

SUMMARY  
OF  
THE OMBUDSMAN'S  
ANNUAL REPORT  
2022

RIGHT TO  
HEALTHCARE

SOCIAL RIGHTS

CONSUMER  
RIGHTS

CHILDREN'S  
RIGHTS

RIGHTS OF PEOPLE  
WITH DISABILITIES

RIGHT TO  
EDUCATION

RIGHT TO  
HEALTHY AND  
FAVOURABLE  
ENVIRONMENT

RIGHT TO GOOD  
GOVERNANCE AND  
GOOD  
ADMINISTRATION

RIGHT TO PROPERTY  
AND ECONOMIC  
FREEDOM

PROTECTION AGAINST  
DISCRIMINATION AND  
HATE SPEECH

NATIONAL  
PREVENTIVE  
MECHANISM

SUPPORT TO  
REFUGES  
AND  
MIGRANTS

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## INTRODUCTORY WORDS



### **“The curse of living in interesting times...”**

*“I do not know whether 25 centuries ago Confucius used the word “interesting” as an euphemism for difficult and complicated times, but if that is what he meant, then 2022 is definitely a very, very interesting year. This is confirmed by the fact that more than 15,000 complaints were received by the Ombudsman – an absolute record in the institution’s 17-year history. Unfortunately, a sad record, clearly showing that people are finding it increasingly difficult to meet even their most basic needs for food, medicines, and pay their bills for electricity, water, heating. And secondly, that the Ombudsman is the institution that has long been not just a mailbox for alerts, but has gained authority and trust, recognized by citizens as a defender of their rights. Against this background, we are also going through a huge test globally – with the violation of international law of the war in Ukraine, with the earthquakes in Turkey and Albania, with the difficulties facing the world economies after the pandemic, with the energy crisis and rising prices. In our country, however, these developments have extremely unfavourable effects, because high inflation, the ugly speculation on the market, the jump in prices of basic food products from the so-called small consumer basket – the overall increase in the cost of living makes it difficult for all people, but it is especially hard for the most vulnerable groups of citizens. For some of them, it is literally a matter of survival. Such “interesting” times require swift, bold, adequate and timely decisions from the Ombudsman, as well as sensitivity, vigilance, but also firmness before the public and municipal authorities in defending the rights and interests of the people. And when we are in a situation of continuous elections and two short-lived national assemblies in a row, three governments – two caretaker ones and one regular, it becomes even more interesting... Therefore it is necessary to use and apply measures and means that are not typical for the institution of the Ombudsman, so that citizens receive real support. Such a tool is the indirect legislative initiative, employed by the institution on a full scale. If 2021 is the year of respected constitutional complaints – a tool used by the Ombudsman to protect hundreds of thousands of citizens from administrative arbitrariness and harassment, then 2022 is the year in which the Parliament adopted a number of important laws prepared and introduced by the institution of the national public defender. Initiated were two legislative amendments related to addressing the problem with the expired medical expert commission’s decisions, whereby nearly 700,000 people with disabilities were left on the brink of survival. The amendments proposed by the Ombudsman were accepted with absolute unanimity by the Members of Parliament of the 47th and 48th National Assembly. Another important legislative proposal of the Ombudsman is related to the support of families with children and children with*

*disabilities. With the change in the Personal Income Tax Act, the non-sequestrability of the amounts that employers reimburse to workers and employees who have used tax benefits for children has been introduced. Again, following a legislative initiative by the Ombudsman, supported by full unanimity, an absolute injustice was eliminated – the charging of a compensatory fee of BGN 70 or a fine in the amount of BGN 300 for a wrong vignette. In addition, notification of cumulative fines by the Road Infrastructure Agency is now done within 3 working days. Another important legislative amendment proposed by the Ombudsman, which was again unanimously adopted by Parliament, is the ban on the supply, sale, including online, and use of laughing gas by minors.*

*Meanwhile, the Ombudsman's fight against monopolies was a major success – on a signal and insistence of the national public defender to the Minister of Finance, 201,222 households received in refund BGN 3 million for overpaid VAT. Following several proposals by the Ombudsman to reduce the energy VAT rate, such an amendment was adopted for the supply of central heating and natural gas. The “interesting” time of 2022 unfortunately reached its peak with the outbreak of the war between Russia and Ukraine. Just as the world began to breathe after COVID-19 and this plague of the 21st century, which claimed millions of lives, began to subside, an even more monstrous evil struck us – the war that we thought was history. The Ombudsman's team responded immediately. Building on the experience gained as a human rights institution in the context of COVID-19, the national public defender set up a 24-hour hotline for contact with experts to provide timely and up-to-date information on the rights of Ukrainian citizens on Bulgarian territory and to obtain temporary protection. An inter-institutional organisation was created on the initiative of the Ombudsman for redirecting confiscated non-excite goods worth BGN 400 000 to help the refugees from Ukraine.*

*Unfortunately, the year 2022 will be another year in which there was no time and, above all, no desire from Parliament to take steps to address three major problems: the adoption of the Bankruptcy of Individuals Act, or the so-called “personal bankruptcy” law, the regulation of collection firms activities and the amendments to the Domestic Violence Act.*

*One thing is certain – that these topics will continue to be in the focus of the Ombudsman in 2023 as well, because they affect large groups of people, because Bulgaria is the only country that does not have specific legislation regulating personal bankruptcy and ranks first in terms of bad loans in Europe. Because the 50 women killed in the conditions of domestic violence in the last two years proved to be an insufficient argument for adopting changes to ensure adequate protection of victims. I have no doubt that these laws will be passed, such is the logic, such is the time, which no longer tolerates compromises with the rights and destiny of people. What is certain is that I, as Ombudsman, will continue to treat every complaint and every problem with care because it is their life for the persons who referred it to me.*

*So, yes, we live in interesting times, but it is up to us whether they are a curse or a blessing!”*



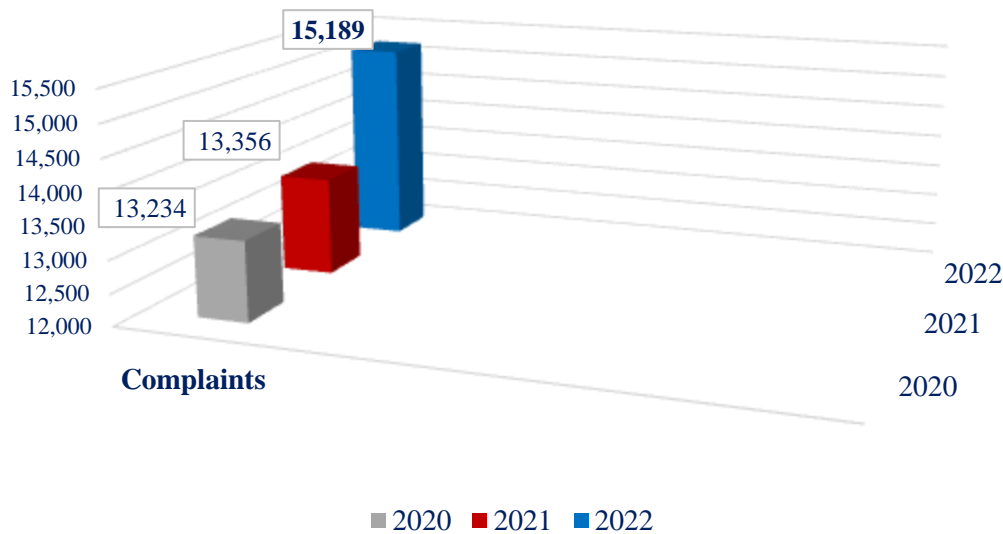
**PROF. DIANA KOVACHEVA, Ph.D.**  
**OMBUDSMAN OF THE REPUBLIC OF BULGARIA**

## ACTIONS AND RESULTS

### The Ombudsman in defence of citizens' rights in 2022

A total of **74,383** citizens and representatives of various organisations received assistance from the Ombudsman, of which:

- ✓ Complaints submitted to the Ombudsman were **15,189**;
- ✓ **25,523** persons were received by the Ombudsman or by the Deputy Ombudsman, or were provided with services at the reception-room;
- ✓ The number of citizens who sought the Ombudsman's assistance and whose requests concerning various issues were subsequently consolidated into petitions was **31,900**.



2020	2021	2022	
13,244	13,536	15,189	<b>1. Complaints submitted to the Ombudsman</b> <i>Of those with the largest share in 2022:</i>
3,390	3,992	4,240 27.9%	<i>Complaints from consumers and users of public services (Water supply, Electricity, Heating, Gas supply, Communication services, Financial services, Debt Collection companies. etc.)</i>
3,150	2,894	2,975 19.6%	<i>Complaints regarding violated social rights (labour, pension, healthcare, education)</i>
1,449	1,482	1,875 12.4%	<i>Complaints regarding property rights and economic freedom</i>
832	806	1,592 10.5%	<i>NPM and fundamental human rights and freedoms</i>

2020	2021	2022	
13,794	14,727	14,965	<b>2. Number of completed inquiries in response to citizens' complaints</b>
			<i>Of those closed with:</i>
2,534	2,855	3,196	<i>Recommendation</i>
8,668	9,520	9,837	<i>Opinion</i>
1,491	1,229	804	<i>Advice</i>
566	440	414	<i>Mediation</i>
535	683	714	<i>Complaints outside the Ombudsman's remit</i>

### Support of citizens's causes

In 2022, the Ombudsman institution focused on three new campaigns in support of the rights of vulnerable groups of citizens:

- 1 • Campaign for adoption of legislative measures to defend the rights of people with disabilities
- 2 • Campaign for support of migrants and refugees
- 3 • Campaign for adoption of legislative measures for protection against domestic violence

### Impact on the regulatory framework

In 2022, 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.

