interested citizens and their representatives on the procedure for receiving medical devices and aids, as well as to conduct a broad information campaign with all interested parties.

The recommendations also pay attention to other problems related to the service life of medical devices, the amounts of state support for the purchase of medical devices, which have not been updated for years and on which their quality largely depends.

### **Administrative services**

Complaints were received in connection with the refusals of the passport services in the country to recognize the validity of expert decisions of the Regional Expert Medical Commission/the National Expert Medical Commission after the entry into force of the amendment to Article 7, paragraph 5 of the Regulations for issuing Bulgarian personal documents. Cases were examined and resolved on a case-by-case basis, making recommendations to the relevant services.

### **Medical expert opinion**

In connection with the amendments to the Ordinance on the Medical Expertise published for public consultation, the Ombudsman and the Monitoring Council recommend to the Minister of Health to address the problem with the inadequately determined percentage of the type and degree of disability/degree of permanent disability for people with more than one disease.

In response to the recommendations made, actions were taken to amend the Ordinance on the Medical Expertise, which is an important step towards resolving the problems, including expanding the circle of lifelong disabilities.

### **Information System for Control of Medical Expertise:**

In connection with the received complaints and the findings on the Information System for Control of Medical Expertise launched in 2020, in respect of which the Ombudsman and the Monitoring Council insisted that it was not appropriate for people with disabilities, the following recommendations were made to the Minister of Health:

- to take actions to ensure adequate access of citizens with disabilities and their representatives to the Information System for Control of Medical Expertise as soon as possible;
- to take measures to fulfill the commitment to develop and use a mechanism for citizens' access to the system by means of Personal Identification Code.

### **Certification/re-certification before Transport Regional Expert Medical Commissions (TREMCS)**

In connection with the incoming complaints from citizens with disabilities regarding the possibilities for appearing for re-certification before the Transport Regional Medical Expert Commissions in the country and obtaining medical certificates for issuing/re-issuing driving licenses, a recommendation was made to the Minister of Transport, Information Technology and Communications.

In pursuance of the recommendation, measures were taken to improve the organization of TREMCS and to open new commissions in the transport hospitals, and each individual case was considered and resolved after a recommendation from the Ombudsman to the respective hospital.

### **Accessible environment**

- In connection with incoming complaints in the Ombudsman institution that Social assistance Directorates in the country are inaccessible for people with disabilities, the institution sent an opinion to the Minister of Labour and Social Policy.

- In response to the recommendation, commitments have been made to take concrete action to address the problem.

- The Ombudsperson Institution received complaints about the insufficient number of parking spaces for people with disabilities in front of the building that houses the Regional Medical Expertise Files in Sofia.

- In connection with the recommendation, two new parking lots for people with disabilities have been designated on Dimitar Grekov Street in Sofia.

- On citizens' complaints about gaps in the accessibility of some metro stations, a recommendation was made to Metropolitan EAD.

- As a result of the recommendation, a plan was drawn up by the Metropolitan with the specific deadlines and measures for elimination of the existing violations.

- Citizens with disabilities complained about the poor condition of sidewalks and streets in the Triaditsa district in Sofia.

- In connection with the complaints, recommendations were sent to the mayor of the Triaditsa district, who undertook to include the described sections in the programme for current repairs, which are to be carried out soon.

### **Sign language**

The Ombudsman expressed an opinion on the draft Ordinance on the terms and conditions for providing free translation services in the Bulgarian sign language, included in the Agenda of a meeting of the National Council for People with Disabilities.

The Ombudsman emphasized that the regulation of sign language in the current legislation through the drafting and adoption of the Bulgarian Sign Language Act was an important and necessary step to support people with hearing impairments in Bulgaria, including the deaf-blind people, in their efforts and their right to equal access to information, communication, quality education and professional development.

The Ombudsman pointed out, however, that in addition to the regulation of the sign language, significant attention should be paid to the conditions and opportunities for people with hearing impairments to use the language freely in all spheres of life, receiving adequate and accessible support from the state.

An important element of this support is the free translation service, as well as the procedure for its use, which should be as easy as possible, without unnecessary administrative burdens for the citizens concerned and without requiring them to incur additional costs.

## **8.2. ON THE IMPLEMENTATION OF THE RECOMMENDATIONS OF THE FINAL REPORT OF THE UN COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES**

In connection with the draft Action Plan for the implementation of the final recommendations to the Republic of Bulgaria made by the UN Committee on the Rights of Persons with Disabilities (2021-2026), published for public discussion on 10 December 2020, the Ombudsman sent an opinion to the Minister of Labour and Social Policy.

The recommendations focus on the unresolved issues in the current legislation and refer to the obligations of all responsible bodies to ensure the interests of citizens with disabilities:

- **As regards Paragraph 8 of the recommendations of the UN Committee on the Rights of Persons with Disabilities**

### **Ratification of the Optional Protocol to the Convention on the Rights of Persons with Disabilities**

It is worrying that the proposed plan provides for the possibility of completing the ratification procedure of the protocol “until 2026”.

Postponing the ratification in practice means that the expectations of citizens with disabilities will be deceived again and that their rights and interests will not be protected at the highest possible level.

- **Paragraph 60 of the recommendations. Regarding medical expertise, individual assessment of the needs of support and the amounts of monthly financial support**

Pursuant to Paragraph 60 of the recommendations: “The Committee recommends that the State party revise the criteria for assessing the degree of impairment, incorporate the human rights model of disability in the assessment process, and ensure that persons with disabilities continue to enjoy an adequate standard of living. It also calls upon the State party to intensify its efforts to ensure that all persons with disabilities can meet the additional costs of disability, including by increasing budget allocations and resources accordingly. As regards the right to adequate standard of living and social protection (Article 28 of the CRPD) the Committee recommends that the State party to the Convention revise the criteria for assessing the degree of impairment, incorporate the human rights model of disability in the assessment and ensure that persons with disabilities continue to enjoy an adequate standard of living.”

The proposed plan lacks actions for reforming the assessment of the individual needs under the People with Disabilities Act (PDA) in a way that would make it a key tool for determining the needs of people with disabilities and providing them with the necessary support.

In view of the recommendations to increase the budget allocations by the state in order to ensure that people with disabilities have an adequate standard of living, there are problems with the incorrect allocation of entitlements set out in Article 70 of PDA.

## **8.3. PROPOSALS FOR LEGISLATIVE CHANGES RELATING TO PERSONS WITH DISABILITIES IN EARLY 2022**

In connection with the identified problems with the exercise of the rights of people with disabilities in 2022, the Ombudsman made the following proposals for legislative changes:

- In the State Social Insurance Budget Act for 2022 a proposal was made in connection with the disadvantage for the people with disabilities using personal assistance, with the amount of the compensation for pensions for January and February 2022.
- Through the State Budget of the Republic of Bulgaria Act for 2022 it is proposed in the People with Disabilities Act concrete actions to be taken to address the problem with the unfair amounts of monthly financial support under the People with Disabilities Act for military invalids and for people with disabilities with survivor pensions.
- Through the State Budget of the Republic of Bulgaria Act for 2022 an amendment is proposed to the Personal Income Taxes Act to update the tax relief for people with disabilities under Article 18 of the Personal Income Tax Act, which is in the same amount as in 2008.

#### **8.4. PROPOSALS ON OTHER CURRENT PROBLEMS**

- The lack of opportunity to choose a pension which is less favourable for the beneficiary but the granting of which will provide him/her with higher general support under other regulations. Similarly, there is the issue of the lack of possibility to refuse a pension already received at the expense of another type of pension, to which the citizen is entitled, but which is less favourable in amount.
- The restriction in Article 74, paragraph 1 of the SIC for the length of service acquired by people with disabilities after the date of disability should not be taken into account for acquiring the right to a disability pension due to general illness.

#### **Main recommendations:**

1. Taking all possible measures to minimize the risks of violations of the rights of persons with disabilities arising from the restrictive measures imposed due to the pandemic.
2. People with disabilities or their representatives should be involved and should participate at all levels of governance in which decisions or policies affecting their rights are made.
3. The transfer of the provision of aids and medical devices from the MLSP to the Ministry of Health and the National Health Insurance Fund shall be carried out without further delay.
4. Addressing the problems with the personal assistance reflected in the Ombudsman's recommendations under the Personal Assistance Act, as well as providing opportunities for all persons in need to get the necessary access to assistance support.
5. The amount of cash benefits for people with disabilities to be adequate and consistent with the current level of income for the country and the inflation rate.
6. Initiating legislative changes to ensure equality in acquiring the right to a pension with length of service acquired before and after the date of disability, as well as the right to choose a less favourable pension in order to obtain a more favourable monthly financial support.
7. Applying an individual approach to the allocation of monthly and targeted funds and the provision of social services.
8. Creating conditions for employment of people with disabilities by financing, promoting and developing the national programme for employment of people with disabilities, set out in the 2019 PDA.
9. Creating appropriate social services in the family environment and in the community so as to live an independent life, including for adults and single people who are

in constant need of support but are not certified by the TEMC/NEMC or do not have a specific right to external assistance.

10. Ensuring quality and affordable health care for people with disabilities, including appropriate rehabilitation, and also in the event of pandemic.

11. Reducing the administrative burden when using social services and when granting social benefits.

12. Implementing accessible integrated electronic services in public institutions for people with disabilities.

13. Creating an effective and integrated register between the responsible institutions, containing the necessary information for the exercise of the rights of persons with disabilities, as provided for in the PDA.

14. Implementing an adequate reform of the medical expertise and the expertise of the ability to work with the active participation of persons with disabilities and their representatives, by introducing widely established and accepted international standards.

15. Taking measures to support children with disabilities and their families to participate effectively in the learning process, including in the conditions of a pandemic.

## **9. RIGHT TO A HEALTHY AND FAVOURABLE ENVIRONMENT**

In 2021, 384 complaints and alerts were received from citizens and environmental organisations on environmental issues. The complaints mainly concerned the quality of the ambient air in settlements; problems with environmental impact assessment procedures; restricted access of citizens and environmental organisations to information and justice in environmental matters; problems related to water management and significant dams, pollution of cross-border rivers, forest protection.

### **9.1. QUALITY OF AMBIENT AIR**

The complaints concerned repeated shortcomings in the system, such as technical feasibility and selection of the monitoring points of the mobile measuring stations of the Executive Environment Agency; the evidentiary value of the volume of data received from public sensor devices outside the National Ambient Air Quality Monitoring System; the time and procedure for response by the Regional Inspectorates for Environment and Water on alerts of citizens. It is stated that the speed of inspections, the completeness and accuracy of the results of continuous monitoring or incidental inspections are crucial to identify violations and their perpetrators, respectively to eliminate the causes of air pollution, especially for persistent organic pollutants. In this regard, the lack of clear progress has been criticized, despite the demonstrated political will in 2018 following the ruling of the European Court of Justice on non-compliance with the norms for reducing the concentration of fine particulate matter.

Public expectations for prevention of the spread of unpleasant odours in the air of cities are justified in view of the applicable regulations. Strict control of emissions from industry, including odours, is required on the basis of complex permits under Article 117 of the Environmental Protection Act. Regulated are the conditions for the implementation of other activities, which most often are a source of bad odours, such as landfills and sites for waste treatment, installations for processing animal by-products, intensive livestock facilities.

The Ombudsman recommends: control on the requirements for compliance with the complex permits, including the possibility for their modification; the holders of permits for activities that are potential emitters to be required to develop a plan for the management of

unpleasant odours, which should be reported daily; measures should be taken by the holders of buffers to build protective plantations of tall tree species; monitoring that regular entries are made in the annual environmental reports based on received alerts and the results of performed inspections; alerts should be checked as soon as possible and the results of the checks of the RIEW should be announced; the operations of branches of international companies should be subject to not less stringent requirements than those for branches in other EU countries.

## **9.2. PROBLEMS WITH THE ENVIRONMENTAL IMPACT ASSESSMENT (EIA) PROCEDURES**

The complaints are directed against investment proposals made without full EIA with public discussion or which are at a different stage of the procedure before issuing a final decision under the Ordinance on the terms and conditions for environmental impact assessment and the monitoring of the conditions set out in the EIA in the phase of implementation of already permitted activities.

Depending on the scale, the objections raised by citizens concerned the following significant projects: extraction of natural gas from the Spasovo field, General Toshevo municipality; combustion plants for incineration or mixed incineration of waste and their modifications and extensions; infrastructure projects for construction of a high-speed railway and the Struma motorway. According to the type of activity, the complaints against quarries for construction materials and other activities for extraction and processing of mineral raw materials prevailed. As regards the nature of the likely adverse effects, citizens raised concerns about the violation of essential factors, such as the sources of drinking water, noise pollution, air pollution with harmful emissions and dust, electromagnetic radiation, which are stressful and pose a risk to public health.

Citizens also stated their desire for the protection of river ecosystems and the sustainability of riverbeds and banks, of nature protection regimes in protected areas and areas of the national ecological network, which may be affected by significant adverse effects of the investment proposal, seeing in this the protection of their own interest in a better life.

Based on the practices stated in the complaints, it can be concluded that additional measures are needed for preventive protection of the living environment in the settlements in connection with the EIA, including changes in the legal framework.

Without exhausting the analysis of the compliance with the EU law, the result of comparing relevant norms indicates incomplete transposition of the selection assessment criteria for EIA for the activities listed in Annex No. 2 of the Environmental Protection Act (EPA).

### **Recommendations on EIA**

1. To commission an analysis of the compliance with the EU law and the Convention on the Protection of Human Rights and Fundamental Freedoms (Article 8: right to a home, and Article 1 of Protocol No. 1: protection of property rights) to amend potentially Article 93, paragraph 4, item 1, (b) of the EPA in order not to limit the discretion on EIA for investment proposals included in Annex 2, according to the criterion in Annex III, point 1 (e) of Directive 2011/92/EU, in violation of fundamental rights of citizens.

2. To take the necessary regulatory and organisational measures to publish the opinion of the public health control bodies issued under the procedure for assessing the need for EIA.

### 9.3. SUPPORT FOR ACCESS OF CITIZENS AND ENVIRONMENTAL ORGANISATIONS TO INFORMATION AND JUSTICE IN ENVIRONMENTAL MATTERS

The information and procedural rights of citizens and environmental organisations as “affected public”, recognized by the EPA, paragraph 1, items 24 and 25 of the Additional Provisions, in connection with paragraphs 6 and 9 of the Aarhus Convention, are not always respected by municipal authorities and the public administration.

**Recommendations:** to introduce a mandatory minimum deadline for submitting information on investment proposals after termination of the initial notification procedure to the competent authority; to assess the possibility to publish in the register under Article 102 of the EPA decisions and opinions at an earlier stage of assessment, to determine outside the scope of Annexes 1 and 2 of the EPA an assessment of the need not to carry out an EIA.

### 9.4. MANAGEMENT OF WATER AND SIGNIFICANT DAMS, POLLUTION OF CROSS-BORDER RIVERS, FOREST PROTECTION

The complaints concerned various aspects of water quality protection, the state of riverbeds, endangered river ecosystems due to extraction of construction materials, construction of small HPPs, quantitative status and purity of groundwater, public use of mineral waters, free access to the Black Sea coast, the technical and environmental condition of Ogosta dam.

Citizens complained about existing specific threats to public infrastructure, life and property due to poor water management, improperly performed technical activities to correct watercourses, tolerance for violations, regardless of the possible implications.

In regard to a public discussion of the draft amendments to the Water Act and by-laws (September 2021) concerning the status of small and mini-hydropower plants, the Ombudsman found that the legal framework for electricity production from renewable sources was fragmented. The rules for access to land (building right) are detached from other elements of support, in particular compliance with environmental protection requirements, as a key criterion for the effectiveness of the legal regulation.

The Ombudsman received numerous alerts from citizens protesting against and being concerned about the management of Bulgarian forests, with complaints regarding mainly the massive deforestation of old forests, representing a value of regional and national importance. Related immediate risks to the water and soil have the potential to affect the basic requirements for material justice and prejudice the fundamental rights of citizens.

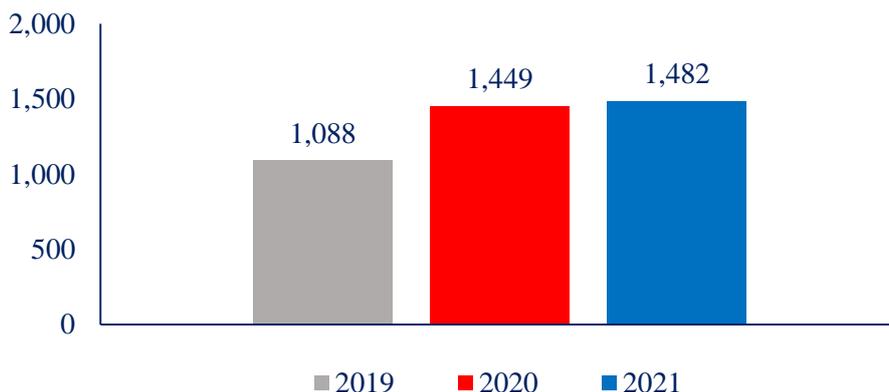
#### **Recommendations:**

1. The drafts published for public consultation (September 2021) concerning amendments to the Water Act and the Ordinance on the use of surface waters for revising the status of constructed HPPs need to be further discussed and justified.
2. In the context of the ongoing public consultation, it is essential to comply with the procedural guarantees for full participation of the public concerned in the regulatory decision-making process by comprehensively considering and discussing all objections and concerns expressed by citizens with regard to life, health and environmental protection.
3. The priority for sustainable forest management should be reconsidered in line with its actual relevance as part of the National Recovery and Sustainability Plan of the Republic of Bulgaria, and in line with related national strategic documents.

## 10. RIGHT TO PROPERTY AND ECONOMIC FREEDOM

The number of complaints related to property rights continued to increase in 2021. A total of 1,482 complaints were received, or 10.95% of all complaints. 66 of these were requests for changes to the regulatory environment and 6 were requests for declaring legal provisions as unconstitutional. Once again, apart from the citizens who filed individual complaints and alerts, many civil society associations also sought assistance with safeguarding property rights and filed petitions.

**Chart 11** – *Complaints and alerts received in regard to the property right in the period 2019-2021, in numbers*



In 2021, 1,547 complaints and alerts of property issues were examined, of which 1,310 were eligible. In order to protect the rights of citizens and their associations, the Ombudsman made 810 recommendations to the administration authorities and in 176 cases she acted as mediator. There was no infringement on 324 complaints, 237 complaints were outside the Ombudsman's competence, and in the majority of cases citizens were given advice and clarifications on the protection of their rights. Complaints about violations of local authorities are 997, and those committed by public authorities and their administration numbered 363.

### 10.1. INFRINGEMENT OF RIGHTS IN THE PROCEDURES FOR DEVELOPING, COMMUNICATING, APPROVING, AND IMPLEMENTING GENERAL AND DETAILED LAND-USE PLANS (GLUPS AND DLUPS)

#### **Findings:**

Non-compliance with the main rules and legal requirements in developing, communicating and approving land-use plans and their modifications infringes the rights and interests of stakeholders and reveals instances of maladministration.

Untimely regulatory provision of good transport solutions and appropriate property development hinder the exercise of citizens' property rights and the freedom of private enterprise.

Constant regulatory changes in the areas of existing housing complexes to allow new housing construction, without providing additional social infrastructure, disturb the balance between rights and interests established in the original plans. The legal possibilities for compensation with equivalent properties of the owners of restituted properties and regulation of the free landscaping areas are not implemented.

In a number of cases the obligations for application of the adopted plans for public property objects of the state and municipalities – schools, kindergartens, public green areas and streets – are not fulfilled.

**Recommendations of the Ombudsman to municipalities:** to strictly follow the principles of legality, transparency, equality and civic participation from the earliest stage until completion of the planning procedures; development and approval of GLUPs and DLUPs must be bound by feasible terms and programmes for the start of expropriation-compensation measures, financial security and organisational measures for implementation; the processes of updating the plans should be based on the norms and standards for sizing of the necessary technical and social infrastructure, performed transport study and reconsideration of the maximum allowed development in order to avoid overbuilding on the territory.

#### **Other problems relating to spatial planning**

The Ombudsman's findings are that the public obligation of the municipalities to ensure connectivity and normal access to land properties is not being fulfilled. The non-application of the street planning hinders the implementation of above-ground and underground infrastructure and public works activities. Preconditions are created for opposing the interests of the affected owners and for restricting rights.

**Recommendations:** coherence between planning, financing and conducting infrastructure and public works; timely implementation of the expropriation and compensation procedures for properties falling within terrains for streets and other infrastructure objects under the State Property Act and the Municipal Property Act; responsible administrations need to strike a balance between the rights and interests of owners and holders of restricted rights, whose properties and buildings should be accessible, and of the owners of non-expropriated properties earmarked for streets and other public events; construction of complete functional street networks at the expense of the state and municipalities on the basis of investment projects, to be used after commissioning. This will limit the established practice of building street infrastructure at the expense of private investors under duress of subsequent donations or restricting access to other owners' properties.

**At the request of the Ombudsman, the Constitutional Court declared unconstitutional provisions of the Spatial Planning Act regarding the application of street planning, which violate the rights of citizens.**

The Ombudsman challenged the provisions of Article 148, paragraph 16 in its entirety and of Article 178, paragraph 3, item 5 in the part “in the territories with medium- and high-rise construction, as well as” of the Spatial Planning Act. By Decision No. 17 of 4 November 2021 (published in the State Gazette No. 94 of 12.11.2021) the Constitutional Court declared unconstitutional the provisions which were challenged by the Ombudsman. It is necessary for the National Assembly to act on the effects of Decision No.17 of 4 November 2021 of the Constitutional Court, according to the requirements of Article 22, paragraph 4 of the Constitutional Court Act and Decision No. 3 of 28 April 2020 in constitutional case No. 5 of 2019 (published in SG No. 42 of 12 May 2020).

#### **The Ombudsman in defence of the citizens' rights regarding the procedure for issuance of technical passports for construction sites**

Regarding the draft Ordinance amending Ordinance No. 5 of 28 December 2006 on technical passports of construction sites, the Ombudsman issued a detailed reasoned opinion to the Ministry of Regional Development and Public Works on the need to reconsider the procedure for issuing technical passports in its entirety, so that they are tailored to the citizens' ability to pay the required amounts.

The regulaton has been improved and provides for better protection of the rights of the citizens in the adopted Ordinance amending and supplementing Ordinance No. 5 of 28 December 2006 on the technical passports of construction sites, published in SG No. 68 of 17 August 2021.

### **Infringement of rights in the procedures for creation and maintenance of cadastral maps and cadastral registers (CMCR) of real estate**

Land owners complained about delayed processing by the offices of geodesy, cartography and cadastre (OGCCs) of submitted projects for amendment of cadastral maps and cadastral registers and other requested administrative services; incompleteness and errors in the creation of cadastral maps – incorrect entry of land properties, incorrect designation in the CMCR of the intended permanent use of public municipal property sites and protected areas – green areas and beaches. Complaints were received for consideration on the merits of objections submitted by citizens to the Agency for Geodesy, Cartography and Cadastre (AGCC) and SGCCs in the course of procedures for acceptance of CMCR on the grounds of Article 46, paragraphs 1 and 2 of the Cadastre and Property Register Act.

**Recommendations:** joint inspections of municipalities and OGCCs should be carried out to check for the proper entries in CPR of the data on intended permanent use of public municipal property sites and protected areas in accordance with the Classifier under Ordinance №RD-02-20-5 of 15 December 2016 on the content, creation and maintenance of the CMCR of the Ministry of Regional Development and Public Works; official elimination of incompleteness and errors on the basis of information received from the municipal and public administrations and the geocard fund of AGCC for cadastral and spatial plans.

### **Infringement of rights resulting from illegal construction**

The “illegal construction” problem continues to be particularly acute.

**Main recommendations:** exercising systematic, qualitative, preventive and current control and *ex officio* initiated inspections by the specialised bodies; legislative reform for comprehensive and sustainable settlement of public relations on spatial planning, investment design and construction while synchronising regulations with relevant European law and good European practices; the development of the legislative change should be done after wide public discussion and with the participation of the professional community.

## **10.2. AGRICULTURAL LAND – PERSISTENT VIOLATIONS OF THE PROPERTY RIGHT DUE TO UNFINISHED LAND RESTITUTION**

For more than a decade, the Ombudsman has found in the complaints of citizens and their associations repeated violations of property rights caused by the failure to complete the restitution procedures through which the land reform in Bulgaria was carried out since 1991. In the case-law of the ECtHR the problem is defined as a systematic violation of Article 1 of Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms, for which the State is responsible. An option for change seems to be the adoption of a Roadmap for the implementation of the convictions issued against the Republic of Bulgaria.

In pursuance of the measures of the Roadmap, the draft Act amending and supplementing the Ownership and Use of Agricultural Land Act was published for public consultation on 4 March 2022. In essence, the provision for the *ex officio* completion of the restitution is reproduced if the rightful claimants with recognized rights to restitution within the existing and recoverable old real limits are inactive. It is proposed that within two years the owners or their heirs submit an application for identification of the boundaries of farm properties, and the properties of those who do not claim them during that period to be allocated *ex officio* by the municipal agricultural land office on land from the municipal land fund under the terms and procedure set out in the Implementing Regulation for the Ownership and Use of

Agricultural Land Act. The Ombudsman presented an opinion on the bill.

**General recommendations:** a special legal framework should be established for the termination of land restitution in order to solve the problems of restoration and compensation of the owners of agricultural land, including those caused by excessive delays, in accordance with the general measures ruled by the ECtHR; there is a practice of adopting separate laws for the termination of land restitution (Romania) in implementation of the ECtHR recommendations; taking into account the restitution issues in the regulation of land relations, including the requests of owners to renew the deadline for filing restitution claims for agricultural and forest properties; the state should provide funding for the technical activities to complete restitution procedures.

### **Post-restitutional property problems**

#### **Infringements of the rights of owners of agricultural and forest properties in eliminating a clear factual error in CMCR**

Unlike the complaints about unfinished land restitution, the problems for compensation of the owners of agricultural and forest properties in eliminating a clear factual error in the CMCR are relatively new and refer to the systematic transformation of the restored property map in a cadastral map by law. The Ombudsman found inaction and transfer of responsibility between the land ownership bodies and the cadastral administration in the application of the procedure for compensation of the owners set out in Article 10b of the Ownership and Use of Agricultural Land Act (OUALA), Article 10 of the Water Act and Article 53b, paragraph 6 of the Cadastre and Property Register Act (CPRA). As a reason for the delay the land authorities point to normative inconsistencies in the legal notion of a clear factual error, according to the Implementing Regulation of the OUALA and CPRA, as well as the insufficiency of information provided by other institutions for analysis and opinion on compensations under Article 10b of OUALA.

The recommendation is for normative changes and organisational measures to be made to eliminate the violation of the right of ownership in regard to agricultural and forestry properties restored under the Ownership and Use of Agricultural Land Act and the Restoration of Ownership of Forests and Lands from the Forest Fund Act in eliminating clear factual errors in CMCR, providing the necessary guarantees for the rights of the owners concerned.

#### **Infringement of rights in land relations**

Citizens' complaints in 2021 confirmed the imbalances in the development of land relations and their adverse impact on the rights of small and medium-sized owners and users of agricultural land. Area payments as the most common instrument of the Common Agricultural Policy applied in Bulgaria led to deterioration of inequalities – fewer and fewer farms cultivate more and more land and receive more and more of the financial resources for income support which does not correspond to the purposes of the common agricultural policy. The concentration of land ownership, which the European Parliament called on the EU and Member States to fight against, is a dominant indicator for Bulgaria. Therefore, the levels of inequality in land relations are among the highest in the EU.

Apart from the fragmentation of agricultural land as a consequence of the applied restitution methods for restoration of rights in real boundaries and co-ownership, as well as the relatively low price of the land, the regulatory framework also contributes to the maintenance and consolidation of land monopolies, which since the transition to a market economy have reinforced the lack of restrictions on the amount of owned and used agricultural land and the non-taxation of large users of agricultural land.

## **Recommendations to tackle inequalities in land relations**

As highlighted in the previous reports on the institution's activities, there is a need for a new policy and regulatory framework in response to the excessive concentration of land use, on the protection of small land holders and users. In order to restore the disturbed balance from the monopolisation of land relations it is necessary to introduce: 1) adequate taxation of the large land property; 2) restrictions on the possession and use of agricultural land; 3) facilitated access to land for landless and low-income citizens; 4) minimum amounts of rent/lease payments; 5) linking the provision of subsidies for area support with the payment of rent to landowners under contracts for their use; 6) out-of-court procedure for resolving disputes related to payments for use of agricultural land.

**General recommendation:** The need for enhanced protection of the rights of small and medium-sized land owners and users should be considered a priority in the National Strategic Plan for the implementation of the EU Common Agricultural Policy, defining the policy in the sector for a period of five years from the beginning of 2023.

### **10.3. OTHER PROPERTY-RELATED PROBLEMS**

#### **Expropriation and compensation procedures**

The complaints are mainly about: the application of normatively determined prices in the valuation of expropriated properties and the restrictions for protection by court order; unsatisfied requests for property compensation for expropriated agricultural land; non-compliance with all consequences for the owners of the expropriation: the benefits forgone from terminated long-term rent and lease agreements for the expropriated agricultural properties and the compensation for the revoked property right do not cover the rent receivables for the period until the expiration of the contract; in case of expropriation of residential properties for municipal needs with the compensations determined by law it is not possible to buy even small-sized homes at current market prices; the administrative and financial burden borne by former owners to receive the specified monetary compensation from the competent administrations.

The Ombudsman's finding is of unbalanced regulation of this subject matter and the need to improve the regulation of valuation methods in case of forced expropriation.

**The Ombudsman recommends:** the rules for the valuation of the monetary compensation, in addition to market comparables, should take into account other factors in order to adopt a comprehensive approach, taking into account all the consequences of the forced expropriation of the property; the owners ought to be afforded the right to choose the type of compensation – land-for-land or cash, in cases of expropriation of agricultural land and forestry; not the speed (unambiguously identified with the public interest in the rapid satisfaction of state or municipal needs) but the protection of the right to equivalent compensation should become a priority and the two-instance nature of administrative proceedings in challenging expropriation acts should be restored; the procedures for payment of certain compensations to the owners of expropriated properties should be regulated and the administrative practices aimed to stop the illegal delay of payments and the transfer of the administrative and financial burden for obtaining documents to the expropriated owners should be unified.

#### **Property fraud, the “hidden mortgage” practice**

The Ombudsman continued to receive complaints from citizens who had suffered from various forms of property fraud due to unfinished construction for years, insolvency of investors, the practice of “hidden mortgage”.

Dozens of citizens who have bought newly built holiday properties – apartments in the complex in the village of Sveti Vlas, Nessebar municipality – turned to the Ombudsman. The property owned by the citizens turned out to be mortgaged in favour of a bank, subsequently of

a third party to whom the receivable was transferred. Subject to sale are individual apartments, for which there is no data that a mortgage has been registered on them at that time as separate objects of ownership.

In her recommendation to the Minister of Justice and the Minister of Economy, the Ombudsman pointed out the insufficient guarantees of the registration and notarial proceedings against the requirements for legal certainty, in violation of EU principles and consumer protection standards. Based on a comparative analysis of the rights of citizens affected in a similar practice in Cyprus, it is stated that a special law was adopted in 2015 to address the consequences.

According to the Ombudsman, in order to correct the consequences of the “hidden mortgage” practice, which affects a significant number of bona fide purchasers of residential and holiday properties, systematic measures are needed, including regulatory changes or mandatory interpretation of the law.