2020	2021	2022	
1	5	4	Referrals to the Constitutional Court
4	5	5	Legislative initiatives
17	21	27	Opinions to legislative draft proposals

## Referrals to the Constitutional Court

In 2022, the Ombudsman of the Republic of Bulgaria made four requests to the Constitutional Court (CC) to establish the unconstitutionality of a law in connection with the violation of civil rights. At the time of completion of the preparation of the Ombudsman Annual Report for 2022, the Constitutional Court has issued a decision to declare the unconstitutionality of legislative provisions on one of these requests, rejected one request, set aside one request due to cancellation of the appealed texts and ruled on the admissibility of the fourth claim.

By Decision No.14 of 17 November 2022, the Constitutional Court declared unconstitutional the provision of Article 158, paragraph 5, third sentence of the Health Act (promulgated in SG No.70 of 2004, last amended and supplemented No.62 of 2022), which was contested by the Ombudsman. In the grounds for issuing the decision, the CC accepted the Ombudsman's arguments that the inability to be physically present in the courtroom prevents the person whose compulsory treatment is sought from fully enjoying all the opportunities of participation afforded to him/her by law as a party to the proceedings, relating to access to and acquaintance with evidence, the possibility of making requests for evidence, expressing an opinion on the subject-matter of the case, direct contact with his/her counsel, etc. His/her vulnerable mental and physical state constitutes an additional obstacle to full participation in this way via video conference, insofar as it may hinder his/her ability to perceive the facts of the objective reality related to the trial.

## Legislative Proposals

**In 2022, the Parliament adopted several legislative amendments proposed by the Ombudsman:**

- ✓ **Rights of disabled people** - 2 legislative changes to address the problem of outdated Experts medical decisions adopted by absolute unanimity by the deputies of the 47th and 48th National Assembly - almost 700,000 disabled people were left on the brink of survival:
  1. **Extension of the term of validity of medical expert decisions after cancellation of the emergency anti-epidemic situation** – new provisions retroactively extended the validity of expert decisions that expired from 13 March 2020 to 30 June 2022. Based on law amendments, citizens got the opportunity to receive the support to which they are entitled as people with disabilities for the entire emergency period;
  2. **Extending the term of validity of medical expert decisions in case of delayed medical examination** - Changes in the People with Disabilities Act and the Health Act addressed the most serious problems of people with disabilities related to their delayed re-certification by medical expert examination bodies, and impossibility to exercise their rights though no fault of theirs + proposal to remove the discrimination against pensions of military invalids.
- ✓ **Children's rights** – 2 legislative proposals to address:
  1. **Children's right to welfare** - legislative change of the Personal Income Tax Act, aimed at introducing the non-sequestration of the amounts that employers reimburse to employees who have used tax benefits for children or for children with disabilities;
  2. **Children's right to safe environment** - Amending the Child Protection Act banning the supply, sale, including online, and use by children of laughing gas – Article 5b, new paragraph 5.
- ✓ **Drivers' Rights** - Proposal for changes in the Roads Act and the Road Traffic Act in order to put an end to the compensatory fee and the fine for drivers who have made an

error when purchasing e-vignette and notification of accumulated fines by Road Infrastructure Agency within 3 working days.

### **Referrals to the Supreme Administrative Prosecutor's Office**

In March 2022, the Ombudsman referred to the Supreme Administrative Prosecutor's Office (SAPO) to challenge illegal texts in municipal ordinances on the determination and administration of local fees and service prices in the section “Household solid waste fees”. The concrete reason for the alert was complaints received by the institution from property owners on the territory of Vidin municipality with a complaint that the municipality refuses to accept declarations for exemption from paying a fee for the collection and removal of household waste due to non-use of the property, submitted after 31 October, with the argument that changes have been made to the regulation.

Other municipal ordinances have been identified (Nesebar, Dolna Mitropolia, Stamboliyski) as setting out a shorter deadline for submitting the declarations than those set out in the currently effective provision of Article 71, item 1 of the Local Taxes and Fees Act (LTFA). The Ombudsman also found that some municipal ordinances set conditions for the exemption from garbage collection and garbage transportation fee, e.g. Pazardzhik and Stamboliyski municipalities require submission of additional documents (certificates from the water supply and energy companies for lack of water and electricity consumption in the property); Bobov Dol municipality requires a certificate of absence of obligations to the municipality for local taxes and fees for previous years.

Based on the findings, the Ombudsman insisted that SAPO should review the legality of all municipal ordinances for determination and administration of local fees and service prices, section “Household solid waste fee”, and accordingly, in case of violations, take the necessary action. In response, the SAPO informed that as of 29 October 2022, in the course of the inspections carried out in connection with the report, it was found that 95 ordinances of municipal councils contradict the LTFA, including those indicated by the Ombudsman. In this regard, actions were taken under the legality review procedure: 15 protests were submitted to the administrative courts, and as of the indicated date, three of them were upheld at first instance.



## KEY EVENTS AND INITIATIVES IN 2022

### CAMPAIGN FOR PROTECTION OF PEOPLE WITH DISABILITIES

In 2022, the Ombudsman continued to actively defend the rights of people with disabilities – initiated were two very important legislative amendments related to addressing the problem of expired regional medical examination (RMEC) decisions, because of which nearly 700,000 people were left on the brink of survival.



*“People whose RMEC decisions expired within the period of the epidemic situation until 31 March 2022, had their decisions extended by three months. However, those which expired on 1 April, i.e. immediately after the end of the epidemic situation, were terminated immediately and the people were left with no entitlements”*

✓ After repeated actions and a submitted bill prepared by the Ombudsman even before Easter, **the Members of Parliament adopted on 1 July a decision that the RMEC decisions that expired after 1 April were to be extended by the end of the year.** This was done through changes to the Measures and Actions during the State of Emergency Act (MASEA) announced by a decision of the National Assembly (NA) on 13 March 2020 and aimed to overcome related consequences.

On 16 April, at a round table in the National Assembly, the Ombudsman raised the alarm about the problem with the expired RMEC decisions and informed the Members of Parliament about numerous complaints and reports received by the Ombudsman about the difficulties that people with disabilities had in exercising their rights after 1 April 2022, i.e. after the end of the emergency epidemic situation.

The Ombudsman recommended to the Minister of Health and the Minister of Labour and Social Policy to consider mechanisms for the provision of necessary support to citizens with disabilities whose RMEC decisions expire in the period from 1 April 2022 to 30 June 2022. Diana Kovacheva insisted that appropriate legislative amendments be adopted – for example, to include them within the scope of §20, paragraph 1 of MASEA, stipulating that for the time until a new expert decision is issued and its entry into force, the citizens can receive the social support they need in a timely manner.

✓ On 29 November, the Ombudsman **submitted to the National Assembly a new legislative proposal in the Persons with Disabilities Act (PDA) and the Health Act (HA) to tackle the most serious problems of people with disabilities related to delays in their re-certification by medical examination bodies, as well as the inability to exercise their rights through no fault of theirs.** The Ombudsman also proposed a text to remove the discrimination against the pensions of military invalids.

The proposal was accepted and submitted for consideration by the vice chair of the Social Committee Denitsa Sacheva and **on 21 December it was unanimously adopted by the members of the Committee with 17 votes “For”, and at the beginning of 2023 was finally voted in plenary hall in the last days of the 48th National Assembly.**

✓ As a result of the recommendations, the pro-active positions of the public defender and the joint work with the organisations of and for the people with disabilities, the public pressure and several protests, in the beginning of 2023 **amendments were made to the Ordinance on medical expertise, to the methodologies for determination of the percentage of permanently reduced working capacity/type and degree of disability.**

Acting as Chair of the Council for Disabled People under the PDA in 2019 - 2021, the Ombudsman had accepted the problems of disabled people with priority in her work programme.

Throughout 2022, the Ombudsman sent a number of opinions to the two ministers of health, Prof. Asena Serbezova, and the caretaker minister, Dr. Asen Medzhidiev, to the minister of labour and social policy, Georgi Gyokov and the caretaker minister of labour and social policy Lazar Lazarov, as well as to the chairs of the relevant standing parliamentary committees on social policy and health care of the 47th and 48th National Assembly. The Ombudsman alerted about the need for urgent decisions on the most urgent problems of people with disabilities, related to ensuring their treatment, medical expertise and the resulting social rights, their social assistance, assistant care, etc. She pointed out that bad policies were the major cause for the plight of the people with disabilities and that they were deprived of life-saving and life-sustaining therapies.

The Ombudsman insisted on analysis of the problems in the work of RMECs/NMEC, warned of the need for urgent measures to speed up medical expertise throughout the country and to prevent interruptions that violate the social rights of people with disabilities. She emphasized that disabled people encountered difficulties in using medical devices, aids and equipment they needed and that their limit amounts had not been updated for more than 10 years.