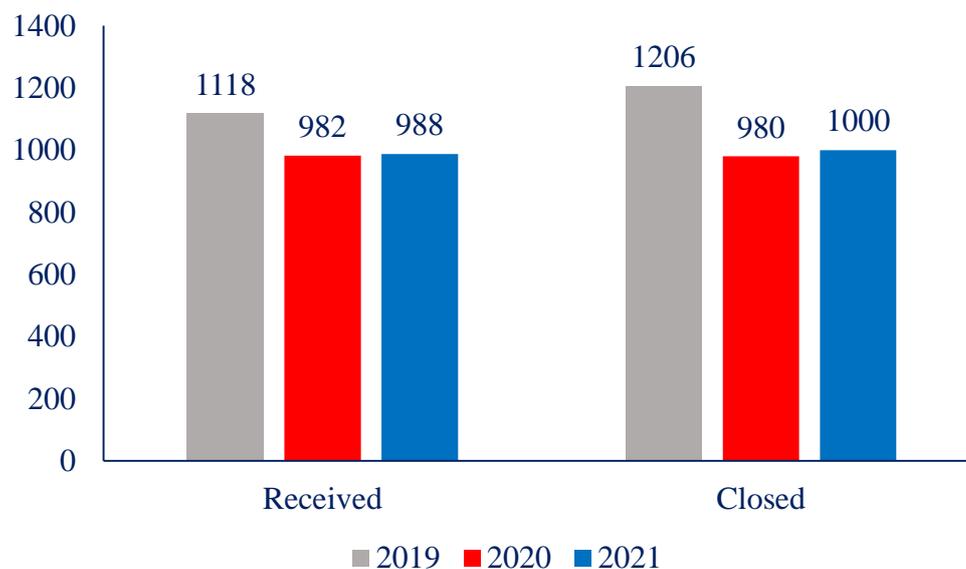
To prevent the above situation in the future, obligations on the notary to certify and verify the existence of encumbrances on the property subject to sale should be introduced, and when selling a building or a separate object in a building – the same should be done in reference to the land on which the building is built as part of the requirements under the notarial procedure set out in the Civil Procedure Code for dealing in real estate.

## 11. RIGHT TO GOOD GOVERNANCE AND GOOD ADMINISTRATION

The right to good governance is a fundamental right under the Charter of Fundamental Rights of the European Union.

In 2021, a total of 988 complaints concerning the right to good governance and good administration were filed with the Ombudsman institution. Inquiries into 1,000 complaints were successfully completed during the same period.

**Chart 12** – *Complaints and alerts received and inquiries closed relating to the right to good governance and good administration in the period 2019-2021, number*



The predominant part of the closed complaints in 2021 are against central executive bodies and their territorial units, as well as against public and executive agencies and state commissions: 628 (62.8%). 361 (36.1%) complaints were heard against mayors of municipalities, districts and town hall officials, mayoral representatives and the respective administrations. The remaining 11 (1.1%) complaints were against an unknown perpetrator.

Of the complaints against central executive bodies, most numerous are the complaints against the Road Infrastructure Agency (443 against 273 for 2020), followed by those against the Ministry of Interior (45 against 17 for 2020), the Consumer Protection Commission, the National Revenue Agency, etc.

As regards the complaints against mayors of municipalities, districts and town hall officials, mayoral representatives and the respective administrations most numerous are the complaints against Sofia Grand Municipality and its districts (200 against 189 for 2020), followed by complaints against Varna Municipality (18 against 104 for 2020).

The inquiries in 539 (53.9%) complaints found no violation by the administration. In respect of 417 complaints (41.7%) the Ombudsman established a violation. 44 cases (4.4%) were outside the competence of the Ombudsman.

#### **11.1. MAJOR ISSUES RAISED BY CITIZENS IN 2021**

##### **Poor condition of the national road network, the street network and the technical infrastructure to it in settlements (522 complaints, 52.2%)**

Citizens are particularly keen on issues related to: damaged road surfaces; lack or impaired horizontal road marking; missing or incorrectly placed road signs; uncleaned verges and ditches; the need to prune and remove trees and shrubs; poor maintenance in winter conditions; missing or poor condition of sidewalks; poor quality or excessively long repairs of the transport infrastructure, which create a number of inconveniences.

A special emphasis in the complaints is placed on the issue of optimal spending of public funds in connection with the implementation of construction and/or repair activities.

##### ***Examples of improved urban environment and transport infrastructure on recommendations of the Ombudsman:***

- building the street lighting at Ponor street in Detski Grad neighbourhood, Pancharevo, Sofia Grand Municipality;
- restoration of the kurbstone in Pliska street in the area of the crossroads with Dobrich street in Krasno Selo district, Sofia;
- building the street lighting at Mirovtsi street in Gegeliiski quarter in Sofia;
- repair of the road leading to Hayduk Dere locality, city of Ruse;
- repair of Velingrad street, village of Orehovitsa, Diolna Mitropolia municipality;
- repair of Yapadja street, Vrazhdebna quarter, Kremikovtsi district, Sofia;
- repair of Dobri Zheliazkov street and Zaychar street in Sofia;
- repair of safety railing and sidewalk of adangerous section of the road passing along Leva river and connecting the so-called Chaika complex with the housing part of the city of Vratsa, etc.

Complaints concerning the condition of the roads on the national road network and the activities of RIA are traditionally numerous and often accompanied by petitions.

In a letter to the Minister of Regional Development and Public Works, Mr. Grozdan Karadzhev, the Ombudsman again raised the problems with the condition of the republican roads, for which he had been alerted by citizens and no solution was found.

### **Recommendations:**

Implementing a systematic approach to address road infrastructure problems, which should include:

- performing a comprehensive assessment of the condition of the entire road network;
- creating an IT system with all the data of the road network and its systematic maintenance;
- setting goals, objectives and priorities based on an in-depth expert analysis of the data and involving a wide range of stakeholders in compliance with the principles of transparency and predictability;
- ensuring preconditions and conditions for the implementation of objective supervision during the entire process of repair and/or construction of the road network;
- optimal use of financial resources.

## **11.2. VIOLATION OF LEGAL REQUIREMENTS AND/OR NON-PERFORMANCE OF OBLIGATIONS BY ADMINISTRATIONS (296 complaints, 29.6%)**

Most of the complaints regarding municipal administrations are commonly related to: administration of local taxes and fees; issuance of civil status acts; refusal to perform address registration or delete address registration; fines charged for incorrect parking and forced towing and impounding of vehicles; refusal to issue a vignette sticker for preferential parking in blue and/or green zone, etc.

Complaints against central bodies of the executive branch and their territorial units relating most frequently to: fines imposed for violations of the Road Traffic Act; failure to comply with the time limit for providing administrative services or for responding to alerts and complaints from citizens, fines imposed in relation to renewal of ID documents; incorrectly recorded health insurance contributions; problems with the operation of the vignette system, etc.

### **Recommendations:**

In carrying out their activities, the administrations should:

- strictly observe the principles of legality, objectivity and impartiality in accordance with the Constitution and other normative acts;
- justify each of their decisions and provide clear and correct information to citizens.

## **11.3. NON-COMPLIANCE WITH QUALITY ADMINISTRATIVE SERVICE STANDARDS (82 COMPLAINTS, 8.2%)**

Citizens' complaints are most often related to: limited opportunities to request administrative services; poor organisation of work in some administrations; demanding documents that are in the administration itself; excessive delay in response to or provision of administrative services; difficult connection with administrations, etc.

Questions about the conditions in the service centers are also raised with particular concern, especially in connection with the epidemic situation.

Unfortunately, this problem is often underestimated, despite the fact that there are clearly set regulatory requirements.

**Recommendations:**

- Enhancing the ways of applying for, paying for and receiving administrative services.
- Facilitation of administrative procedures.
- Expanding the scope of the information collected *ex officio*, and documents available in the administration or that can be obtained *ex officio* should not be demanded from citizens.
- Improving the qualification and professionalism of employees.
- Providing the necessary facilities in the service centers.
- Promoting good practices in management and application of the basic principles of good governance in the activities of institutions.

**11.4. PROBLEMS RELATED TO PAYMENT OF ROAD FEES (44 complaints, 4.4%)**

The most common complaints of citizens are: refusal to correct wrong e-vignettes; refusal to cancel, respectively refund paid compensatory fees after correction of e-vignette. It is not an isolated case when citizens find out about the mistake and the repeatedly imposed compensatory fees only after they are stopped by BGTOLL teams.

Due to failure to notify violators, the penalties for a missing vignette can exceed many times even the price of a car. Moreover, if the driver refuses to pay the compensatory fees which release him from administrative penal liability, the envisaged fine for driving without a vignette on the paid road network for a car is BGN 300.

The Ombudsman repeatedly made recommendations to the RIA for timely informing violators of the imposed sanctions, as well as in connection with case law revoking penal decrees of the National Toll Administration in cases of incorrectly entered registration plates. The court assumed that this is a minor case within the meaning of Article 28 of the Administrative Violations and Penalties Act.

In regard to numerous complaints about the sanctions imposed for a missing e-vignette of a car as a result of an error in defining the motor vehicle category (purchased e-vignette for a car trailer instead of a car), the Ombudsman repeatedly made recommendations to the chairman of the RIA Management Board to change the documents for category K3, so that they differ for motor vehicles and trailers, which are currently misleading.

Taking into account the amendmendment to the Roads Act effective since 19 March 2021 for correction of data on e-vignettes, the Ombudsman submitted an opinion to the Minister of Regional Development and Public Works that the amendmendment does not address the problem of already sanctioned citizens because the correction takes effect prospectively and therefore said citizens are denied cancellation/refund of the amounts paid for compensatory fees.

The public defender believes that the rights and interests of citizens are grossly violated. Such use of funds is unjust enrichment, because in practice, even with incorrect data, payment of e-vignette is made for the vehicle and the driver does not move on the paid road network without paying a fee. There are no harmful consequences or damages for the state.

### **Recommendations:**

1. Amending the Roads Act:
  - violators should be notified in a timely manner of the sanctions imposed on them for a missing vignette;
  - the correction of a wrong vignette should have effect from the date of its issue;
  - cancellation and/or refund of compensatory fees paid in case of correction of a wrong vignette.
2. Amending the Road Traffic Act:
  - in case of correction of a wrong vignette no administrative penal proceedings should be opened, and if administrative penal proceedings have been opened, they should be terminated.

On 17 February 2022 the Ombudsman sent proposals for legislative amendments to the Roads Act and the Road Traffic Act to the President of the 47th National Assembly and to the Chairman of the Committee on Regional Policy, Urban Development and Local Self-Government.

### **11.5. PERSONAL DATA PROTECTION (42 complaints, 4.2%)**

The issues most frequently raised by the complainants included:

- no response from the Commission for Personal Data Protection (CPDP) to their requests and alerts.
- the processing of personal data by various public institutions and public service providers, as well as on the occasion of personal data published on the Internet and social media.

In accordance with her powers, the Ombudsman referred to the CPDP for inquiries, explaining to citizens the legal framework for personal data protection.

### **11.6. GAPS IN THE LEGAL FRAMEWORK RESULTING IN INFRINGEMENTS OF THE RIGHTS OF CITIZENS**

#### **Address registration regime governed by the Civil Registration Act (CRA)**

*Citizens complained that they could not be registered at a permanent/current address for the following reasons:*

- they do not have an up-to-date registration at a permanent and/or current address or no longer have a connection to the address of their latest registration;
- they do not own a home and most often they have nowhere to live or live temporarily with acquaintances. They have also lost contact with their relatives or do not have relatives and cannot take advantage of the opportunity provided under the CRA for address registration of citizens at the address of their direct relatives. There is a large group of citizens living in illegal buildings.
  - they live and work abroad and cannot meet the requirements to be registered at a permanent address in Bulgaria;
  - the registration address does not meet the requirements of the CRA, e.g. apartments marked with both letters and numbers (according to Art. 89, para. 3 the apartment is marked with a number up to three digits); villas and studios (according to the current legislation these are non-residential sites).

According to 2021 data from the Ministry of Interior, more than 240,000 people in the country have been found to not hold a valid identity document, and half of them have never had one.

*Citizens cannot delete the address registration of third parties at the address of their own homes due to the stipulated procedure for deletion of address registration by the administrative body (Article 99b of the CRA), establishing a possibility for ex officio deletion of address registrations in violation of Article 92, Article 99, paragraphs 1 and 4 and Article 99a of the CRA, i.e. only for: registrations made after 2011 without any requirement for submission of documents under Article 92 of the CRA; for registrations at the current address, which have not been changed within 30 days after the change of the current address of the persons; registrations at the current or permanent address for more than 4 months in a hotel, motel, holiday home or other place of accommodation; in the case of change of the address registration at a permanent or current address, when the number of persons who can register at the address of one dwelling is exceeded.*

The problem has not been resolved for: registrations at a permanent address made before 2011 under the provisions of the then effective act; registrations of persons for whom the owner agreed to register at his address, but the person had already left the address.

The restriction of the possibilities for *ex-officio* deletion of an address to the cases of violation of Article 92, Article 99, paragraphs 1 and 4 or Article 99a has the following adverse effects:

- maintaining the registrations at the property addresses of persons who have nothing to do with these addresses;
- attachment of the property owner to such persons, whom he does not even know, has no information about them and could not take actions to ensure successful deletion of registrations;
- the new owner of the home and the members of his family are denied address registration if more persons than the specified number are registered at the address;
- preconditions are created for restricting the right of the owner to deal with his property (e.g. the presence of registered persons, whose address registrations cannot be *ex-officio* deleted, may prevent the purchase or sale of a property).

The Ombudsman has repeatedly brought these issues to the attention of the Ministry of Regional Development and Public Works and the National Assembly.

The case-law of the administrative courts is for repeal of the refusal and the administrative body is obliged to delete the respective address registration. The court finds the grounds for this in the provisions of the CRA, most often using the following arguments to justify its decision on registration deletion, namely:

- the disagreement of the owner of a residential property with the registration of a third party in his property;
- that these address registrations are fictitious;
- previous fictitious address registrations, in terms of the owner of the respective residential property, violate the very principle of private property inviolability set out Article 17, paragraph 3 of the Constitution of the Republic of Bulgaria, as well as the provisions of Article 8 of the ECHR and the fundamental freedoms, such as the right for respect of one's own home, including the inadmissibility of State interference in the exercise of this right.

### **Recommendations:**

Amendments to the CRA in order to:

- ensure that all Bulgarian citizens have an address registration that reflects the actual situation;
- remove the imposed restrictions for address registration based on address designations;
- extend the options for address registration;
- extend the possibilities for deleting address registrations at the address of homes for which the owners make a reasoned request.

### **Applying for a trader's registered office**

Citizens alert that, without their knowledge and consent, traders are registered at the address of their real estate. This triggers a number of problems and inconveniences for them: they receive subpoenas, notices of obligations and invitations for voluntary execution, they are approached by control bodies, debt collection companies, victims of the companies' activities, etc.

The analysis shows that the problem is prompted by a gap in the legal framework of company registration in the Commercial Register and in the Register of Non-Profit Legal Entities Act and in the Commerce Act, as well as in Ordinance No. 1 of 14 February 2007 on keeping, storage and access to the commercial register and to the register of non-profit legal entities (the Ordinance).

Some of the mandatory data to be filled in by all subjects entered in the commercial register and in the register of non-profit legal entities are the seat and registered address. They are indicated by the trader, but are not subject to verification, and the same applies to the legal ground for using the property at the respective address. This allows a trader to specify any, even non-existent, registered address upon its registration. Thus traders are allowed to register at addresses of citizens without their knowledge and consent.

The Ombudsman brought this issue to the attention of the Minister of Justice.

### **Recommendations:**

1. The Ministry of Justice should take action to stop the unscrupulous practice of traders indicating addresses of citizens without their explicit consent.
2. A mechanism for official deletion of such registered addresses upon a substantiated request from affected citizens should be envisaged.

### **Introduction of ecological groups for motor vehicles up to 3.5 t**

Ordinance No.H-32 of 16 December 2011 on the periodic inspections for checking the technical condition of motor vehicles (the Ordinance), published in the State Gazette, No. 80 of 11.11.2020, was amended and Article 37a (in force from 12.07.2021) provides for determination of ecological groups for vehicles of up to 3.5 tonnes. To determine the ecological group, the respective sign (sticker) is issued, in which there must be a built-in identifier, allowing the information to be read and written, including information about the ecological group, from a great distance.