✓ Following two strong recommendations of the Ombudsman, **actions were taken to update the lists of medical devices, aids, equipment and their limit amounts, as well as to include representatives of people with disabilities in the working groups for their discussion.**

✓ On 15 December **another important legislative proposal of the Ombudsman for support of families with children with disabilities was adopted.**

In November, Prof. Kovacheva sent to the Budget and Finance Parliamentary Committee a proposal for a **legislative change in the provisions of Article 22c and Article 22d of the Personal Income Tax Act, insisting on the introduction of non-sequestration of the amounts that employers reimburse to workers and employees who have used tax benefits for children or for children with disabilities.**

**MP Alexander Ivanov from GERB and his colleagues acknowledged and submitted the legislative proposal for consideration in the Budget Committee and it was then adopted by Parliament. Thus the money goes to cover the needs of the children, not the debts of the parents.**

## CAMPAIGN TO SUPPORT UA REFUGEES FROM THE WAR IN UKRAINE

The military actions of the Russian Federation in Ukraine in early 2022 put to the test global peace and security and the readiness of national systems in democratic societies to meet the challenge of providing protection and integration of hundreds of thousands of refugees from conflict zones.

In 2022, the Ombudsman, in her capacity as National Preventive Mechanism (NPM), extended the scope of her inspections with a new field of monitoring: the rights of persons granted temporary protection on the territory of the country.

The Ombudsman institution was among the first to design a mechanism for information provision and support to refugees from Ukraine in the early hours of the conflict. Using the experience gained as a national human rights institution in the conditions of the COVID epidemic, the Ombudsman **organised a direct 24-hour telephone hotline for refugees to contact the institution's experts and receive timely and up-to-date information on the rights of Ukrainian citizens** regarding their stay in the Republic of Bulgaria and obtaining temporary protection.



*“On 4 March, I opened a hotline for legal aid for the victims of the military conflict. I receive about 30 calls a day, on the basis of which I sent a recommendation to the Bulgarian government to carry out a broad information campaign for those fleeing the war zone already at the border checkpoints – on how they can apply and receive a temporary refugee status.”*

On 12 April, during an online meeting of the ombudsmen organised by the European Network of National Human Rights Institutions (ENNHRI), Prof. Diana Kovacheva made a statement about the refugee crisis caused by the war in Ukraine. The ombudsmen of Ukraine, Lyudmila Denisova, and of the Russian Federation, Tatiana Moskalkova, also participated in the meeting.

In 2022, the Ombudsman, acting as the NPM, carried out extraordinary inspections in the municipalities of Russe, Varna and Burgas and in the regional administrations of these cities, at the Danube Bridge checkpoint and Durankulak checkpoint, after which special reports were prepared with findings and recommendations to the responsible institutions.

On the initiative of the Ombudsman, **refugees from Ukraine were helped with confiscated non-excise goods worth over BGN 394 000**. The aid was provided to the Bulgarian Red Cross after organisation was established with the Ministry of Finance and the Customs Agency.

The goods were seized in favour of the State by customs officials, including **baby, children's, women's and men's clothes, shoes, bed linen, towels** and other essential items. As a result of cooperation between the institutions, they were distributed and provided to the persons who sought temporary protection in our country.



Visit of the Ombudsman to a volunteer centre for temporary accommodation of Ukrainian citizens in Mladost district, Sofia.



*“The lack of information on where and when Ukrainian citizens will be accommodated is a key problem that puts people under pressure and uncertainty,”* the Ombudsman wrote in her report after a surprise inspection on 1 and 2 June in the two buffer centers for distribution of Ukrainian citizens with temporary status shelter in Elhovo and Sarafovo. There, the team found that the preparations for receiving people started late, which put pressure on the authorised institutions to organise the process of accommodation and, subsequently, transportation to the state bases designated for reception of citizens seeking temporary protection.



✓ Inspection on 27 June of the conditions for Ukrainian citizens with temporary protection status, accommodated in **SOS Children’s Villages in the village of Dren, Pernik region**, where 81 Ukrainian citizens are accommodated, 44 of whom are children.



## CAMPAIGN FOR THE ADOPTION OF THE PROTECTION AGAINST DOMESTIC VIOLENCE ACT

In 2022, the efforts of the Ombudsman Diana Kovacheva continued to be focused on adopting the necessary amendments in the Protection against Domestic Violence Act (PDVA) aiming at the provision of more effective support to victims. In Bulgaria, this problem has been systematic for years, but deteriorated especially during the pandemic – according to various sources in the lack of official statistics, in a time period of 18 months about 60 women were killed, and domestic violence does not only affect women, but also men, disabled, elderly parents, children, anyone who finds themselves locked up with an abuser at home.

Meeting of the Ombudsman Diana Kovacheva with the Minister of Justice Nadezhda Yordanova on 11 January to discuss the need for urgent legislative changes in the Criminal Code and the PDVA to ensure more effective protection of victims.



Prof. Kovacheva emphasized that in 2020 the Ministry of Justice prepared a draft for amendment of the PDVA, which was not submitted for consideration in the 44th National Assembly and is pending approval of the Ministry of Justice.

A week later, on 17 January, the Ombudsman insisted on the **immediate submission to the National Assembly of the finalised draft of the PDVA. This took place at a meeting organised by the Minister of Justice, Nadezhda Yordanova**, with the institutions and non-governmental organisations that worked on its preparation.



*“Today is the United Nations International Day for the Elimination of Violence against Women. In 2019, I was the first Ombudsman in the world to be heard before the Committee on the Elimination of All Forms of Discrimination against Women in Geneva. I spoke about domestic violence in Bulgaria. I made 10 recommendations for changes in our legislation and institutional practices, but absolutely nothing followed.”* This was stated by the Ombudsman at the round table: *“Active against violence against women. Love doesn't hurt! Speak up! Help!”*, organised by the Animus Association Foundation on the occasion of 25 November.



The Ombudsman emphasised that in three years, about 60 women were murdered and this is the “official” statistics from the media, and there are many victims of violence who were not covered by these statistics. According to her, a significant percentage of the victims of violence are men, people with disabilities, elderly parents, people who are completely helpless and whose voices are not heard.

✓ *“Annually, about 380 men report domestic violence on the hotline, about 900 children, and during the pandemic these numbers jumped, which means that anyone can become a victim of domestic violence. The problem is that we can try to structure domestic violence with administrative measures, but the truth is that dissuasive penalties are needed.”* This was stated by Ombudsman Diana Kovacheva on 12 December at the Forum on Policies and Actions to Combat Violence against Women, organised by the Bulgarian Fund for Women and the Bulgarian Platform of the European Women’s Lobby, with the participation of representatives of the institutions and the non-governmental sector.

*“I am not a supporter of harsher punishments and I am far from believing that everything should be considered a crime and included in the Criminal Code, but domestic violence should be in the Criminal Code when a serious crime is committed in the context of domestic violence,”* argued the Ombudsman.



Година	Вкупно случаи	ПОСТРАДАЛИ		НАПАДНАТИ	
		ЖЕНЕ	МАЖИ	ЖЕНЕ	МАЖИ
2019	1040	477	563	408	632
2020	3957	349	3507	896	3061
2021	4244	380	3864	985	3259

✓ The Ombudsman and her team participated in all the meetings of the parliamentary committees in which domestic violence protection bills were discussed, insisted and supported the adoption of the Act, but the problem remained unresolved due to the short life of the 48th National Assembly. The fight continues!

## CAMPAIGN FOR PROTECTION OF DRIVERS WITH WRONG VIGNETTES

In early 2022, Ombudsman Diana Kovacheva took a number of steps to protect drivers who had been penalised to pay compensatory fees and fines for typing a wrong vehicle registration number when buying an e-vignette. The problem is that these drivers realized they have been repeatedly registered as offenders only when they were stopped by BG TOL teams. They are thus equated with cases where no road toll is paid at all.

✓ On 2 December, Ombudsman Diana Kovacheva tabled a legislative proposal to the 48th National Assembly for amendments to the Roads Act (RA) and the Road Traffic Act (RTA) in order to put an end to the compensatory fee of BGN 70 and the fine of BGN 300 for drivers who have failed to pay the fee and who have made an error of up to three characters in writing down their vehicle's registration number or have missed the number when purchasing e-vignette. The Ombudsman proposed that the notification of accrued compensatory fees to RIA be made within three working days.

The proposal was acknowledged by Nikolay Nankov and a group of MPs from GERB/SDS and was examined by the regional committee and adopted by the 48th National Assembly in early 2023.

✓ On 10 February, Prof. Diana Kovacheva referred the case to the Deputy Prime Minister and Minister of Regional Development and Public Works Grozdan Karadzhev, because the institution received many complaints.

The Ombudsman insisted before Minister Karadzhev that the illegal practice of collecting compensatory fees be stopped, and that the offenders be notified in a timely manner of the fines imposed on them.



On 28 March, the Ombudsman had a meeting at the Ministry of Regional Development and Public Works with Minister Karadzhev on the problems with vignettes and toll fees.

✓ Throughout the year, at the meetings of the parliamentary committees in two consecutive parliaments, the Ombudsman raised the alarm about the problem with the presentation of the institution's annual reports.

✓ On 14 June, Prof. Kovacheva submitted to the regional commission of the 47th National Assembly a legislative proposal with specific texts, along with attached reasons and an impact assessment, which was recognized by the chairman Nastimir Ananiev and a group of MPs from the ruling We Continue the Change political party.

## CAMPAIGNS IN SUPPORT OF THE CHILDREN’S RIGHTS AND THEIR BEST INTEREST



### Campaign against the use of “laughing gas” by minors

✓ On 26 July, Prof. Kovacheva submitted a proposal to the National Assembly for amending the Child Protection Act, insisting on a ban of the supply, sale, including online, and the use by children of laughing gas – Article 5b, new paragraph 5.

Prof. Kovacheva submitted a proposal, which was adopted and supplemented by MPs from GERB PP, including Desislava Atanasova, Radomir Cholakov, Denitsa Sacheva, Kostadin Angelov. The proposal was adopted on 28 July 2022 by the health committee of the 47th National Assembly.

✓ On 29 July, the Ombudsman’s proposal to ban the sale of laughing gas, including online, to minors, was unanimously accepted by the MPs.

The adoption of the legislative change comes after the Ombudsman Diana Kovacheva, on 25 July, submitted to the resigning Minister of Health Prof. Asena Serbezova, the Chair of the Health Committee of the National Assembly Ass. Prof. Anton Tonev and the Chair of the Consumer Protection Committee Ivan Frankev numerous complaints from parents and civil society organisations reporting on the widespread distribution and use by minors of nitrous oxide, known as “laughing gas”.

### Public discussion on “Mental Health at School – Necessary Measures”

Introduction of a specialised module in the teacher’s class for discussion with students of the topics of aggression and bullying at school – this is one of the recommendations of Ombudsman Diana Kovacheva, announced at a “Mental Health at School – Necessary Measures” public discussion initiated by her on 8 February 2022.



*“We need to stop using this class hour as a time to discuss only absences, fees, and general organisational issues. This hour could be the space where children and teenagers can share their opinions, problems or comment on what is happening in their lives,”* the Ombudsman said at the forum.



## “With Care from 0 to 3” Forum

On 14 July, Ombudsman Diana Kovacheva organised together with the “Trust for Social Alternative” Foundation the “With Care from 0 to 3” forum, dedicated to the problems with children’s and maternal health, with a focus on vulnerable groups and the right of every child to development.



*“Any moment is convenient to talk about problems that have long remained unresolved and continue to be painful for the whole society.”*

The focus of the discussion was on five key topics – access of uninsured pregnant women to regular medical examination; encouraging the parental care towards breastfeeding (feeding) the child; services for building parental skills to support early learning of the

child and the provision of medicines for timely treatment of children under the age of 3, as well as the problems related to the lack of personal documents for nearly 150,000 people, were debated by the forum participants more than three hours.

## “The Child between Labour Migration, Institutional Standards and Extended Family” public discussion

*“Every fourth child in Bulgaria is abandoned by their parents, or somewhere about 20-25% of the children in our country are practically without one or both of their parents who work abroad. In the Roma community, the percentage reaches 40%. These are children who are left in the care of their grandparents, their extended family. And when I say that one in four children is a Viber-child who only communicates with their parents via Viber, I’m actually quoting an old statistics, because the truth is that today we don’t know how many children are actually victims of this problem.”*



This was stated by the Ombudsman on 12 December 2022 in Serdika hall of Sofia Hotel Balkan at the opening of the public discussion: “The child between labour migration, institutional standards and extended family”, **organised jointly with the ROMACT Programme of the EC and the Council of Europe.**

The purpose of the forum was to raise public and institutional awareness and sensitivity to the vulnerability of children of labour migrants, especially children left behind in poor and

marginalised communities, by parents who have gone to work abroad. The aim was to identify the needs of children and their extended families, as well as the need for integrated support and attention.



## CAMPAIGN IN PROTECTION OF CONSUMER RIGHTS

### Protection of citizens as consumers of public services

**The year 2022 was a year of extreme energy price increases.**

The Ombudsman systematically and reasonably objected to the significant increases in electricity and heat prices requested by the energy companies during the 2022-2023 regulatory period.



The Ombudsman urged the executive to renegotiate the commitments made in the National Recovery and Resilience Plan (NRRP), and to postpone the liberalisation of the electricity market for households after 31 December 2025. It is satisfactory that on 8 November 2022, the 48th National Assembly voted a decision to postpone the liberalisation of the electricity market for household customers by 3 years – after 31 December 2025.

After several proposals by the Ombudsman for **reducing the VAT tax rate for energy, such an amendment to the VAT Act was adopted and entered into force on 9 July 2022** for the supply of district heating and natural gas.

On a signal from the Ombudsman, **“Toplofikatsia Sofia” EAD reimbursed 201,222 households a total of BGN 3.025 million for incorrectly charged VAT amounts.**

The Ombudsman insisted before the legislative and executive authorities for a **priority solution of the problems with energy poverty in Bulgaria**, and above all to develop a definition and criteria for determining citizens in a situation of energy poverty.

On 23 September 2022, the Ombudsman referred the Commission on Protection of Competition to carry out a sector analysis to examine the competitive environment in the

markets for production and sale of solid fuels, as well as the reasons that led to the increase in retail prices.

On 26 September, the Ombudsman addressed the caretaker minister of economy and industry, insisting that inspections be carried out on the markets for speculation with the prices of solid fuels: firewood, pellets and coal for domestic needs.

The reason behind this were dozens of complaints and alerts from citizens who approached the institution of the public defender because of the unprecedented price increases in the sector and the shortage of individual solid fuels for household needs in different regions of the country.

Throughout 2022, the Ombudsman defended the rights and economic interests of citizens by participating in all online public discussions of the Energy and Water Regulatory Commission (EWRC) on the prices of water supply and sewage services for the new 2022-2026 regulatory period. She supported the fair demands of citizens for economically justified prices that meet the quality of the services provided. She also insisted on the preparation of a new law on water supply, which should also provide for water aid to poor people.

### Campaigns for adoption of “Personal Bankruptcy” Act and for protection against collection agencies and private enforcement agents

In early 2022, the institution of the Ombudsman took action in connection with the need for legislative regulation of the activities of so-called collectors or the companies that carry out debt collection activities. Prof. Kovacheva sent a letter to the Deputy Prime Minister and Minister of Economy and Industry, emphasising the need for urgent adoption of legislative measures to provide additional protection to citizens and control in the exercise of activities for transfer of receivables and their out-of-court collection. Specific measures were proposed to be enshrined in a bill.



On 8 February, the Ombudsman had a meeting with the Deputy Prime Minister and Minister of Economy and Industry Kornelia Ninova to discuss issues relating to the preparation of the bill on collection firms.

After publication of the draft Collection of Receivables under Consumer Contracts Act (so-called Collection Act) for

public consultation, on 17 February the Ombudsman sent an opinion to minister Ninova with specific proposals and recommendations.

*“I believe that it is of the utmost importance to put a clear and definitive end to all unscrupulous practices that have been used up until now to pressure and force people to pay, regardless of their personal, family or health status, overdue debts through a law, with methods on the edge of the law and with reference to unclearly how manifold higher debts,”* stated Prof. Kovacheva.

The Ombudsman also sent an opinion to the Committee on Legal Affairs on an already submitted bill, participating herself in its discussion at a meeting of the parliamentary committee in the 47th National Assembly.

In January, the Ombudsman sent a **recommendation** to the Chairman of the 47th National Assembly and the MPs from the parliamentary committees on labour and social policy and on budget and finance for an explicit norm by which the **COVID supplements,**

**paid as an anti-crisis measure to pensions, to become non-sequestrable in the event of imposed garnishments. As a result, a provision has been adopted that no enforcement action will be taken in respect of the above-mentioned funds.**

At the end of the year, the Ombudsman proposed to the MPs to adopt **changes in the provisions of Article 22c and Article 22d of the Personal Income Taxes Act by introducing non-sequestration of the amounts that the National Revenue Agency reimburses through employers to workers and employees who have used tax benefits for children or for children with disabilities.**

The adoption of this legislative proposal **provided real support for the upbringing of children and children with disabilities by parents in an employment relationship, with the funds being directed specifically at meeting the needs of the children rather than their parents' obligations.** This problem was noted in the 2021 report. The proposal was adopted and the amendments to the law were published in the State Gazette.

In 2022, a **draft Bankruptcy of Individuals Act, or the so-called “personal bankruptcy” law** was submitted to the National Assembly. The institution of the Ombudsman has consistently expressed its support for the adoption of such a law, noting the increasingly alarming trend of increased cases of citizens falling into a permanent state of inability to pay their debts, in order to be given a “second chance“.

In a statement to the parliamentary committees to which the draft law was submitted, the Ombudsman expressed her support, given the hundreds of complaints to the Ombudsman about the need to adopt such a law and in view of its importance for the fulfillment of the country's commitments under the NRRP. It was noted, however, that the law needed to be fine-tuned to offer a solution to the problem of “perpetual debtors” by providing bankrupt citizens with vital survival and future financial stabilisation while ensuring fair satisfaction of creditors.

It was also emphasized that Bulgaria was the only European country that did not adopt and put into force such a law, although it ranked on the top places of bad debt in Europe.