The need for introducing ecological groups for motor vehicles is justified by one of the possible measures to improve air quality in large cities, identified in the National Air Quality Improvement Programme (2018-2024), namely limiting the movement of certain vehicles in the cities, which emit high amounts of harmful emissions. Amendments to the Clean Air Act allow for the introduction of low-emission zones in cities, which will be the responsibility of the mayors of the respective municipalities, and in case of exceeding the maximum permissible concentrations of harmful substances in ambient air road vehicles from ecological groups under

the ordinance will be restricted to move in certain territorial zones until the permissible reference limits for ambient air quality are reached.

As an argument for the introduction of eco-stickers it is stated that they will be instrumental in addressing the violations committed during periodic technical inspections of motor vehicles.

Citizens who have already undergone such an inspection are particularly keen on the question why, after measuring the amount of harmful gases emitted into the atmosphere, the year of registration and the European standard are crucial in determining the ecological group, all the more that they are taken into account in determining the car tax. Thus the owners of older and lower European standard cars in practice are subject to double sanctions.

The Ombudsman's opinion, also submitted to the Minister of Transport and Communications, is that this measure will infringe the rights and interests of citizens, as follows:

- the introduction of eco-stickers covers only vehicles up to 3.5 tonnes. Outside their scope are heavy trucks and buses, for which there will be no restriction on the basis of pollution, despite the fact that they are major air pollutants and some of them regularly pass through the central parts of the city;
- there is no regulation for assessment of the ecological group of vehicles with additionally installed gas systems;
- the introduction of eco-stickers makes the periodic technical inspection of motor vehicles more expensive, which will make it even more difficult for citizens and businesses, especially in the context of a health crisis;
- it is inadmissible that the competent authorities cannot stop the violations during the periodic technical inspections and instead of increasing the efficiency of the control over the checkpoints, should burden the citizens with new costs;
- although the state has already spent significant resources on the establishment of a vehicle number recognition system, additional costs are to be incurred to ensure the introduction of eco-stickers;
- the review of the proposals and opinions expressed in the course of the public discussion of the changes in the Ordinance shows that the public attitudes towards the introduction of eco-stickers are rather negative;
- the public should have been better informed whether ecological groups and stickers exist in the EU and what the practice has shown where they have been introduced.

The Ombudsman is aware of the exceptional importance of the problem of improving the air quality, but based on the results of a one-year study completed in 2020 by the National Institute of Meteorology and Hydrology commissioned by the Sofia Municipality on the air quality in Sofia, road traffic ranks only fifth, with a share of 9%.

### **Recommendation:**

1. Assessing the impact of the contested provisions and the results achieved so far and reconsidering the need to introduce eco-stickers.

### **Free parking of electric vehicles**

For parking of electric cars in the paid parking zones, each municipality requires the issuance of a sticker.

The Road Traffic Act (RTA), Article 99, paragraph 1 allows the owner or the administration managing the road to designate areas, roads or parts of roads as paid or free parking zones at certain hours of the day.

Under the currently effective regulations, it is not possible to park on the territory of a municipality with a sticker issued by another municipality.

However, it is inconvenient for owners of electric cars to apply for and receive such a sticker for every municipality.

**Recommendation:** The right to free parking of electric vehicles in the zones for hourly paid parking in cities should be certified with a universal sticker, valid for all municipalities.

## 12. PROTECTION AGAINST DISCRIMINATION AND HATE SPEECH

In 2021, the institution of the Ombudsman of the Republic of Bulgaria received 17 complaints of discrimination. Again, the cases of discrimination varied within a wide range and had adverse effects on the society as a whole. It is of note that for the second year in a row, complaints on the grounds of “personal situation” prevailed. They concern a very wide range of problems. The following can be noted as most common:

### 12.1. THE CHANGE OF THE REGIME FOR ISSUANCE OF GREEN CERTIFICATE FOR COVID-19 AND THE OPTIONS FOR ITS RECOGNITION BY NON-EU COUNTRIES

The cases involve citizens who have received two doses of the Pfizer-BioNTech vaccine in the United States and who have been refused an EU digital COVID certificate based on documents proving vaccination.

Based on the recommendations made by the Ombudsman, in Order No.RD-01-890/03.11.2021 of the Minister of Health, amended and supplemented by Order No.RD-01-915/09.11.2021, a definition of “EU digital COVID certificate equivalent, a document of uncompleted or competed vaccination cycle” was given for the purposes of the orders.

### 12.2. CRITERIA FOR ADMISSION IN KINDERGARTENS IN SOFIA

During the past year, the complaints of parents regarding the criteria for admission to the municipal kindergartens in Sofia continued. Citizens complained of the planned repeal of criterion No. 5, assigning 1 point to children attending a municipal independent nursery or a private nursery registered by Sofia Regional Health Inspectorate for at least 6-month attendance in the last 12 months before ranking, as well as of its current effect.

The Ombudsman noted in her opinions that for years she had been insisting on access to social services in support of motherhood to be the same for all citizens, and that urgent measures be taken to address the problem with insufficient number of kindergartens in Sofia so that no child is discriminated.

### 12.3. INTRODUCING FULL MACHINE VOTING

Citizens believe that there is unequal treatment in the introduction of full machine voting. The issue was also examined by the Constitutional Court of the Republic of Bulgaria

(CC), which ruled by Decision No. 9 of 2 July 2021. The Constitutional Court ruled that it did not find unconstitutional the provisions introducing machine voting. The Constitutional Court considers that by introducing voting with ballot paper for the machine voting the legislator does not violate the constitutional prohibition of discrimination.

In 2021, there is a clear trend towards an increase in the number of complaints of indirect discrimination<sup>1</sup> (particularly on the basis of “beliefs”):

**This is mainly due to the discontent of citizens with the orders issued by the Minister of Health and the Minister of Education in connection with the anti-epidemic measures concerning the COVID-19 pandemic.**

The complaint of the Trade Union of Bulgarian Medical Specialists in connection with the possibilities discussed by school principals and mayors of municipalities for free testing of students and pedagogical and non-pedagogical staff in the education system by medical specialists was indicative.

With regard to the problems raised, recommendations were made to the ministers of education and health to consider taking of adequate actions to address them.

**This group also includes the beliefs of many complainants about green certificate requirements and vaccination processes.**

The main complaints concern the initial requirements for the issuance of a green certificate for vaccinated persons and survivors of COVID-19, but identified only by PCR test and for a certain period.

Citizens are dissatisfied with the fact that it is not possible to issue a certificate when the disease is detected by rapid antigen tests, as well as when the body has enough antibodies against the virus.

The Ombudsman sent letters to the European Ombudsman, the President of the European Commission and the Commissioners for Health and Food Safety and Justice asking them to address the issues raised, and the hope is expressed that all options will be discussed and a solution will be found to guarantee the rights of all citizens.

In view of the recommendations made, the problem was addressed by providing the opportunity to issue a green certificate valid in Bulgaria on the basis of data from tests for antibodies against SARS-CoV-2, as well as on the basis of established disease in rapid antigen tests.

Another trend that evolved was a decrease in the number of complaints of violations of rights in the exercise of the right to work, “harassment” in the workplace, violation of Article 14 and Article 37, paragraph 1 of the Protection against Discrimination Act.

A trend that retained from last year’s complaints is the persistently high level of applications filed on the basis of disability:

#### **12.4. ABSENCE OF ACCESSIBLE ARCHITECTURAL ENVIRONMENT**

Accessibility is a key prerequisite for people with reduced mobility to exercise their rights and lead independent, dignified and active lives.

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<sup>1</sup> According to the provision of Article 4, paragraph 3 of the Protection against Discrimination Act “Indirect discrimination” shall be the putting a person, on the grounds referred to in Article 4, paragraph 1, in a less favourable position compared to other persons through an apparently neutral provision, criterion or practice, unless the said provision, criterion or practice is objectively justified in view of a legal aim and the means of achieving this aim are appropriate and necessary.

Failure to provide appropriate conditions leads to violations of the rights of people with disabilities and is in violation of a number of international and domestic regulations.

Complaints and signals received by the institution show that a suitable architectural environment has not yet been built in important for people with disabilities public service facilities such as buildings.

An alarming example in this regard are the received alerts of the lack of accessibility for people with reduced mobility in public transport on the territory of Sofia Municipality.

A positive example of resolved case regarding the accessibility of the environment are the actions of the management of the Judicial Chamber in Sofia, which took into account the difficulties of people with reduced mobility and showed flexibility in the emergency epidemic situation.

**Complaints were also received in connection with the unfair, according to the complainants, new Ordinance on the medical expertise of the TEMCs and the NEMC.**

Representatives of the organisations of small people in Bulgaria, children with diabetes and Down syndrome expressed discontent that after the amendments to the Ordinance on medical expertise, as amended by No. 59 of 16 July 2021, some of the people with disabilities remained outside the scope of the possibility to obtain a lifelong expert decision in the event of definitive nature of their conditions.

In connection with the problems identified in the new ordinance, the Ombudsman made a recommendation to the caretaker Minister of Health to guarantee the rights of all citizens.

In the letter, the Ombudsman brought to the attention of the Minister of Health the issue of the different applications of the new provisions and the problem of the established short period within which the affected citizens can benefit from the more favourable conditions provided for appearing before the medical examination bodies.

In connection with the recommendations, the Ministry provided clarifications to the regional health inspections in the country of the implementation of the new legislation.

There was an increase in the number of complaints on the grounds of “education” and in some cases the below two criteria were mentioned simultaneously in the same complaints:

**The main reason is the COVID-19 pandemic and the disagreement of parents of their children to study subjects online for most of the school year, disrupting both the educational process itself and the normal process of socialisation of children.**

For the Ombudsman, limiting morbidity by closing schools is a measure that will disproportionately affect children. For this reason, all the recommendations made by the institution consistently emphasized the need to maintain the physical attendance form of learning for as long as possible.

**Discrimination based on age group, and according to parents, children from 1st to 4th grade were in a privileged position compared to children from 5th to 12th grade because they studied in full attendance form.**

In numerous complaints, citizens are adamant that the Ministry of Education and Science (MES) applies age discrimination on a group basis to students. According to them, children from 1st to 4th grade are privileged compared to others from 5th to 12th grade.

A recommendation was made to the caretaker Minister of Health and to the caretaker Minister of Education and Science to seek solutions to get children back to school as soon as possible.

Of note is the increase in complaints from citizens alleging discrimination on the grounds of “political affiliation”, “ethnicity”, “race” and “property status”. The reasons include the higher sensitivity of the society to such violations in the public life of the country, as well as the disturbed balance in the conditions for normal social life in the COVID-19 pandemic environment.

## **12.5. ROMA COMMUNITY ISSUES**

The Ombudsman insists on the inclusion of the fight against Roma discrimination as a priority of the authorities. An important political sign of the integration process will be to bring the strategy on Roma issues to the attention of the National Assembly. In order for the activities of the strategy to be effective, it is necessary to develop a special annex to it with specific measures to address anti-Roma discrimination.

### **Evictions**

For a consecutive year, the Ombudsman intervened in cases of forced removal of Roma homes which were declared illegal. The Ombudsman recommends that, before taking action to remove housing, citizens be informed in an accessible manner within a reasonable time of the removal action and be provided with alternative accommodation.

In the context of COVID-19, the Ombudsman is even more concerned and would like to remind the competent authorities of their responsibility not to infringe human rights and that the removal of illegal or declared unfit housing affects a large number of people, including children, who, due to their vulnerability, are at real risk of being subject to much higher negative effects of having their homes removed. Despite the tendency to change the administrative and judicial practice as a result of several judgments of the ECtHR against Bulgaria, it should be noted that this problem has not been adequately resolved over the years and has long been neglected by the authorities.

### **Persons without address registration and identity documents**

Once again the attention of the legislature is drawn to a serious problem that has direct consequences for citizens affected by evictions, namely leaving them without current address registration and, as a result, they are unable to hold identity documents.

Citizens’ complaints to the Ombudsman, as well as analyses carried out by NGOs on the issue show that the majority of the affected persons are of Roma origin.

Citizens cannot register at a permanent address and therefore they cannot have an identity document, as they do not meet the conditions set out in the Civil Registration Act (CRA) and the by-laws. The legislation requires citizens to present a document of ownership or of use of the property in which they wish to register at a permanent address. Another requirement is the address registration to be at an address included in the National Classification of Current and Permanent Addresses in the Republic of Bulgaria, and is a condition for issuing an identity document. Citizens living in the separated Roma neighbourhoods cannot register at a permanent address not only due to the lack of documents of ownership and of use of the property, but also due to the fact that more people live at certain addresses than the number allowed in the restriction for maximum number of inhabitants at the address under the CRA.

For completeness, it should be noted that the law provides for a procedure for establishing the circumstances for address registration, when citizens cannot submit the required documents, namely the circumstances are established by a commission appointed by order of the mayor. In practice, however, it has been found that the work of municipal commissions is not very effective and the problem is not resolved.

The negative effects on the lives of those Bulgarian citizens are indisputable, as they cannot exercise and enjoy the rights to work, social assistance, health care and socio-economic protection or use of services.

The Ombudsman insists on seeking a solution to the emerging problems, including through legislative changes in the Civil Registration Act, and believes that the issues will be carefully analyzed and legislative decisions will be taken to protect the rights of citizens.

## 12.6. GENDER EQUALITY

Once again, the Ombudsman expressed her opinion that the current Gender Equality Act is rather formal, insufficiently specific and does not propose new arrangements to match the level of development of social relations and does not regulate the basic mechanisms for gender equality. It has a rather declaratory nature, with no significant practical impact.

The main priority area for the equality between women and men is the fight against domestic violence: an area in which the Ombudsman is strongly involved. She has consistently defended the position that amendments to the legal framework are needed to ensure more effective protection of the victims of domestic violence.

The Ombudsman has repeatedly brought the issue of domestic violence to the public's attention, which was further aggravated in the context of the COVID-19 pandemic. There is an urgent need to adopt legislative proposals to amend the Protection Against Domestic Violence Act and the Penal Code in order to ensure that victims are granted effective protection against domestic violence and that the state will be more committed to the fight against domestic violence.

## 12.7. HATE SPEECH

For another year, the Ombudsman found that hate speech was increasingly used in our society and over the years we have witnessed a lack of action to prevent its use and spread. In early 2021, the ECtHR ruled in *Behar and Gutman v. Bulgaria* and *Budinova and Chaprazov v. Bulgaria* cases assuming that national courts had failed to fulfill their positive obligation to protect Roma and Jewish citizens from anti-Roma and anti-Semitic statements by a political party leader.

The Ombudsman insists on higher awareness of this issue and on a timely response from the responsible institutions, which have the power to impose restrictions and penalties on existing hate speech.

In addition to hate speech, serious attention must be paid to hate crimes as well. For the Ombudsman, all hate crimes must be criminalized and effectively investigated and punished. Bulgaria is one of the few countries in Europe whose legislation does not provide for hate crime against people of different forms of sexuality. Victims rarely report due to subsequent discrimination or fear.

### **Recommendations:**

1. The complaints received and the problems raised in them, as well as the findings made give grounds to make the following recommendations:
  - taking actions to address discrimination in the effective legal acts;
  - taking actions to solve the problems with the lack of accessible environment for people with reduced mobility;
  - taking actions to solve the problem with the lack of sufficient recognition and counteraction of the use of hate speech;

- the competent authorities should engage in measures and actions to increase the sensitivity of the public to the manifestations of discrimination and hate speech;
- adopting amendments to the Spatial Planning Act, the State Property Act and the Municipal Property Act to introduce an explicit requirement to assess the proportionality of administrative intervention in cases of removal of an illegal building being the only housing of citizens.