## OTHER CAMPAIGNS IN SUPPORT OF CITIZENS

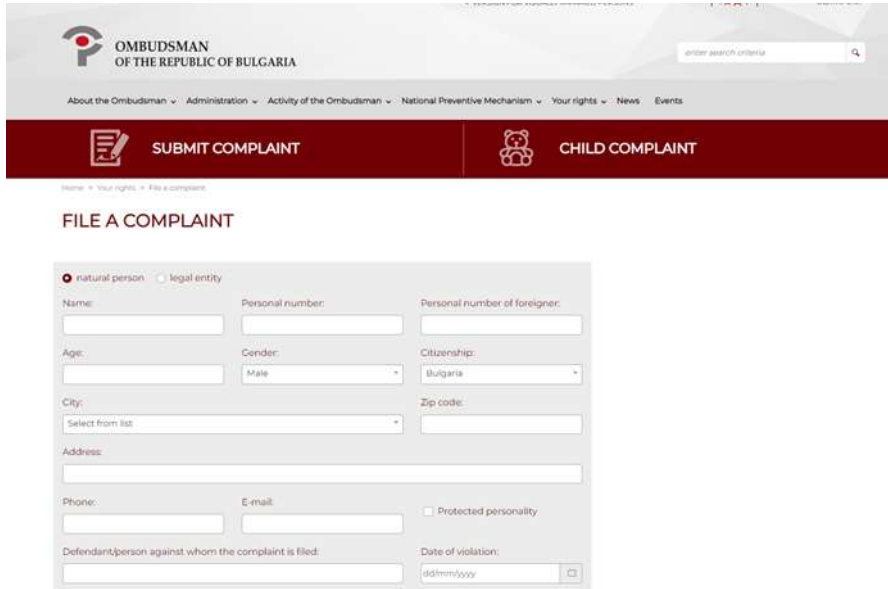
### **New electronic system of the institution for faster access by citizens**

**A new electronic system, which became operational at the beginning of August 2022,** provides citizens with faster access and more efficient submission of complaints and reports to the Ombudsman's institution, as well as information on their movement and processing.

With the mobile application “Submit Complaint” online, the institution ensures faster, more efficient and more accessible services to people. On the new internet portal (page), even children will be able to easily find their way with the “Child Complaint” button, to submit their report if they feel threatened or their rights have been violated.

The new service was developed under the **“Electronic work management system for the administration of the Ombudsman” project,** financed with European funds under the Operational Programme “Good Governance” 2014-2020 and co-financed by the EU through the European Social Fund.

The system provides a number of activities that modernise the work of the Ombudsman's administration and facilitate access for citizens by digitising the process of submitting and handling their alerts to the national public defender. In this way, communication with public administration is accelerated and document circulation is completely digitised. The experts receive the alert in real time and can promptly start an inquiry on the specific case.



The screenshot shows the website of the Ombudsman of the Republic of Bulgaria. At the top, there is a navigation menu with links for 'About the Ombudsman', 'Administration', 'Activity of the Ombudsman', 'National Preventive Mechanism', 'Your rights', 'News', and 'Events'. Below the menu are two main buttons: 'SUBMIT COMPLAINT' and 'CHILD COMPLAINT'. The 'FILE A COMPLAINT' form is displayed below, with a header 'FILE A COMPLAINT'. The form includes a radio button to select between 'natural person' (selected) and 'legal entity'. It contains several input fields: Name, Personal number, Personal number of foreigner, Age, Gender (dropdown menu), Citizenship (dropdown menu), City (dropdown menu), Zip code, Address, Phone, E-mail, and a checkbox for 'Protected personality'. There are also fields for 'Defendant, person against whom the complaint is filed' and 'Date of violation' (calendar icon).

In August and in the beginning of September, teams of the Ombudsman organised a series of informational meetings with citizens and civil organisations in which they presented the possibilities and advantages of the new electronic system. Organised meetings were held in 10 regional cities: Targovishte, Razgrad, Silistra, Shumen, Vidin, Vratsa, Stara Zagora, Sliven, Smolyan and Plovdiv.

### **The Ombudsman initiated an expert inspection of the villages affected by the flood in the area of Karlovo**

On 14 and 15 September, the Ombudsman initiated an urgent expert inspection in the villages near the town of Karlovo, which were most affected by the flood: Karavelovo, Bogdan and Slatina. Conversations were held on the spot and concrete complaints and signals were received from the homeless people, with destroyed belongings, drowned pets and broken infrastructure.

On 21 September, Prof. Kovacheva sent a recommendation to the Interdepartmental Commission for Recovery and Assistance to the Council of Ministers and the Mayor of the Municipality of Karlovo, Emil Kabaivanov, in which she requested a check on the specific questions received in the complaints from the injured people after the flood on 2 September 2022.



*Experts of the Ombudsman participated in the recovery of the affected areas.*

## CHAPTER ONE – THE OMBUDSMAN IN DEFENCE OF CITIZENS’ RIGHTS

### I. THE OMBUDSMAN’S RECEPTION-ROOM

The permanent Reception-room is the place where experts from the institution receive citizens and representatives of organisations. Here, consultations are provided in real time in relation to questions raised, citizens are informed of the powers of the public defender and of the ways of assistance, complaints and alerts are registered, inquiries are made on already submitted complaints. The Reception-room provides an environment that ensures the right of access to all citizens, including persons with disabilities, the elderly people and mothers with children.

In the first half of 2022, the Ombudsman reception-room continued to function in compliance with the measures relating to the announced emergency epidemic situation in the country. With the lifting of the restrictive measures, the Ombudsman reception-room resumed daily reception of citizens in the institution’s offices.

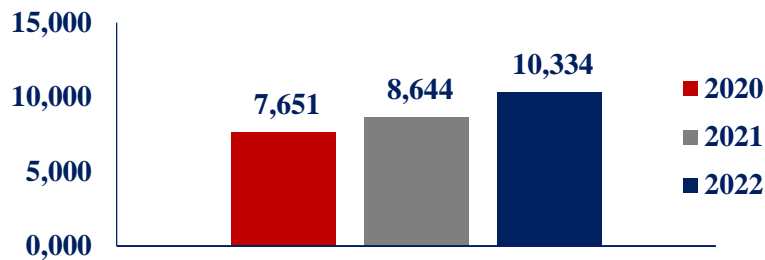
**Communication channels to make queries, receive advice, hold in-person meetings and lodge complaints:**

- in person at the reception-room;
- by mail;
- by phone;
- by fax;
- by mobile phones;
- via e-mail;
- via the Ombudsman’s website.



In 2022, the Reception-room was visited by 3,696 citizens and representatives of organisations and 6,866 calls were received at the permanent phone at the Reception-room. The total number of visits and calls at the Reception-room in 2022 stood at 10,33, which is 1,690 more in comparison to 2021 when the number of visits and calls was 8,644.

*Chart No.1. Number of visits and calls to the Ombudsman’s Reception-room in the period 2020-2022*



Source: Statistics of the Ombudsman of the Republic of Bulgaria

Again, the largest number of questions and consultations is about the possibilities of protecting rights and about the powers of individual bodies, related to the problems raised by citizens.

With effect from 1 August 2022, the institution put into operation the “Electronic System for Management of Ombudsman’s Activities”, developed in connection with the implementation of project No. BG05SFOP001-2.001-0011 “Electronic work management system for the administration of the Ombudsman”, financed under the Operational Programme “Good Governance” 2014-2020 and co-financed by the EU through the European Social Fund.

This ensures faster access for citizens and more efficient submission of complaints and alerts to the Ombudsman’s institution, as well as information on their movement and processing. In addition, with the mobile application “Submit Complaint”, the institution ensures faster, more efficient and more accessible services for people. On the new website, even children can easily click the “Child Complaint” button to report if they feel threatened or their rights are violated.

The system provides a number of features which modernise the work of the Ombudsman’s administration and facilitate access for citizens by digitising the process of submission and examination of their complaints by the national Ombudsman. This speeds up communication with the public administration and fully digitises document flow. Experts receive the alert in real time and can promptly start an investigation on the specific case.

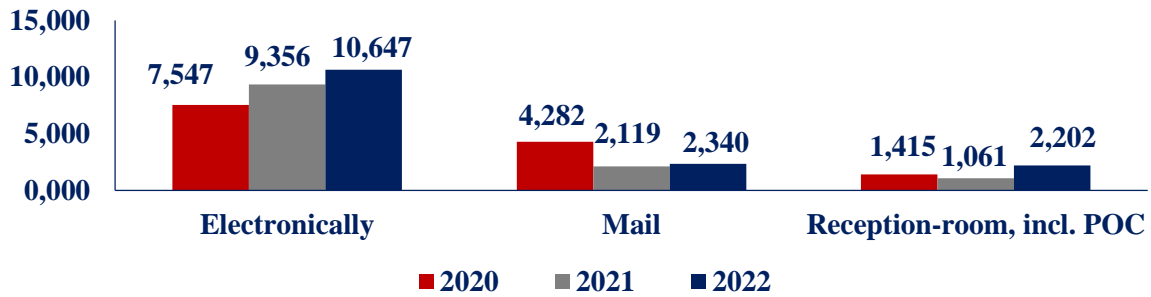
### **I.1. CHANNELS FOR SUBMITTING COMPLAINTS**

The number of complaints sent to the institution by electronic means is 10,647 (70.09%). In 2022, this channel continued to be extremely convenient and preferred by citizens and representatives of organisations.

Complaints received by mail number 2,340 and rank second, accounting for 15.41% of the total number of complaints received. The number of complaints registered at the Ombudsman Reception-room was 2,042 (13.44%).