### 13. VIOLATIONS IN ENFORCEMENT PROCEEDINGS

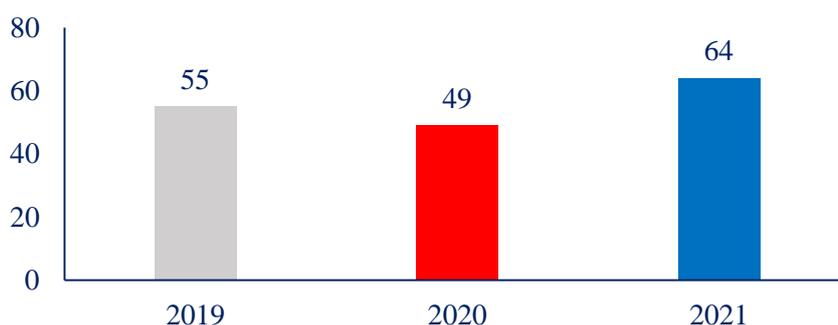
The number of citizens' complaints in relation to specific enforcement proceedings remains at the level of those in 2020. In 2021, the Ombudsman was notified of violations in the enforcement proceedings in 479 complaints and signals, excluding telephone calls and reception of citizens on such issues. For the most part, the complaints are still related to seizures imposed by bailiffs. In this regard, the Ombudsman proposes and accepts the explicit non-sequestration of some social payments. In the situation of a pandemic and quarantine or compulsory isolation of citizens, communication with bailiffs is of great importance in order to protect their rights in enforcement proceedings in a timely manner. There are also more and more cases when payment is requested from a bailiff and a debt collection company at the same time. However, with regard to bailiffs, control can be exercised by the Chamber of Private Bailiffs and the Inspectorate under the Minister of Justice, but with regard to debt collection companies, there are currently no such control bodies.

### 14. NATIONAL PREVENTIVE MECHANISM (NPM) AND FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

#### 14.1. NPM INSPECTIONS

The Ombudsman's main activity as NPM is focused on places where persons are deprived of their liberty or where persons are detained or placed as a result of an act or with the consent of a state body, and which places they cannot leave voluntarily. The group of annual monitoring by the NPM includes the places for serving sentences within the Ministry of Justice, the places for detention of persons in the structures of the Ministry of Interior, special homes for temporary accommodation of foreigners at the Migration Directorate and Registration and Reception Centers of the State Agency for Refugees under the Council of Ministers, residential social services for children and adults, and state psychiatric hospitals. For some of these groups of affected people, the Ombudsman's monitoring is the only form of independent control over the observance of their rights.

**Chart 13:** NPM inspections conducted in the period 2019-2021, in numbers



In the past year, the NPM continued to operate in a regime of increased attention to the problems of persons placed in institutions in the conditions of **ongoing emergency epidemic situation**, which has been repeatedly extended until the end of 2021.

In 2021, despite the complicated epidemic situation, the Ombudsman as the NPM carried out inspections of 64 sites. The main purpose of the inspections was, first of all, to assess the anti-epidemic measures taken in the closed institutions, as well as to monitor the implementation of the recommendations given during previous visits.

#### **14.2. PROTECTION OF OTHER FUNDAMENTAL RIGHTS AND FREEDOMS OF CITIZENS IN 2021**

Every year, the Ombudsman of the Republic of Bulgaria is approached by persons regarding procedures under the Bulgarian Citizenship Act, the Bulgarian Personal Documents Act and the Aliens in the Republic of Bulgaria Act. The complaints were carefully examined, letters were sent to the competent state authorities with a proposal to conduct an inspection and provide an opinion, after which a response was sent to each complainant with the necessary information.

The NPM also considers complaints and signals from Bulgarian citizens against whom charges have been filed for crimes committed in the Hellenic Republic, delayed procedures for acquiring or cancelling Bulgarian citizenship, complaints of dissatisfaction with judicial acts and complaints related to violated rights by employees of the Ministry of Interior.

Although the Ombudsman is not an investigative body and cannot replace the actions of the competent law enforcement and judicial authorities or decide whether certain persons are perpetrators of crimes and what sanctions correspond to the acts committed, citizens submit requests for review of judicial decisions, judgments and rulings, as well as prosecutor orders. Gathering new evidence and conducting a new investigation are often demanded.

The Ombudsman received alerts from citizens who have applied for Bulgarian citizenship to the Bulgarian Citizenship Directorate of the Ministry of Justice, stating the lack of sufficient information regarding the requirement for additional documents in the presence of a valid certificate of Bulgarian origin with established data of the Bulgarian nationality of the ascendants, issued by the State Agency for Bulgarians Abroad; specific cases in which withdrawal of previous citizenship is not required for persons who are spouses of Bulgarian citizens and the possibilities for obtaining a document for cancellation of previous citizenship.

In 2021, the institution of the Ombudsman of the Republic of Bulgaria continued to receive complaints from Bulgarian citizens against whom charges had been filed for crimes committed in the Hellenic Republic. Many criminal proceedings have resulted in convictions.

The complaints reveal that the main complaints related to:

- problems with re-registration of motor vehicles the ownership of which had been changed before the amendment of the Road Traffic Act, in force since 27 December 2017. In the presence of a mala fide buyer there is no legal procedure for the sellers to protect their rights to complete this civil transaction;
- problems related to the Greek authorities, which do not consider legitimate the official documents submitted to them and issued by Bulgarian authorities and institutions.

Following a specific recommendation by the Ombudsman concerning legislative changes to amend and supplement the Road Traffic Act, paragraph 12b was created, which reads: “The transferor of a registered road vehicle, the ownership of which was transferred before 27 December 2017, for which the acquirer has not fulfilled its obligation to register the

acquired vehicle within the statutory period of acquisition, may submit by 31 December 2023 to the Traffic Police department at the respective regional directorate of the Ministry of Interior a copy of a document certifying the transfer of ownership of the vehicle.”

In 2021, alerts and complaints were received related mainly to rude treatment by employees of the Ministry of Interior; refusal to provide information; non-performance of official duties. Most of the complaints related to the stages of the administrative-penal proceedings: initiation of the proceedings, the procedure for appeal, non-service of the citizens of the issued penal decrees under the respective order. In some of the alerts the citizens report violation of their rights during the control activity by the law enforcement bodies. On most of the submitted alerts inspections have been initiated by the Inspectorate Directorate at the Ministry of Interior.

During the year the Ombudsman also considered complaints of Bulgarian citizens abroad, who complained about the lack of timely information and assistance from the consular services, allegations of lack of good quality administrative services in the consular services of the Republic of Bulgaria abroad.

In addition, foreign persons filed complaints in 2021 requesting assistance in connection with the procedures for acquiring Bulgarian citizenship. The answers to the above-mentioned complaints contained detailed information about the persons who can apply for Bulgarian citizenship, the means provided for by law to acquire Bulgarian citizenship and the procedures for acquiring Bulgarian citizenship. On that occasion, letters were sent to the Ministry of Justice for the provision of information concerning the stage reached for the relevant procedure. All complainants were informed of the responses from the competent public authorities in relation to their rights and legitimate interests.

## CHAPTER TWO

# IMPACT ON THE LEGAL FRAMEWORK

## I. REQUESTS TO THE CONSTITUTIONAL COURT

In 2021, the Ombudsman of the Republic of Bulgaria submitted five requests to the Constitutional Court to establish the unconstitutionality of a law in connection with the violation of civil rights. At the time of completing the preparation of the Ombudsman's Annual Report in 2021, the Constitutional Court ruled to declare unconstitutional legislative provisions on four of these requests and ruled on the admissibility of the fifth request.

At the beginning of 2021, the Constitutional Court issued Decision No. 3/2021 at the request of the Ombudsman of 2020 to establish the unconstitutionality of Article 171, item 1, letter "e" and item 2, letter "k" of the Road Traffic Act (RTA), for which constitutional case No. 11/2020 was initiated. The disputed provisions of the Road Traffic Act concerning the coercive administrative measures applied to ensure the safety of traffic on the roads were declared unconstitutional. Thus, the decisions of the Constitutional Court in 2021, which find the Ombudsman's requests for unconstitutionality of a law to be justified, are five in total.

### **1.1. Request for establishing the unconstitutionality of Article 143, paragraph 1, sentence 2 of the Road Traffic Act and paragraph 63 of the Transitional and Concluding Provisions of the Act amending and supplementing the Road Transport Act (RTA)**

Constitutional case No.7/2021 was instituted on the request.

The provision of the RTA challenged by the Ombudsman stipulates that certain categories of motor vehicles may be registered only by a legal entity, a sole trader or a farmer – these vehicles are categories M2, M3 and N32, as well as special purpose vehicles, with the exception of campers, caravans, armoured vehicles and wheelchair accessible vehicles. Pursuant to the disputed paragraph 63 of the Transitional and Concluding Provisions of the RTA of 31 December 2021, the registration of unregistered categories of cars M2, M3 and N3 and special vehicles is officially terminated in accordance with the requirements of Article 143, paragraph 3, sentence 2 of the Road Traffic Act. The reasons for adopting these texts are that there are cases of vehicles registered to individuals, which are actually used for commercial purposes – for unregulated transportations in the gray sector.

According to the Ombudsman, these texts contradict Article 4, paragraph 1 (the principle of the rule of law), Article 17, paragraphs 1 and 3 (the right to property and inheritance and the inviolability of private property) and Article 57, paragraph 1 (the principle of irrevocability of fundamental rights) of the Constitution.

The reasoning of the request emphasizes that the right to property is not only guaranteed for all types of property in Chapter One "Underlying Principles" of the Constitution of the Republic of Bulgaria, but it is also subject to protection by the European Convention for Human Rights and Fundamental Freedoms. In this case, it is violated because the road vehicle is registered in the name of its owner. It is inadmissible to violate the right to property and the inviolability of private property by law.

By Decision No.11 of 30 September 2021 the Constitutional Court found that the provisions challenged by the Ombudsman are in conflict with Article 4, paragraph 1 and Article 17, paragraphs 1 and 3 of the Constitution and declared unconstitutional the provision of Article 143, paragraph 1, proposal 2 of the Road Traffic Act (published in the State Gazette, No. 20 of 5.03.1999, last amended and supplemented in the State Gazette, No. 80 of 24.09.2021) and the provision of paragraph 63 of the Transitional and Concluding Provisions of the RTA (published in the State Gazette, No. 60 of 2020, effective from 7.07.2020).

**1.2. Request for establishing the unconstitutionality of Article 234d, paragraph 3, in the part “regardless of its ownership”, Article 242, paragraph 8 in the part “and where it is not owned by the perpetrator”, Article 280 , paragraph 4 in the part “or has been provided voluntarily thereto” and Article 281, paragraph 3 in the part “or has been provided voluntarily“ of the Criminal Code (CC)**

Constitutional case No.10/2021 was instituted on the request.

The provisions of CC challenged by the Ombudsman refer to the confiscation in favour of the state:

- of a motor vehicle, regardless of its ownership, which is used for public transport of passengers, without a permit, registration or license required by law or EU act (Article 234d, paragraph 3 of CC);
- and when it is not the property of the offender, a motor vehicle or means of transport used for the transport or transportation of smuggled goods – transported across the border without the knowledge and permission of the customs authorities (Article 242, paragraph 8 of CC);
- when it is not the property of the offender and has been provided voluntarily thereto, a motor vehicle, an aircraft or other means of transport with which he has led individuals or groups of persons over the border of the country without the authorisation of the proper authorities or, albeit with an authorisation, but not at the designated places (Article 280, paragraph 4 of CC);
- and when it is not the property of the offender and has been provided voluntarily, a vehicle, an aircraft or other means of transport by which he, in order to obtain for himself or for another person a property benefit, has illegally assisted a foreigner to reside in or cross the country in violation of the law (Article 281, paragraph 3 of CC).

According to the Ombudsman, the texts contradict Article 17, paragraphs 1 and 3 (the right to property and inheritance and the inviolability of private property) and Article 56 (the right to protection of the citizen, when his rights or legal interests have been violated or endangered) and Article 57 (the principle of irrevocability of fundamental rights) of the Constitution of the Republic of Bulgaria, in the context of the principle of the rule of law (Article 4 of the Basic Law) and the right to defense in court proceedings (Article 122 of the Basic Law).

It is stated in the reasons of the request that in the mentioned cases it is a matter of confiscation of property from persons who are not perpetrators of a crime. In criminal proceedings, confiscation of property may be carried out through the penalty of “confiscation” applicable only to the perpetrators of a crime. The confiscation of items is conditioned by the establishment that they belong to the perpetrator and that their confiscation is provided for in the special part of the Criminal Code.<sup>2</sup> Deviation from this requirement can be made only in respect of items that, on the one hand, are the subject or means of the crime, but on the other hand, their possession is prohibited.<sup>3</sup>

By Decision No.12 of 30 September 2021 the Constitutional Court accepts that the partially disputed provisions of the Criminal Code constitute constitutionally intolerable interference of the state in the right to private property of the persons and determine the existence of the contradiction alleged by the petitioner with Article 17, paragraphs 1 and 3 and with Articles 56 and 122 of the Constitution, declaring unconstitutional the provisions of Article 234d, paragraph 3 in the part “regardless of its ownership” and of Article 242, paragraph 8 in the part “when it is not the property of the perpetrator”, of Article 280, paragraph 4 in the part

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<sup>2</sup> Article 53, paragraph 1 of CC.

<sup>3</sup> Article 53, paragraph 2 of CC.

“or has been provided voluntarily thereto” and of Article 281, paragraph 3 in the part “or has been provided voluntarily thereto” of the Criminal Code (published in the State Gazette, No. 26 of 2.04.1968, last amended and supplemented, State Gazette, No. 9 of 2.02.2021).

### **1.3. Request for establishing the unconstitutionality of Article 148, paragraph 16, and Article 178, paragraph 3, item 5 in the part “medium- and high-rise territories as well as” of the Spatial Development Act (SDA)**

Constitutional case No.11/2021 was instituted on the request.

The provision of Article 148, paragraph 16 of the Spatial Development Act, disputed by the Ombudsman, introduces as a requirement for issuing a construction permit in a regulated land property the application of a detailed zoning plan regarding the regulation, including street regulation, connecting the site with the street or road network and providing access to the land property. If the property faces more than one street, it is sufficient that the street regulation is applied on the street where access to the construction site is carried out. The disputed provision of Article 178, paragraph 3, item 5 of the Spatial Development Act sets out a prohibition for putting a construction site into operation when the measures for construction of streets, roads or alleys in the territories with medium- and high-rise development are not fulfilled. The ban is considered continuation of Article 148, paragraph 16 of the Spatial Development Act, as the idea is that on completion of the construction works the activities envisaged for the street regulation will be actually carried out.

According to the Ombudsman, these texts of the Spatial Development Act interfere excessively with the right to property and violate the constitutional guarantees for its protection and inviolability of private property (Article 17, paragraphs 1 and 3 of the Constitution of the Republic of Bulgaria), as obstacles are created for exercising the powers of the owner in terms of construction of the regulated land property and use of the completed building.

The restrictive texts challenged by the Ombudsman create prohibitions in the initial and final phases of the investment process in regulated land property, with the aim to ensure parallel construction of the infrastructure. However, the restriction of the right to property must be in accordance with the existence of a legitimate interest and the proportionality of the imposed legal and administrative measures, which is not envisaged in this case.

By Decision No.17 of 4 November 2021 the Constitutional Court found unconstitutional the provisions of Article 148, paragraph 16 and of Article 178, paragraph 3, item 5 in the part “medium- and high-rise territories as well as” of the Spatial Development Act (published in the State Gazette, No.1 of 2.01.2001, last amended and supplemented No. 21 of 12.03.2021).

### **1.4. Request for establishing the unconstitutionality of Article 64, paragraph 2, second sentence of the Criminal Procedure Code (CPC)**

Constitutional case No.12/2021 was instituted on the request.

The text of the second sentence of Article 64, paragraph 2 of the CPC, which was contested by the Ombudsman, provides for videoconference in the event of an emergency detention of defendants in pre-trial proceedings, in the event of a state of emergency, martial law, disaster, epidemic, other force majeure, or upon expressed written consent of the accused person and his protector, and in such cases the identity of the accused person shall be certified by the prison director or the detention facility director or by an employee appointed by them.