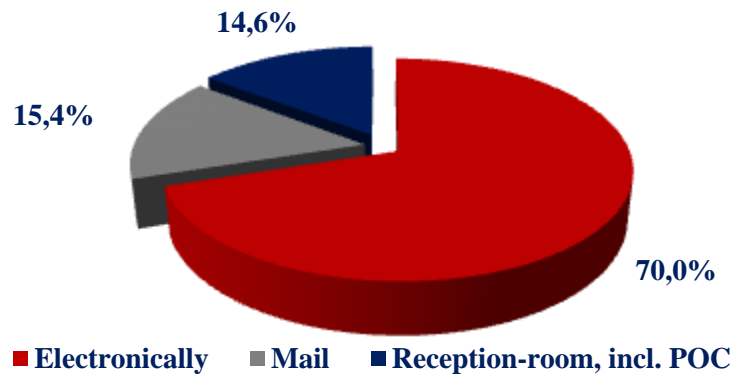
The number of complaints lodged under Article 25 of the Ombudsman Act is 160, which is 1.05% of the total number. This includes cases where, in the course of the interview with the consent of the citizen, the receiving expert draws up a protocol of oral complaint (POC). The protocol describes the case, identifies the offender and the specific request of the applicant for protection of their rights and interests.

*Chart No.2. Number of complaints by channel of submission in the period 2020-2022*



Source: Statistics of the Ombudsman of the Republic of Bulgaria

**Chart No.3.** Complaints by channel of submission in 2022, %



Source: Statistics of the Ombudsman of the Republic of Bulgaria

## I.2. THE OMBUDSMAN'S RECEPTION DAYS

In 2022, the established practice of receiving citizens personally by the Ombudsman and the Deputy Ombudsman continued. During the period of validity of the orders of the Minister of Health regarding the announced epidemic state of emergency, the Ombudsman's reception days with citizens were held online, organised via Skype, Viber and by speakerphone. Online reception days were perceived by citizens as an effective way to talk to the Ombudsman, giving them opportunity to raise their concerns and get the support they need without having to put their health at risk.



**31 March** – online reception by Ombudsman Diana Kovacheva with citizens on the problems with the roses oil production.

In 2022, the Ombudsman resumed the practice of on-the-spot receptions, which enable citizens from smaller settlements to put their questions in person to the Ombudsman, Deputy Ombudsman, Secretary-General and experts of the institution. **In 2022, on-the-spot reception days were held in 14 cities and their regions:** Pernik and Radomir, Veliko Tarnovo and Pavlikeni, Targovishte, Razgrad, Silistra, Shumen, Vidin, Vratsa, Sliven, Stara Zagora, Smolyan and Plovdiv.



**27 June** – “In the last year, we received over 300 complaints from the citizens of Pernik and the region. Most often, people complain about problems related to the quality of heat supply and heat distribution, as well as water quality.” This is what the Ombudsman said at a briefing in the Regional Administration of Pernik during the presentation of summary information from the **long-distance receptions that the institution organised for citizens of Pernik and Radomir.**



### I.3. COMPLAINTS FROM CITIZENS

Complaints submitted by citizens are in a completely free wording, but it is necessary to indicate details for feedback (names, address, phone number) and to state in an understandable way the problems of the affected or violated rights.

**The number of received complaints in 2022 is 15,189, which is 11% higher than the number of complaints and alerts received in 2021: 13,536.**

*Table No.1. Complaints received in 2022 (compared to the previous two years), by type of violated rights, number and %*

Violation type	2022		2021		2020	
	Number	%	Number	%	Number	%
Consumer rights	4,240	27.92	3,992	29.50	3,390	25.60
Social rights, rights to healthcare and education	2,975	19.59	2,894	21.40	3,150	24.24
Right to property and economic freedom	1,875	12.35	1,482	10.94	1,449	10.90
NPM and fundamental human rights and freedoms	1,592	10.48	806	5.95	832	6.28
Right to good administrative services	857	5.64	988	7.29	982	7.41
Rights violated by bodies governed by private law – credit and financial institutions, private enforcement agents, etc.	740	4.87	762	5.62	812	6.13
Children’s rights	604	3.98	526	3.88	450	3.40
Other violations	624	4.11	524	3.87	518	3.49
Rights of disabled people	514	3.38	486	3.60	458	3.46
Right to clean environment	561	3.69	384	2.83	535	4.04
Request for regulatory change	266	1.75	161	1.18	799	6.03
Absence of specific violation	248	1.63	436	3.22	108	0.82
Request for referral to the Constitutional Court	69	0.45	68	0.53	83	0.63
Discrimination	17	0.11	17	0.12	11	0.08

Request for interpretative decision	7	0.05	10	0.07	13	0.10
<b>Total:</b>	<b>15,189</b>	<b>100</b>	<b>13,536</b>	<b>100</b>	<b>13,244</b>	<b>100</b>

Source: Statistics of the Ombudsman of the Republic of Bulgaria

For a fourth consecutive year, **complaints against suppliers of public services had the greatest share among all complaints from citizens received by the Ombudsman institution.** In the context of an ongoing epidemic crisis in the country and its consequences in 2022, social rights continued to rank second among complaints filed to the Ombudsman, followed by complaints related to violated property rights and economic freedoms.

The continuously increasing trust in the institution for solving problems of high public interest and affecting a large number of citizens is clearly reflected in the increased number of citizens who united in initiative committees or other forms and submitted collective complaints accompanied by subscriptions and petitions.

The number of citizens who signed collective complaints, alerts and petitions received in 2022 is 31,900. This is 4.15% more compared to 2021, when 30,575 citizens turned to the public defender with subscriptions.

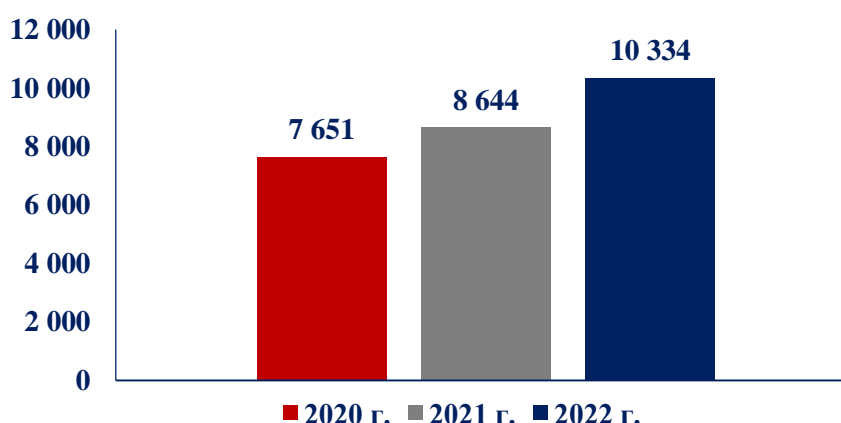
Complaints submitted by citizens are in a completely free wording, but it is necessary to indicate details for feedback (name, address, phone number) and to state in an understandable way the problems of the affected or violated rights. During the reporting period, the share of complaints in which the place of residence is not indicated remained the highest: 8,875 (58.43%). The reason for this is the possibility provided to send alerts electronically, where it is not mandatory to indicate the place of residence of the complainant.

In 2022, 215 complaints were received from foreign citizens – mainly Ukrainian citizens who suffered from the military conflict in Ukraine and who turned to the Ombudsman for help and assistance to receive free legal aid and maximum human rights protection.

#### I.4. CLOSED COMPLAINTS IN 2022

Closed complaints and alerts numbered **14,965** in 2022.

*Chart No.4. Number of closed complaints in the period 2020-2022*



Source: Statistics of the Ombudsman of the Republic of Bulgaria

Of these, **13,033** were closed with recommendations and opinions issued to the institutions and organisations depending on the assistance sought or the violation committed. 1,218 complaints and alerts were closed with advice given or mediation provided.

**Table No.3. Closed complaints based on actions taken by the Ombudsman institution in 2022, number and %**

Actions taken	Number	%
<b>Complaints and alerts within the Ombudsman's remit: including:</b>	<b>14,251</b>	<b>95.22</b>
✓ Recommendation	3,196	21.36
✓ Opinion	9,837	65.73
✓ Advice	804	5.37
✓ Mediation	414	2.76
<b>Complaints and alerts outside the Ombudsman's remit</b>	<b>714</b>	<b>4.78</b>
<b>Total:</b>	<b>14,965</b>	<b>100</b>

Source: Statistics of the Ombudsman of the Republic of Bulgaria

**In 2022, the trend of a significant increase in the number of recommendations made by the Ombudsman sustained** – on average 12% compared to 2021 and 21% compared to the pre-crisis 2020.

**The same upward trend is observed in the opinions issued by the Ombudsman,** which in 2022 were on average 5% more compared to 2021 and 12% compared to 2020.

**Table No.4. Number of closed complaints in the period 2020-2022 based on the results from inspections**

Result from inspection	2020	2021	2022
<b>Admissible:</b>	<b>13,259</b>	<b>14,044</b>	<b>14,251</b>
Recommendation	2,534	2,855	3,196
Opinion	8,668	9,520	9,837
Advice	1,491	1,229	804
Mediation	566	440	414
<b>Inadmissible:</b>	<b>535</b>	<b>683</b>	<b>714</b>
<b>Total:</b>	<b>13,794</b>	<b>14,727</b>	<b>14,965</b>

Source: Statistics of the Ombudsman of the Republic of Bulgaria

Of essential importance for the impact of the Ombudsman's activity is the number of implemented recommendations as a result of inspections made on complaints and alerts from citizens.