According to the Ombudsman, this part of the provision is in conflict with Article 56 (the right of defence of the individual where his rights or legitimate interests are infringed or threatened) in connection with Article 122 (the right to defence at all stages of the trial) , Article 29, paragraph 1 (the right of individuals not to be subjected to torture, cruel, inhuman or

degrading treatment) and Article 30, paragraph 1 (the right to personal freedom and inviolability) of the Constitution of the Republic of Bulgaria.

The stated reasons emphasize that the right to defence is a fundamental right and the basic beginning of the criminal process, which requires not only the establishment and guarantee through the establishment of criminal law institutes, but also a ban in case of settlement of any criminal law institute to lay down situations which may restrict or impede the exercise of this right. At the same time, the constitutionally granted right to judicial protection applies to all stages of the process, including the stage of taking a remand measure.

By Decision No.13 of 5 October 2021 the Constitutional Court found that the provision challenged by the Ombudsman contradicts Article 4, paragraph 1, Article 30, Article 56 and Article 122 of the Constitution and declared unconstitutional the provision of Article 64, paragraph 2, second sentence of the CPC (published in the State Gazette, No.86 of 28.10.2005, last amended and supplemented No. 80 of 24.09.2021).

### **1.5. Request for establishing the unconstitutionality of Article 68a, paragraph 1, sentence 2 in the part “for life” of the Social Insurance Code (SIC)**

Constitutional case No.14/2021 was instituted on the request.

The norm of the Social Insurance Code disputed by the Ombudsman refers to the possibility for the citizens who have the required insurance length of service to retire one year earlier than the retirement age required in Article 68, paragraph 1 of the SIC and in case they exercise this right, they will receive a reduced pension for life.

According to the Ombudsman, the disputed text does not contribute to the protection of the right to work and puts the citizens who have chosen to take advantage of the opportunity in a less favourable position than other citizens, which contradicts the provisions of Article 6, paragraphs 1 and 2 (the principle of equality before the law), Article 16 (the principle of guarantee and protection of labour), Article 4, paragraphs 1 and 2 (the principle of the rule of law) of the Constitution of the Republic of Bulgaria, as well as of its Preamble.

The text puts citizens at a disadvantage in two respects:

- on the one hand, there are hypotheses under which people who have exercised their right to early retirement will receive a reduced amount of their pension only until reaching the age under Article 68, paragraph 1 of the SIC, not for life;
- on the other hand, those who have availed of the option of early retirement will receive a lower lifelong pension, even though they have paid all the necessary social security contributions over the years, which puts them at a disadvantage compared to those who have also paid all the social security contributions, but since their age corresponds to Article 68, paragraph 1 of the SIC they acquire the right to a pension for length of service and age in full amount.

By Ruling of 14 September 2021 the Constitutional Court admitted for consideration the request of the Ombudsman for establishing the unconstitutionality of Article 68a, paragraph 1, sentence 2 in the part “for life” of the SIC (published in the State Gazette, No. 110 of 17.12.1999, last amended and supplemented No. 21 of 12.03.2021). At the time of submitting the Annual Report on the Ombudsman’s activities in 2021 to the National Assembly, the Court has not ruled on the constitutional case.

## **II. OPINIONS AND LEGISLATIVE PROPOSALS**

In 2021, the number of citizens’ requests aimed at changing the legislation decreased sharply. The trend of a small number of requests for referrals to the Supreme Courts for

interpretative decisions continued. Requests for referrals to the Constitutional Court remained at almost the same level as in the previous year.

### **2.1. Legislative proposals:**

- The Ombudsman's proposal for an explicit normative provision on non-sequestration of compensations granted in connection with COVID-19 under the "Save Me" programme was accepted. At the beginning of 2022, an explicit text was voted and adopted, which protects the covid supplements of pensioners in cases of seizure in enforcement proceedings.

- Through a change in the Road Traffic Act, cars sold before 27 December 2017 can be written off by the seller in the traffic police agency until the end of 2023 only with the contract of sale.

- An opinion was sent to the Minister of the Interior, stating a strong disagreement with the proposed provisions in the draft amendment to the Rules of Procedure of the Ministry of Interior, concerning the possibility for border police officers to check whether travelling citizens have unpaid fines and unpaid tickets for traffic violations, and, accordingly, to collect and deliver them at the border.

- Opinions and recommendations were sent in connection with the voting rights of citizens in view of complaints and signals sent to the Ombudsman.

- A recommendation was made to the Chairman of the NSI and to the Chairman of the Parliamentary Committee on Digitalization, Electronic Government and Information Technology in connection with the received complaints concerning Census 2021.

- In connection with the numerous letters, petitions, objections and opinions on the model of judicial card optimisation reform, the Ombudsman sent a recommendation to the Supreme Judicial Council with a position on the proposed closure of courts, which restricts the right of access to justice.

- A letter was sent to the chairman of the Association of Collection Agencies in Bulgaria with a call not to allow misleading practices for citizens by debt collection companies, members of their association, in connection with the newly adopted provisions on prescription in the Contracts and Obligations Act.

- An opinion was sent on a bill to support the introduction of the possibility for remote participation of the members of the general meeting of non-profit legal entities.

### **2.2. Requests for the initiation of interpretative cases**

In 2021, the Supreme Administrative Court (SAC) ruled on the request of the Ombudsman of the Republic of Bulgaria on the following issues:

1. Does the initiation of an enforcement case under Article 220, paragraph 1 of the Tax-Insurance Procedure Code interrupt the limitation period?;

2. Does the notice under Article 221, paragraph 1 of the Tax-Insurance Procedure Code interrupt the limitation period and when – at its sending or service?

By Decision No.3/2021 on interpretative case No.1/2019 the SAC rejected the request of the Ombudsman of the Republic of Bulgaria as inadmissible on the following issues:

1. Has a minor foreigner who is actually accommodated in the Special Home for Temporary Accommodation of Foreigners at the Migration Directorate of the Ministry of Interior (SHTAF) a legal interest to appeal the accommodation order accommodating an adult foreigner in the SHTAF, recorded in the act as his companion? If the answer to this question is negative, should it nevertheless be considered that a legal interest arises in the cases when the minor disputes his/her companionship and relationship with the adult foreigner in whose order he/she is registered by the issuing administrative body? If the answers to the above two

questions are negative, what is the procedure for protection of the minor against actual placement in SHTAF?;

2. “In applying Article 44, paragraph 9 of the Aliens in the Republic of Bulgaria Act (ARBA) it is the burden of the administrative body to establish what the specific relationship is according to the legal definition of paragraph 1, item 4 of the Additional Provisions of the Asylum and Refugees Act between a minor and an adult foreigner designated by the authority as his companion? Is the report of the police body an official document within the meaning of Article 179 of the Civil Procedure Code (CPC) in connection with Article 144 of the Administrative Procedure Code (APC), in order to have a binding probative force in relation to the allegations of a relationship between the adult foreigner and the minor?”

At the request of the Ombudsman of the Republic of Bulgaria an interpretative case No.5/2021 was opened for taking an interpretative decision on the following questions:

1. Is a stamp duty due under Article 227a or under Article 235a of the APC in proceedings under the Protection against Discrimination Act (PfDA), in particular the provision of Article 75, paragraph 2 of PfDA?

2. Does it apply to the cassation proceedings under Chapters Twelve and Thirteen of the APC on the occasion of appealing against acts of the Commission for Protection against Discrimination under Article 68 of PfDA?

## **CHAPTER THREE**

# **MONITORING THE IMPLEMENTATION OF INTERNATIONAL ACTS IN THE AREA OF HUMAN RIGHTS**

## I. MONITORING OF THE IMPLEMENTATION OF INTERNATIONAL ACTS IN THE AREA OF HUMAN RIGHTS

The monitoring of the implementation of the international legal acts in the area of human rights is carried out by the Ombudsman of the Republic of Bulgaria on the basis of the UN Paris Principles and the Ombudsman Act (OA). Pursuant to Article 19, paragraph 1, item 10 of the Ombudsman Act, the Ombudsman has express powers to monitor and encourage the effective application of the human rights protection conventions to which the Republic of Bulgaria is a party.

On the basis of the ongoing monitoring of the way in which the State applies the international legal acts of human rights protection, the Ombudsman develops opinions and gives recommendations. Along with this, in exercise of its powers to encourage and protect human rights, the Ombudsman creates a separate section in the Annual Report assessing the degree in which the national legislation is aligned to the content of each convention and the practices of its application are aligned by the national institutions.

For another consecutive year, the Ombudsman found that Bulgaria was lagging behind in the process of acceding to international legal acts, which allow citizens to lodge complaints with supranational (convention) bodies in case of their violated rights. In 2021, Bulgaria will not take steps to accede to the Optional Protocol to the Convention on the Rights of Persons with Disabilities and to the Third Optional Protocol to the Convention on the Rights of the Child.

Yet again the Ombudsman recalls that after the entry into force of the provision of Article 28, paragraph 3 of the Statutory Instruments Act at the end of 2016, the National Mechanism for compliance review of statutory instruments with the ECHR needs to be applied both by the executive and the legislature<sup>4</sup>. A practice where the bills put forward by Members of Parliament are not checked for compliance with the ECHR and the ECtHR case-law could lead to a violation of the international standards of observance of human rights and new convictions of Bulgaria in Strasbourg. In this sense, it is appropriate to consider legislative amendments providing for a preliminary assessment of the bills proposed by Members of Parliament for compliance with the ECHR when they concern the citizens' fundamental rights and freedoms.

Positive step in this regard is the establishment of a parliamentary sub-committee in the 47th National Assembly to monitor and analyze legislation in accordance with EU principles and norms and the international norms for the protection of human rights and fundamental freedoms and to analyze the legal consequences of the decisions of the Constitutional Court.

In addition, Bulgaria has not yet ratified Protocol 16 to the ECHR, which provides for a mechanism for cooperation between the national court and the ECtHR, similar to preliminary rulings before the EU court. This mechanism will significantly facilitate the harmonization of the case law of the Bulgarian court with that of the ECtHR and will contribute to fewer convictions. The new decisions of the ECtHR against Bulgaria in 2021 are 37<sup>5</sup>.

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<sup>4</sup> The obligation to review draft regulations for compliance with the European Convention is provided for in paragraph 9 (b) ii of the Brighton Declaration of 2012 and reaffirmed in the Declaration adopted at the High Level Conference of the Member States of the Council of Europe in Brussels in 2015 (letter C, paragraph 1, (d) of the Action Plan to the Declaration).

<sup>5</sup> [https://echr.coe.int/Documents/Stats\\_violation\\_2021\\_FRA.pdf](https://echr.coe.int/Documents/Stats_violation_2021_FRA.pdf).

## 1.1. EUROPEAN CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

As regards the ECHR, the main criterion for the opinion of the Ombudsman is the execution of final ECtHR sentences against Bulgaria and the alignment of the national legislation to its case-law.

Overall findings about the execution of final ECtHR judgments within the meaning of Article 46 ECHR in 2021:

As in previous years, it can be concluded that the individual execution measures laid down in ECtHR judgments are implemented and they usually do not pose problems. The process of payment of compensation and notifying the competent authorities about the possible need for additional individual measures (for example, reopening judicial proceedings and others) as well as the process of translation of the judgments and their dissemination is coordinated by the Procedural Representation of the Republic of Bulgaria before the ECtHR Directorate at the Ministry of Justice with strict monitoring that the respective deadlines are observed and that the judgments reach as wide a circle of competent authorities and persons as possible. In addition, all judgments are posted on the Ministry of Justice website and on the portal: <http://humanrights.bg/>.

However, the general measures the Committee of Ministers requires with a view of executing the ECtHR judgments raise numerous serious questions. Some ECtHR judgments reveal systemic or structural problems related to the need for legislative amendments or changes in the case-law or administrative practice. It is the general measures which are under the supervision of the Committee of Ministers and which remain non-implemented for years by the national institutions. One of the main reasons is that the implementation requires active efforts on the part of different institutions which, in many cases, do not take timely the necessary measures to execute the judgments. The coordination role of the Ministry of Justice is insufficient to impose the adoption of measures which are within the competence of other institutions.

***As regards Bulgaria's progress in executing the judgments under the supervision of the Committee of Ministers in 2021, the following main conclusions can be drawn:***

First, the total number of judgments to be implemented and monitored by the Committee of Ministers has decreased significantly. Statistics show that as of 31 December 2021<sup>6</sup> the total number of ECtHR judgments in the implementation phase is 173. Most of these, i.e. 89 cases are leading, and the remaining 84 are recurring. During the year, only 6 cases and 32 recurring cases were closed for review. Thus, during the year the number of unfulfilled judgments against Bulgaria in monitored cases increased both in terms of leading and recurring cases. The number of unfulfilled ECtHR judgments is 165 at 31 December 2020, and 170 and 208 at 31 December 2019 and 31 December 2018, respectively.

Second, 45 new convictions were monitored by the Committee of Ministers in 2021, significantly higher than the number of decisions in 2020, when they were 32. The number in 2020 is similar to the number of monitored judgments in 2018 (36) and much lower than the number of monitored judgments in 2019 (18).

In 2021, the total number of closed cases with a final resolution was 38, compared to 37 closed cases in 2020. It is noteworthy that the number of closed cases in 2021 and 2020 is significantly less than the cases closed in 2019 (56).

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1. Current data as of 31 December 2021, source Country Factsheet <https://rm.coe.int/1680709740>  
<https://www.coe.int/en/web/execution/bulgaria>

Third, regarding the compensations paid by Bulgaria in 2021, our country paid EUR 381,596 in compensations. In 2020, their total value is EUR 320,393, which is less than the compensations paid in 2019 of EUR 421,823. However, Bulgaria's progress remains extremely unsatisfactory compared to the progress of other countries in the region, e.g. the amount of due compensations paid by Northern Macedonia in 2021 is EUR 143,350.

Fourth, as of 31 December 2021 the total number of judgments under enhanced supervision by the Committee of Ministers was 62 cases. By comparison, as of 31 December 2020, a total of 48 judgments were under enhanced supervision by the Committee of Ministers, and in 2019 there were 41 judgments under enhanced supervision by the Committee of Ministers. The overall trend of closing the supervision in sentences in the two supervision procedures (standard and enhanced) continued. The execution of a large number of judgments is slow while Bulgaria continues to be on the list of the ten countries with the largest number of judgments under enhanced supervision by the Committee of Ministers.

In 2021, Bulgaria reached 7th place among the Council of Europe Member States as regards the number of sentences of the ECtHR in Strasbourg. The ECtHR Annual Report shows that in 2021 a total of 37 sentences were issued against Bulgaria finding at least one violation of the Human Rights Convention, while their number in 2020 was 35, in 2019 was 13, and in 2018 was 27.

Ranked before Bulgaria by number of sentences are: Russia, Ukraine, Romania, Turkey, Moldova and Italy, but their population is much larger than ours. Our country used to be in top-ten by number of sentences for a long time but then dropped out of the ranking and it is now back to the negative top. At the same time, in the beginning of the week, the Parliamentary Assembly of the Council of Europe adopted a resolution listing Bulgaria among the ten countries with the largest number of non-executed ECtHR judgments which are still facing serious structural or complex problems, some for more than 10 years.

In 2021, the conclusions made in the previous years are still valid:

- a significant number of judgments remain under enhanced supervision for a decade;
- there is also a steady tendency of convictions, which are still under enhanced supervision and unfortunately concern a large number of ECHR texts, which requires a large number of complex measures to be taken;
- the number of leading judgments on which the general recommendations of the ECtHR have been implemented is still incomparably smaller than those on which no satisfactory progress has been made;
- Bulgaria continues to pay extremely high compensations for violated rights. Although actions for implementation have been taken on almost all convictions in the years since they were issued, they are still not enough to close the monitoring, despite the efforts of various institutions and working groups. For this reason the recommendations of the Committee of Ministers on the implementation of such judgments has hardly changed.

In 2021, Bulgaria continued to be in a situation of being sentenced in similar cases and going forward will pay great amounts of compensation while the citizens' rights are not effectively protected. This situation is unacceptable and decisive actions need be taken to overcome it. As in previous years, the Ombudsman is committed to assisting and providing support to the Minister of Justice through recommendations to the responsible institutions to take specific actions in relation to the sentences against Bulgaria.