**In 2022, a total of 2,716 recommendations of the Ombudsman were implemented (fully or partially), or over 85%.**

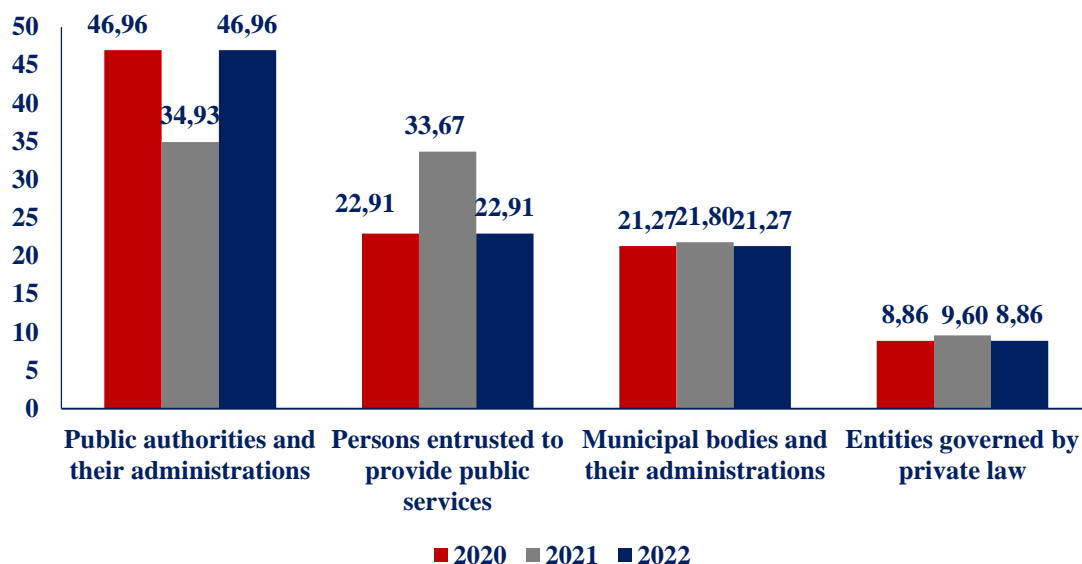
Among the offender categories in citizens' complaints, in the first place in 2022 are public bodies and their administrations (40.77%), followed by organisations entrusted to provide public services (33.10%).

**Table No.5.** Closed complaints in 2022 based on the offender stated therein, number and %

Offender	Number	%
Public authorities and their administrations	5,811	40.77
Persons entrusted to provide public services	4,717	33.10
Municipal bodies and their administrations	2,534	17.78
Bodies governed by private law	1,189	8.35
<b>Total:</b>	<b>14,251</b>	<b>100</b>

Source: Statistics of the Ombudsman of the Republic of Bulgaria

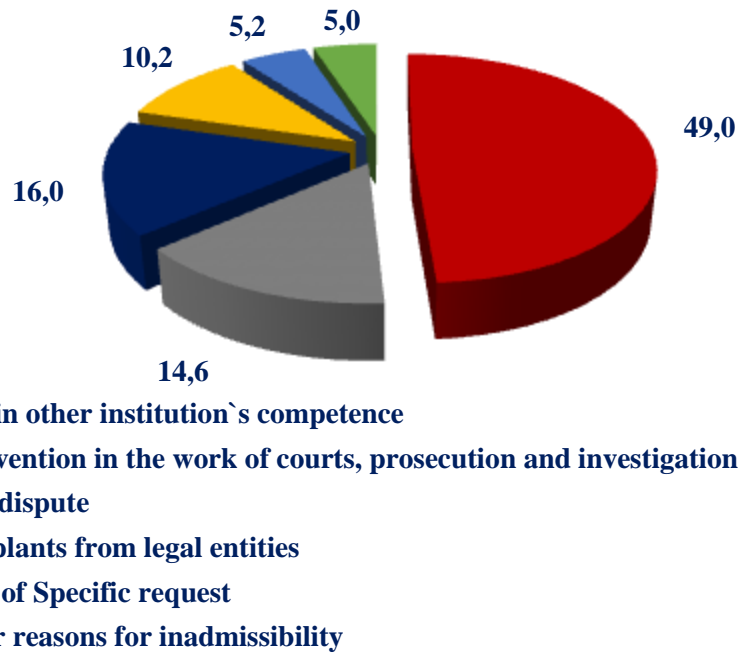
**Chart No.5.** Closed complaints based on the offender stated therein, in the period 2020-2022, %



Source: Statistics of the Ombudsman of the Republic of Bulgaria

The trends emerging in 2022 show that for a third year in a row there were high rates of complaints from citizens about violations of their rights by persons and organisations entrusted with the provision of public services. In 2022, the proportion of complaints against public authorities and their administrations as the main offender increased significantly compared to the previous year.

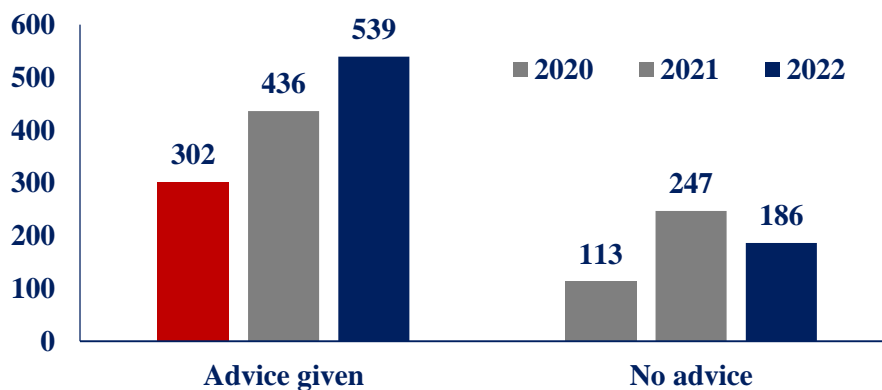
**Chart No.6.** Number of complaints not acted upon due to lack of legal basis for consideration in 2022



Source: Statistics of the Ombudsman of the Republic of Bulgaria

Regardless of the fact that in 2022 the institution of the Ombudsman received 725 complaints and alerts for which there was no legal grounds for their review, advice was given on 186 complaints, with a view to protecting the rights of citizens, accounting for 25.66% of all cases.

**Chart No.7.** Number of complaints outside the Ombudsman's remit based on the outcome of their completion in the period 2020-2022

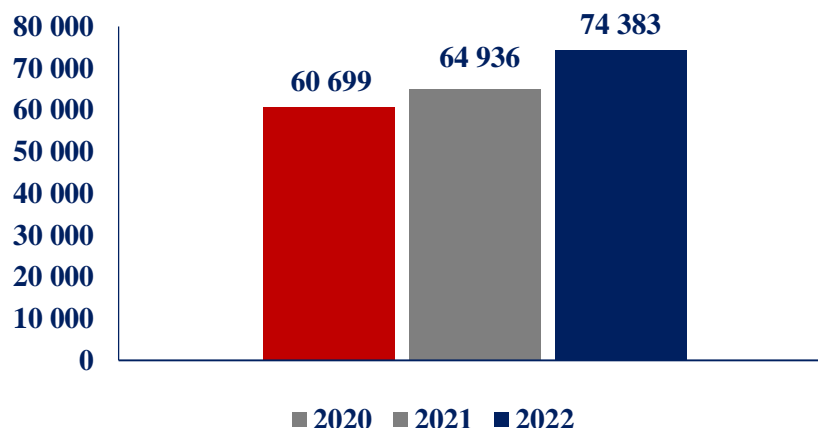


Source: Statistics of the Ombudsman of the Republic of Bulgaria

### ✓ Citizens and their organisations receiving assistance from the Ombudsman in 2022

The tendency for an increase in the number of citizens and their organisations obtaining assistance from the Ombudsman continued in 2022 as well – in the past year, the increase was by 13% in comparison to 2021 and by 19% in comparison to 2020.

*Chart No.8. Number of citizens and representatives of organisations receiving assistance from the Ombudsman in the period 2020-2022*



*Source: Statistics of the Ombudsman of the Republic of Bulgaria*

## II. RIGHTS OF PEOPLE WITH DISABILITIES

The Ombudsman's efforts and active work to protect the rights of vulnerable citizens had a particularly visible result in 2022 in the field of people with disabilities.

In the context of existing and unresolved problems, exacerbated by the adverse effects of the anti-epidemic measures and the sharp and significant price rises, the work of the institution was of particular importance in addressing the difficulties encountered by the affected persons.

In 2022, a large part of citizens' complaints found an appropriate resolution as a result of recommendations made by the Ombudsman to responsible authorities, legislative proposals drafted and defended to eliminate deficiencies in the current regulatory framework.

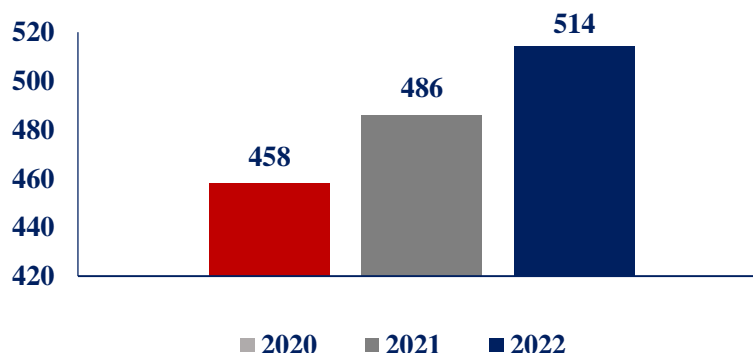
The variety of problems raised and, above all, the continuing trend of increasing complaints in this field compared to previous years are, on the one hand, citizens' appreciation of the institution's activity. On the other hand, they are an indicator of the increasingly serious criticality and sensitivity of those affected to cases of inaction to resolve existing problems.