A general finding should be made that Bulgaria is lagging behind in the process of acceding to international legal acts that allow citizens to lodge complaints with supranational (convention) bodies in case of their violated rights. In 2021, Bulgaria did not take steps to accede to the Optional Protocol to the Convention on the Rights of Persons with Disabilities and to the Third Optional Protocol to the Convention on the Rights of the Child.

In addition, Bulgaria has not yet ratified Protocol 16 to the ECHR which ensures a possibility for a cooperation mechanism between the national court and the ECtHR similar to the requests for preliminary rulings to the Court of Justice of the European Union. This mechanism will significantly facilitate the alignment of the case-law of the Bulgarian court to that of the ECtHR and will contribute to ensuring fewer convictions. The new ECtHR judgments against Bulgaria in 2021 totalled 37.

### Key ECtHR judgments in 2021

In 2021, three judgments of the ECtHR against Bulgaria became “key cases”<sup>8</sup>, unlike 2020 when there was no key judgment against Bulgaria based on the official report of ECtHR and in 2019 there was no such case, either.

At the end of June 2021, the Bureau of the ECtHR defined as “key cases” three judgments of the Court against Bulgaria in 2021. Among them are the two judgments in the *Budinova and Chaprazov v. Bulgaria* and *Behar and Gutman v. Bulgaria* cases. The complainants were supported by BHC.

**Both cases concern the Bulgarian state’s refusal to protect Roma and Jewish people from impersonal hate speech** circulated in numerous racist and anti-Semitic publications and public statements by Volen Siderov. The third case is before the Grand Chamber of the Court and concerns the non-investigation of allegations of sexual abuse of a child by a Bulgarian social institution, who was subsequently adopted in Italy.

The judgments in the *Budinova and Chaprazov v. Bulgaria* and *Behar and Gutman v. Bulgaria* cases are the first and so far the only ones in the practice of the ECtHR, which establish a positive obligation of **the state to sanction speech that incites ethnic hatred against groups of the population, but which is not uttered in the presence of the victims and is not a direct incitement to violence**. In these cases the Court found violations of Article 14 (protection against discrimination) and Article 8 (right to privacy) of the ECHR.

Clarifying the ECtHR’s case-law in hate speech cases provides an important means of protecting members of various vulnerable communities in Europe from discriminatory attacks against their privacy. The significance of these cases is especially great for Bulgaria, where many of them are targets of racist, anti-Semitic, homophobic, Islamophobic and other incitements.

Other issues, for which the ECtHR case-law is still pointing deficiencies in Bulgarian legislative framework and practices for its implementation are:

- the defects of the ongoing investigations into death cases and inhuman treatment. Violations of the right to life and the prohibition of torture, inhuman and degrading treatment (Articles 2 and 3 of the Convention);
- the prohibition of torture (Article 3); Overcrowding and poor conditions in places of detention and the means of protection against them (Article 3);
- placements in centres for minors and underage persons (Article 5);
- violations of the right to fair trial (Article 6);
- the right to respect for personal and family life (Article 8);

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<sup>8</sup> [https://www.echr.coe.int/Documents/Cases\\_list\\_2021\\_ENG.pdf](https://www.echr.coe.int/Documents/Cases_list_2021_ENG.pdf)

- the freedom of thought, conscience and religion (Article 9);
- restitution and other matters of possession (Article 1 of Protocol 1);
- problems related to the right to suffrage;
- signing and ratification of Protocol 16 to the ECHR by Bulgaria.

There has been no progress in relation to the signing of Protocol No. 16 to the ECHR by Bulgaria. The Ombudsman will continue to monitor the process and insist on its ratification in 2022.

## 1.2. UN CONVENTION ON THE RIGHTS OF THE CHILD

The national human rights institution (NHRI) has special authorisation to encourage and protect the rights of children. This is also emphasised by the UN Committee on the Rights of the Child which notes the key role an NHRI needs to play in its setup, organisation and activities to encourage respect for the children's opinions on all matters which concern them. The existence of an independent mechanism dedicated to the rights of children extends a special message to children: that they have rights and that there are means within their reach to guarantee observance of these rights.

In this context, the national Ombudsman responsibly accepts her fundamental role in promoting and implementing the UN Convention on the Rights of the Child (CRC) in the Republic of Bulgaria, noting that this mandate generally obliges her to monitor children's rights and interests at all levels of society and, if necessary, to make proposals for changes in the policies of public organisations (Article 19, paragraph 1, item 10 of the OA). With the "A" status as a National Human Rights institution, in accordance with the UN Paris Principles, her obligations also cover the specific requirement to monitor the implementation of the CPA and other international instruments to which our country has acceded, and in particular to ensure that they are adequately transposed in the national legislation.

For the purposes of monitoring the Ombudsman developed a system of impact assessment for the legislation and policies for children and families in Bulgaria together with a set of indicators to monitor the CRC. The matters are structured by topics following the rights of children set out in the CRC, the recommendations of the United Nations Children's Rights Committee and the questions posed to Bulgaria in 2021. Current questionnaires were prepared and sent out to the competent bodies, most of which are protection bodies under the Child Protection Act (CPA).

The monitoring uses data and information provided by the institutions themselves, and is expected to provide not only views on the progress in implementing the recommendations of the UN Committee on the Rights of the Child, but also the challenges they face in implementing public policies. The information provided by them was used as a basis for analysis of the degree of implementation of the CRC. The Ombudsman's annual report covers 2021 and, therefore, the figures refer to this year.

### **Alternative report of the Ombudsman to the UN Committee on the Rights of the Child (the Committee)**

2021 is a key year in the development of the Ombudsman institution in the field of children's rights, because for the first time the Ombudsman prepared and sent to the Committee her alternative report as part of the reporting process by Bulgaria. The Ombudsman's report, sent to Geneva in February 2021, is mainly based on information derived from complaints to the Ombudsman filed by parents, organisations (associations, professionals working with children), as well as children. The report summarizes the main findings and observations of the

Ombudsman's activities in relation to visits to residential services and institutions for children, official statements on existing national legislation or identified obstacles to its implementation, and recommendations addressed at government level.

Based on the Ombudsman's findings and recommendations in the field of children's rights and taking into account the 2016 recommendations of the Committee on the Rights of the Child in Bulgaria, the Ombudsman's Alternative Report identified and developed four key problem areas of children's rights and drew attention to the measures that should be taken:

- juvenile justice;
- family environment and protection measures;
- violence against children;
- rights of children with disabilities.

### **Independent monitoring of the implementation of the UN Convention on the Rights of the Child**

Pursuant to Article 19, paragraph 1, item 12 of the OA, the Ombudsman has the responsibility to monitor and promote the effective implementation of signed and ratified international acts in the field of human rights to which the Republic of Bulgaria is a party, including the UN CRC, including in its Annual Activity Report a separate section assessing the extent to which legislation and practices have been brought into line with its provisions.

### **Some challenges in Bulgaria in implementing the recommendations of the UN Committee on the Rights of the Child**

- A serious challenge for Bulgaria is the unfulfilled recommendation to adopt the National Strategy for the Child so that it is as comprehensive as possible and cover all areas included in the Convention for all children, and to ensure that the Strategy is supported by all the appropriate elements for its implementation, including sufficient human, technical and financial resources. At the moment, the Strategy has been “withdrawn”, the reason for this is to mention the “high societal tensions” being discussed.

- The reform of juvenile justice, launched ten years ago, to ensure respect for the rights of children in conflict with the law and that have access to child-friendly justice. The reform is not on the agenda and there is no political will to adopt the new legislation.

- Regarding the recommendation to Bulgaria to amend the Family Code in order to remove all exceptions that allow marriages under 18 years of age, it is established that the practices of forced marriage at an early age continue to be tolerated and the Social Assistance directorates report to the prosecutor's office cases of early cohabitation with persons under the age of 16, but too often receive refusals to issue a penal order.

- On the Committee's recommendation to adopt a human rights-based approach to disabilities in Bulgaria, as well as to develop a comprehensive strategy for inclusion and realisation of children with disabilities in society and education, it should be noted that there are a number of problems that limit the rights of children with disabilities.

- There is no systematic approach to the care of children with disabilities, which is not implemented due to missing units, coordination mechanisms and staff.

- In connection with the right of the child to enjoy the highest attainable standard of health, expert analyses show that the Bulgarian health system has not implemented all the opportunities to improve reproductive maternal and child healthcare, which are highly dependent on the impact and interaction of a number of adverse factors, as well as on the availability, quality and scope of medical care received before, during and after birth.

- No disaggregated data is collected and provided.

### **Main recommendations:**

1. Develop a special mechanism to monitor the implementation of the Convention and indicators for its application;
2. Introduce a mandatory procedure for assessing the impact on the rights of the child of any proposed policy, legislative, regulatory, budgetary, international cooperation or other administrative decision affecting children's rights.
3. Integrate the children's rights-based approach to the planning, implementation and monitoring of measures to achieve the sustainable development goals, including the participation of children and data collection, to promote the realization of children's rights, in accordance with the CPA and the Optional Protocols.
4. Extensive public discussion and adoption of the National Strategy for the Child and the Plan for its implementation.
5. Reform children's and family policies by adopting a comprehensive, integrated and long-term strategy for developing and implementing 21st century-appropriate policies to support children and their families.
6. Fully incorporate the provisions of the Convention in the national law, including through the adoption of the bill amending the Family Code (2016) and the bill on deviation from criminal proceedings and the imposition of corrective measures on minors (2018).
7. Bulgaria should ratify or accede to the Optional Protocol to the Convention on the Complaints Procedure (Third Optional Protocol).
8. Legislative change to enable disaggregated data collection for children, which is crucial for the planning of policies and budgets related to children, as well as for monitoring their implementation.
9. Taking national measures to promote child involvement as follows:
  - providing guidance on the importance and application of the child involvement
  - giving practical guidelines on various approaches to child involvement;
  - preparing examples of good practice on how children can be involved;
  - providing a framework for monitoring the government's compliance with Article 12.

### **1.3. UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES**

As an independent authority for human rights protection whose activity is subject to the Constitution, the laws and international treaties to which the Republic of Bulgaria is a party and in the capacity of a rotating president of the Monitoring Council, the Ombudsman also monitors the implementation of the Convention on the Rights of Persons with Disabilities (CRPD).

This section of the report is an overview of the actions taken by Bulgaria for the implementation of the CRPD in 2021.

In 2021, the activities of the Ombudsman on monitoring the implementation of the CRPD were carried out in relation to complaints submitted by citizens to the Ombudsman as well as in view of the activities of the Monitoring Council set up in 2019 in execution of Article 33, paragraph 2 and paragraph 3 of the CRPD, managed by the Ombudsman until July 2021. The cooperation of the Ombudsman with the representatives of persons with disabilities within the work of the Monitoring Council is under the motto "Nothing About Us Without Us!" which was used by persons with disabilities and their representatives in the development of the Convention and which is enshrined in the text of Article 4, para 3 of the CRPD.

## **Monitoring Council activities in 2021**

The Monitoring Council continued to proactively perform its functions for promotion, protection and monitoring of the implementation of the CRPD in the past year.

The main focus of the work was the impact of the restrictive measures imposed in connection with the dissemination of COVID-19 on the rights and interests of people with disabilities and their families. Problems were identified in the application of Article 12, paragraph 8 of the Act on Measures and Actions During the State of Emergency Declared by a Decision of the National Assembly of 13 March 2020 and to overcome the consequences after 1 January 2021, while users of social services were forced to pay fees without any change in the epidemic situation.

Serious attention was paid to current issues that made it difficult for people with disabilities to lead independent lives and exercise their rights. Actions were taken to enable citizens with permanent disabilities who have a certain type and degree of disability/degree of permanently reduced working capacity, but are not entitled to external assistance, to receive assistance from 1 January 2021.

Recommendations were made regarding problems in the Information System for Control of the Medical Expertise, preventing citizens from using all its functions.

The members of the Council discussed the amendments to the Ordinance on Medical Expertise and made recommendations to the Minister of Health to resolve the problem with the inadequately determined percentage for the type and degree of disability/degree of permanently reduced working capacity of people with more than one disease.

New recommendations for regulating the determination of lifelong timeframe for persons with permanently reduced working capacity/type and degree of disability for all cases when the leading disability is definitive were discussed.

Subsequently, in response to the recommendations made, actions were taken to amend the Ordinance on the Medical Expertise, being an important step towards addressing the problems.

The Ombudsman brought to the attention of the minister the issue of the different application of the new provisions and the problem with the established short period within which the affected citizens can benefit from the more favourable conditions granted for appearing before the medical expertise bodies.

In regard to the recommendations, clarifications to the country's Regional Health Inspections were provided by the Ministry of Health on the implementation of the new legislation.

Under the chairmanship of the Ombudsman in the past year the Monitoring Committee successfully closed the issue of the approval of monitoring indicators under Article 9 of the CRPD.

Indicators are an important tool for monitoring the progress in the realization of the rights of people with disabilities. They may establish gaps in the implementation under Article 9 of the Convention on Accessible Environment.

On 8 July 2021, the last meeting of the Monitoring Council was held under the chairmanship of the Ombudsman institution of the Republic of Bulgaria. According to the requirements of the People with Disabilities Act, the activities of the Monitoring Council for the next two years will be administered by the Commission for Protection against Discrimination.

During the two years of its operation the Monitoring Council sent 14 specific recommendations to the directors of the responsible institutions and more 10 of them were fully implemented.

The Ombudsman prepared and published a detailed overview of the Council's activities under its administration.

#### **Main recommendations:**

1. Transform the Agency for Persons with Disabilities in State Agency for Persons with Disabilities within the term laid down in the Persons with Disabilities Act after discussions and consultations with organisations of and for persons with disabilities.
2. Carry out the transfer of the provision of auxiliary means and medicinal items laid down in the Persons with Disabilities Act from the Ministry of Labour and Social Policy to the Ministry of Health and the National Health Insurance Fund.
3. Take action to continue the reforms of medical expertise and examinations of the ability to work with the active involvement of representatives of persons with disabilities in broad public discussions and publicity.
4. Accelerate the procedure for ratification of the CRPD Optional Protocol.

#### **1.4. UN CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT**

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention) was adopted by the UN General Assembly on 10 December 1984 and took effect on 26 June 1987. It was ratified by the Republic of Bulgaria by Decree No. 3384 of the State Council on 9 October 1986.

All acts of torture are considered offences under the criminal law. The same applies to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture (Article 4).

Each State Party is obliged to proceed to investigation, wherever there is reasonable ground to believe that an act of torture has been committed (Articles 12 and 13) and the victim of an act of torture have the right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation (Article 14). The prohibition of torture is absolute in nature and it may not be derogated or restricted in any way.

Following amendments and supplements to the OA in 2012, the Ombudsman of the Republic of Bulgaria began to exercise the powers of the National Preventive Mechanism (NPM) under the Optional Protocol to the Convention. In this capacity, her main activity involved constant monitoring of places where persons are deprived of their liberty, or where persons are detained or placed as a result of an act or with the consent of a state body, which places they cannot leave on their own, in order to protect such persons from torture and other cruel, inhuman or degrading treatment or punishment. Each year, the Ombudsman, in her capacity as the NPM, presents a report on these activities, indicating the degree of respect for the rights of the above-mentioned persons.

The main recommendations of the Committee for the Prevention of Torture to the Republic of Bulgaria issued within the VI<sup>th</sup> Periodic Report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment continued to be valid in 2021:

- A repeated recommendation of the Committee to the institutions in the Republic of Bulgaria refers to the need to adopt a legal definition of torture in the Criminal Code which will contain all elements envisaged in Article 1 of the Convention. So far, despite the commitment of the state, this recommendation of the Committee has not been implemented. The Committee for the Prevention of Torture expresses concerns in relation to the use of force and auxiliary means in prisons and police departments.

In the capacity of NPM, the Ombudsman has repeatedly found that the irregular use of auxiliary means (handcuffs) continues throughout the entire penitentiary system when external positions are opened at medical institutions. In this regard, the Ombudsman has issued recommendations to the Minister of Justice for urgent and effective administrative measures to eliminate torture, cruel, inhuman or degrading treatment or punishment in the event of conveying and movement of persons deprived of liberty from sleeping premises to outdoor stay and when visiting internal and external medical institutions. In 2021, the Ombudsman as NPM inspected eight premises of detained persons within the Ministry of Interior. Persistent problems in the system of the 24-hour detention in police departments are still relevant. There are poor material and living conditions, lack of service facilities, lack of access to ventilation and natural light. In some of the inspected places no persons are detained due to lack of staff and individual guards.

Detainees are provided with the opportunity to use medical help. This was stated in the declarations they filled in upon their detention. Medical help is also provided at the judgment of the staff when the health conditions so requires. Pursuant to Article 21, paragraph 1 of Instruction No.1821z-78 of 2015 on the procedure for detention, equipment of premises for detainees and the order applied therein at the Ministry of the Interior the detainee is subject to a medical examination at his/her request or where his/her health condition so requires. Medical examinations or refusals to undergo such are reflected in a Register of Detainees. Every file is appended with a report from the Emergency Medical Assistance Centre where detainees are usually examined.

The Ombudsman as NPM examines these issues in detail in the annual reports and makes specific recommendations to the Minister of Justice and the Minister of Interior.

Another important topic is related to the situation of persons accommodated in social institutions. Recommendations were made to the competent state authorities on the need to provide sufficient legal guarantees for these persons, to improve their material conditions, as well as the need for independent monitoring to determine the degree of respect for their rights.

A repeated finding of the Ombudsman is that the system for institutional social care has not been reformed yet and the quality of the social service has not improved yet. One of the main problems is that the homes for adults with mental disabilities, mental disorders and dementia are often located outside settlements and have poor road and communication infrastructure which hampers the access of specialists. Over the years, the Ombudsman as NPM has recommended many times acceleration of the process of deinstitutionalisation because the long-term stay of people with disabilities at institutions infringes fundamental human rights. Placement of a person from family environment at an institution should be done as a last resort of protection.

In various family-type accommodation centers for children or young people with disabilities it has been repeatedly established that the care provided to the accommodated persons by the staff does not meet their needs and thus directly endangers their health. The training of the staff for work with children with disabilities in the family-type accommodation centers for children or young people with disabilities is insufficient, which leads to the impossibility to react adequately in a crisis situation and even to identify one. Another troubling finding of the Ombudsman as the NPM is that, currently, a very small percentage of the persons

accommodated at residential social services use services in the community, which is a prerequisite for potential difficulties when they are moved to new social services and an obstacle to their future successful inclusion in society.

In this regard, the Ombudsman as the NPM reiterates its opinion that the deinstitutionalisation process, which started as early as 2010, is too slow.

Subject to annual monitoring by the NPM are also special homes for temporary accommodation of foreigners (SHTAF) at the Migration Directorate of the Ministry of Interior and the registration and reception centers of the State Agency for Refugees (SAR) under the Council of Ministers. Eight institutions for asylum seekers were inspected in 2021 with nearly 4,470 foreign citizens without any status in the Republic of Bulgaria. For the second year in a row, the Ombudsman as the NPM continued to identify a number of problems. The placement of unaccompanied foreign children in the SHTAF needs to be stopped and interinstitutional cooperation between the SHTAF and the Social Assistance Agency regarding unaccompanied children detained in the SHTAF needs to be improved. In regard to the representation of unaccompanied refugee children in 2020, amendments to the Asylum and Refugees Act were proposed. The Ombudsman expressed an opinion regarding the proposal to amend Article 25 of the Asylum and Refugees Act and supported the legislative efforts to ensure the rights of unaccompanied children, emphasizing the importance of the institute of representation and the use of the National Legal Aid Bureau to represent unaccompanied children. The Ombudsman is seriously concerned that this systemic problem remains unresolved, despite repeated recommendations over the years to the Migration Directorate of the Ministry of the Interior and the Social Assistance Agency.

### **1.5. UN CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN**

The UN Convention on the Elimination of All Forms of Discrimination against Women was adopted in 1979 and has been in force in Bulgaria since 1982. In fulfillment of the international and European commitments undertaken, the principle of equality has been introduced in the Bulgarian legislation. For the Ombudsman, the current Equality between Women and Men Act is rather formal and does not propose new arrangements that correspond to the level of development of social relations and does not regulate the basic mechanisms for gender equality.

In our country, a serious problem is that women more often than men are employed part-time, work more often at home or are engaged in other atypical forms of employment. This, in turn, results in lower pay levels. There is also an uneven concentration of women and men in the various sectors of the labour market, for the regulation of which adequate measures have not been taken. Women are more likely to be absent from work for family reasons, which has a negative impact on their career development and growth.

The COVID-19 pandemic highlighted existing inequalities between women and men in different areas of public life, with different effects on women and men. During the state of emergency and the emergency epidemiological situation, the domestic workload of women who are engaged in health care, social services and education and work at the forefront increased.

Unfortunately, the principle of gender equality is also violated through public statements, which are sexist, hateful and most often lead to the blocking of actions to combat gender-based violence and gender stereotypes. Existing gender stereotypes are a major cause of gender inequality and affect all spheres of society.

#### **The Ombudsman in defence of the right of access to healthcare of pregnant women**

For years in our country there is a problem with the right of access to healthcare for uninsured women, whose pregnancies are not monitored by specialists, they give birth without

being monitored during their pregnancy and without the necessary tests. The data provided show that every tenth woman in childbearing age does not have health insurance. Over 105,000 women in Bulgaria do not have health insurance and 40% of them or about 60,000 women are of Roma ethnic origin. Based on data from the National Health Insurance Fund, 75% (78,750) of these women did not have any tests during pregnancy.

For the Ombudsman this data points to a serious problem, as uninsured women in Bulgaria cannot receive medical care and equal access to timely, quality and affordable healthcare.

It is worrying that a large number of diseases in prematurely born babies, which are due to preventable complications, are not diagnosed and not treated promptly during pregnancy.

In view of the problems identified and to protect the right of pregnant women to access quality healthcare, the Ombudsman recommends:

- taking action to provide for a possibility for conducting more examinations and tests during pregnancy, including at the beginning of pregnancy, which would be very useful for the prevention of complications, their timely diagnosis and treatment;
- discussing different options for ensuring access for uninsured pregnant women to medical care, including at least four examinations and basic tests in their package.

### **The Ombudsman in defence of victims of domestic violence**

The Ombudsman has repeatedly raised the issue of domestic violence, which is exacerbated by the global COVID-19 pandemic. However, this should not be seen as inevitable, on the contrary, more efforts should be made to understand why and how violence occurs and to take the necessary measures to overcome it. There is an urgent need to adopt legislative proposals to amend the Protection Against Domestic Violence Act and the Criminal Code.

The specific proposals for amendments to the legislation, which the Ombudsman believes would contribute to more effective protection of victims and effective prevention of domestic violence, are:

- removing from the Criminal Code of the requirement to consider a crime to have been committed in the conditions of domestic violence only if it is a systemic violence;
- incriminating all forms of domestic violence;
- incriminating the persecution, which could arouse a well-founded fear for the freedom, sexual integrity and honour of the victim, not just fear for the life or health of the victim.

In addition to the above proposals for legislative changes, according to the Ombudsman, other measures are needed, such as:

- ensure integrated gathering of data and official statistics about the cases of domestic violence;
- create an effective coordination mechanism to ensure better cooperation among the institutions in cases of domestic violence;
- establish a body responsible for defining, applying and assessing the policies and for coordinating actions related to violence prevention and tackling;
- provide targeted training of professionals working with victims of domestic violence – police, prosecutors, judges, social workers, healthcare specialists;
- organise campaigns for zero tolerance to domestic violence to increase the public awareness in order to overcome the social stereotypes and empower women not to be silent victims;
- set up a sufficient number of services, including centers for accommodation of victims of violence, accessible and evenly distributed geographically throughout the country.

## CHAPTER FOUR

# INTERNATIONAL COOPERATION

### The Ombudsman in the management of the global and European organisations of national human rights institutions



One of the key events in 2021 is **the election of the Bulgarian Ombudsman in the global and European organisations of national human rights institutions – GANHRI and ENHRI**. This is in recognition of the achievements of the national Ombudsman and the work of the institution in accordance with the highest UN standards for the protection of human rights.

### The Ombudsman's actions in defence of the rights and interests of Bulgarian citizens before international institutions

**2 July** – Participation in the international conference “**Can justice be child-friendly?**”, organized by the Bulgarian Center for Non-Profit Law, Validity Foundation, PRISM Impresa Sociale s.r.l. (Italy) and the Center for Legal Resources (Romania). The Ombudsman raised the issue of juvenile justice in Bulgaria in the context of EU law and the best practices of the Council of Europe and the European Network of Ombudsmen for Children.



**7 July** – Working meeting with the OSCE Election Observation Mission. The Ombudsman presented the results of the complaints about violated voting rights, as well as the result of the recommendations sent to the the Central Election Commission. A good level of co-operation with OSCE missions in Bulgaria was noted.



**24 September** – Meeting of the Ombudsman with a delegation of MEPs from the EP Civil Liberties Committee. The MEPs met with various civic organizations, as well as senior government and governmental officials, including the President, **the Ombudsman** and the Chief Prosecutor. MEPs raised issues related to the rule of law, the freedom of media and the fight against corruption.



**30 September** – Working meeting with representatives of the European Commission against Racism and Intolerance of the Council of Europe. The Ombudsman presented the results of the NPM observations on the protection of the rights of asylum seekers.



**26 October** – Working meeting with representatives of the UN Subcommittee on Prevention of Torture, discussion with the NPM and visits to selected inspection sites. The meeting was part of the first evaluation visit to Bulgaria on the functioning of the NPM as a guarantor of citizens’ rights under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.



### Cross-border cooperation

Balkan ombudsmen discussed on **20 January** 2021 the state of human rights during COVID-19 in an online meeting of the Balkan Network of Ombudsmen, initiated and established in Sofia in 2018 by the Public Defender Institution.

The main goal of the informal unification of the Balkan ombudsmen is cross-border cooperation and a quick channel for mutual assistance in case of citizens’ problems to resolve specific cases.



**7 June** – Meeting with the new representative of the UN High Commissioner for Refugees in Bulgaria, Narasimha Rao. Cooperation of the Ombudsman institution with the UN High Commissioner for Refugees Agency in Bulgaria is assessed as very good.



## Bilateral cooperation

**31 May** – Meeting on the topic of domestic violence with the Ambassador of the United Kingdom, H.E. Rob Dixon. Issues related to cooperation on domestic violence and the sharing of good practices in regulating more effective support for victims of gender-based violence were discussed.



**2 June** – Meeting with H.E. Alejandro Palanco Mata – Ambassador of the Kingdom of Spain to Bulgaria. The possibilities for strengthening the cooperation between the national human rights institutions of the Republic of Bulgaria and the Kingdom of Spain were discussed.



**28 September** – The Ombudsman welcomed her Azerbaijani counterpart. Experience was exchanged on the protection of the rights of socially vulnerable groups.

**10 December** – Meeting with the Ambassador of the Kingdom of Sweden, H.E. Katarina Rangniti. Cooperation in support of new legislative solutions to domestic violence and gender-based violence was discussed. H.E. Katarina Rangniti declared her readiness to provide expertise with good practices from the Kingdom of Sweden.



# CHAPTER FIVE

## RESOURCES

### 1. EXPENSE REPORT

The Ombudsman of the Republic of Bulgaria is a first-level budget spending unit who manages the funds in keeping with the norms of the Public Finance Act, the State Budget Act, the Ombudsman Act, the Regulations for the Organisation and Work of the Ombudsman and other statutory instruments related to the spending of public funds.

The Ombudsman institution has developed and applies Rules for Building Systems of Financial Management and Control. It applies the system of double signature, the rules for access to assets and information, and preliminary control for compliance exercised by a financial controller. The double signature is affixed after a check of the documents before a decision is taken to take on a commitment or incur expenses.

The accounting policy of the Ombudsman institution has been developed on the basis of the Accountancy Act, the National Accounting Standards, the Bill of Accounts of Budget Enterprises, the Individual Bill of Accounts of the institution, other statutory instruments. Since 2017, the fixed assets have been depreciated and this will continue in the future. An annual inventory was carried out.

The annual cash execution report, the annual trial balance and the accompanying reporting information for 2021 are in line with STD 7/31.12.2021 of the Ministry of Finance.

The State Budget Act provides for the amount of BGN 3,639,200 as expenses of the Ombudsman of the Republic of Bulgaria in 2021. Adjustments of expenses were made in 2021 reducing them by BGN 181,300.

Income reported for 2021 by line items – BGN 3,172.

Expenses reported for 2021 by line items – BGN 3,307,049.

The team of highly qualified professionals is the main resource of the Ombudsman institution of the Republic of Bulgaria. The remuneration and social security for the team are the most essential part of the expense budget of the institution.

The maintenance expenses are related to ensuring resources for the work of the institution with stationery, office equipment and consumables, water, fuel, electricity and heat, telephone and internet services, hardware maintenance and specialised software, translation, pre-print and print processing, ongoing renovation works, security, business trips, insurance, etc. To a large extent, these expenses are related to contractual commitments and obligations

with respective regular payments. The largest relative share (45.9%) of Support is the share of lease for the building (private property) where the institution is housed (for the past six years, the lease was re-negotiated and gradually reduced).

The Ombudsman of the Republic of Bulgaria is a member of different international organisations which entail membership fee expenses – Global Alliance of National Human Rights Institutions, European Network of EU Ombudsmen, International Ombudsman Institute, Association of Ombudsmen and Mediators of La Francophonie, European Network of National Human Rights Institutions, European Network of Ombudspersons for Children.

The due state and municipal taxes and fees were paid.

The capital expenses of the institution amount to BGN 47,693. Computers and hardware were acquired for the amount of BGN 12,532, other equipment, machines and facilities of BGN 29,314, as well as intangible assets of BGN 5,847.

The Ombudsman institution is implementing the project “Electronic work management system for the administration of the Ombudsman” under Priority Axis No. 2 Effective and Professional Management in Partnership with the Civil Society and Businesses” under Operational Programme Good Governance, No. 03-01/18.02.2019 pursuant to Administrative Contract No. BG05SFOP001-2.001-0011-C01 for a financial grant. The deadline of the contract is 31 December 2019. The duration was extended until 28 February 2022 and the final completion date is due to be changed.

In performance of the contract, expenses in the amount of BGN 29,861 were reported in 2021. A verification request was submitted to the Managing Authority for the amount of BGN 7,942. The verification was confirmed in full. The next one is expected in the near future.

## 2. PRIORITIES IN 2022

A **lead priority** for the Ombudsman institution in 2022 is **the effective protection of the citizens' rights in the conditions of newly emerging crises** with a focus on:

- Rights of consumers in their relations with monopolies;
- Citizens' rights in their relations with private entities in conditions of over-indebtedness;
- Rights of victims of domestic violence;
- Children's rights in their relations with the judiciary and the introduction of modern juvenile justice;

### **Specific priorities by categories of rights in 2022**

- Advocacy for the rights of vulnerable groups regarding access to quality social services;
- Ensuring the right of citizens to access to healthcare in compliance with the principles of timeliness, sufficiency and quality;
- Effective protection of the pension and social security rights of the Bulgarian citizens;
- Access of persons with disabilities to healthcare, including implementation of the reform in providing and financing medical items and auxiliary means for persons with disabilities;
- Support to young people leaving residential and foster care;
- Support for the rights of inactive persons to have access to the labour market and to ensure safe return to work after the effects of the pandemic have been overcome;
- Overcoming systemic problems with address registration of citizens and registration of registered offices of companies;
- Advocacy for the implementation of a systematic approach and addressing the problems with road infrastructure;
- Access of citizens to integrated administrative services and e-services;
- Spatial protection of the living environment in settlements;
- Overcoming systemic problems related to spatial planning;
- Overcoming the status quo in land relations of inequality between small and medium-sized owners and farmers and finalisation of restitution.