Particularly visible in this regard is the **dissatisfaction of people with disabilities who were required to undergo examination/re-examination before medical examination bodies**. The serious delays in carrying out the assessment and leaving those in need without the support they deserve from the State for a long period of time were the reason for the submission of a significant number of complaints by those affected and their families and for the actions taken by the Ombudsman to prepare legislative proposals on §20a of the Measures and Actions during the State of Emergency Act, announced by a decision of the National Assembly of 13 March 2020 and for overcoming the consequences, and on the People with Disabilities Act (PDA) and the Health Act (HA), which were adopted by MPs.

Similar is the situation of the persons with disabilities who faced difficulties in obtaining socio-economic protection due to restrictive or unfair requirements in the existing legal framework. A step forward in the institution's ongoing fight for the rights of disabled people was **the adoption of the legislative proposal prepared by the Ombudsman for adding disabled people with defined disability rate above 90 per cent, with certain level**

of assistance, and those who receive a military disability pension in Article 70, paragraph 5 of the PDA. With the adoption of the Draft Amendments and Supplements to the People with Disabilities Act by the National Assembly (SG, No. 8 of 2023), the injustice admitted in the legal act was removed and about 150 military disabled persons are now entitled to monthly financial support in the maximum permissible amount. Also, the amended legal act entitles disabled people with defined disability rate above 90 per cent, with certain level of assistance, who receive inheritance pension or civil invalidity pension, to receive financial support in the amount referred to in Article 70, paragraph 5 of PDA.

*Chart No.9. Number of complaints received and closed and related to the rights of people with disabilities in the period 2020-2022*



*Source: Statistics of the Ombudsman of the Republic of Bulgaria*

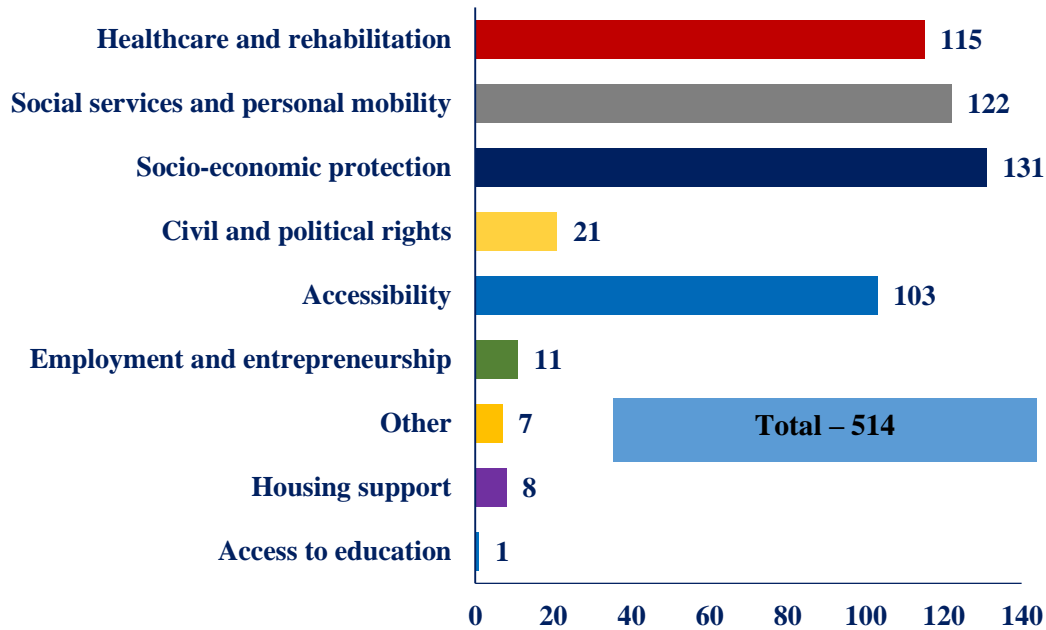
Statistics shows that over the last three years there has been a trend towards a sustained increase in the number of complaints received on the rights of persons with disabilities. In percentage terms, the increase in complaints for 2022 is as follows: an increase of 6% compared to 2021 and 12.2% compared to 2020.

Complaints received in 2022 under the type of violation “Rights of people with disabilities” numbered 514. Closed complaints in 2022 on that type of violation numbered 494.

As regards complaints in which violations were found, 133 recommendations were made and 112 opinions were submitted. Over 130 of the recommendations were fully or partially implemented. Successful mediation was carried out in 9 of the cases. Advice was given on 9 of the complaints.

As regards complaints in which no violations were found, 15 recommendations were made, which were implemented. Mediation was successful in 10 of the cases. Opinion was given on 67 complaints and advice was given on 40 of them.

*Chart No.10. Number of complaints and alerts by type of violation regarding rights of people with disabilities for 2022*



Source: Statistics of the Ombudsman of the Republic of Bulgaria

The highest number of complaints in the past year were complaints from citizens with disabilities in connection with difficulties with receiving socio-economic protection. These include cases of refusal to grant various types of financial support to people with disabilities, as well as the cumbersome procedure for paying disability pensions after examination/re-examination by the medical examination bodies.

Next in number are complaints regarding social services and personal mobility. The main complaints refer to the possibilities of using assistant support, as well as the lack of measures to update the lists of medical devices, aids and equipment.

Third in number are complaints about the deepening problems in medical expertise, which are the reason for leaving a significant number of needy people without their due support from the State for a long period of time.

## II.1.PROBLEM AREAS WHERE THE RIGHTS OF PEOPLE WITH DISABILITIES WERE VIOLATED

### *Socio-economic protection*

#### 1. Definition of right holders under Article 70 of the PDA

In the past year, the Ombudsman's efforts to resolve the problems with the unfair definition of right holders under Article 70 of the PDA continued.

It is important to note that the Ombudsman's proposal to the National Assembly of 29 November 2022 for draft amendment and supplement of the PDA included a text to resolve the long-standing problem raised by the institution of the Ombudsman regarding the amount of monthly financial support for people with disabilities, those entitled to external assistance, and people entitled to military disability pension or inheritance pension. It is positive that the bill had the support of MPs, people with disabilities and their organisations, and the final version included people with disabilities above 90 percent, entitled to assistance, and people with civil disability pension. The bill was published in SG No. 8 of 2023 and since the



beginning of 2023 these groups of citizens receive monthly financial support in the amount set out in Article 70, item 5 of the PDA.

## **2. Updating the poverty line for 2022**

In view of the complaints received, relating to the amount of monthly and targeted financial support under the PDA in the conditions of significant inflation, an opinion was sent to the caretaker Minister of Labour and Social Policy.

It was noted in the opinion that the poverty line is a lead indicator for determining the amount of monthly financial support under the PDA, and for determining those entitled to targeted financial support.

The recommendation to update the poverty line for the past year has not been implemented.

## **3. Amount of monthly allowances for children under Article 8e of the Family Allowance Act for children with permanent disabilities**

For years, the public defender has been sending recommendations to the Minister of Labour and Social Policy in connection with an absent mechanism for automatic updating of the amount of monthly allowances for children under Article 8e of the Family Allowances for Children Act. In view of the provision of Article 8e, paragraph 2 of the Family Allowances for Children Act, which does not allow the amount of the aid to be less than the amount in the previous year, the amounts of financial support for individual groups of beneficiaries have been left unchanged for 5 years in the State Budget of the Republic of Bulgaria Act.

## **4. Amount of tax relief under Article 18 of the Personal Income Tax Act**

In the past year, a significant number of complaints were received from citizens with impairments, who expressed their dissatisfaction with the failure to update the BGN 7,920 total annual tax base reduction under Article 17 of the Personal Income Tax Act for persons with 50 and over 50 per cent reduced working capacity, which amount has not been updated since 2008.

In order to guarantee the rights of those affected the Ombudsman tabled a proposal in the draft 2022 State Budget Act for amendment of Article 18 of the Personal Income Tax Act, by introducing a mechanism for updating tax reliefs for people with disabilities. The proposal was not accepted.

## **5. Contributory years of service for disability pension arising from general illness**

The Ombudsman of the Republic of Bulgaria brought to the attention of the caretaker Deputy Prime Minister for Social Policies and Minister of Labour and Social Policy a serious problem related to the provisions of Article 74 of the Social Insurance Code (SIC).

In her opinion, the public defender emphasised that the text of Article 74 requires from disabled people with 50 and over 50 percent type and degree of disability/degree of permanently reduced working capacity to have contributory years of service until the specified date of disability in order to be able to receive a disability pension arising from general illness, which is difficult to be acquired for people with disabilities, especially those aged under 25.

The opinion also drew attention to another existing problem with the provision of Article 74 of SIC, i.e. the requirement for the contributory years of service to be acquired until the date of disability.

## **6. Requirements for exemption from payment of vignette fee**

In connection with the provision of Article 10c of the Roads Act (RA), which introduces restrictive requirements for the exemption of disabled people and their families from paying vignette fees, the Ombudsman sent opinions to the Minister of Transport and Communications, to the Minister of Labour and Social Policy, to the Chairman of the 48th National Assembly and to the Chairman of the Committee on Regional Policy, Public Works and Local Self-Government of the 48th National Assembly.

In the opinions, the institution again took a clear position that the provision of Article 10c of the RA violates the rights of a significant number of needy people with disabilities and their families.

The main problem remains the technical parameters that must be met by cars owned by citizens with disabilities or in the regime of a marital property community. Although declared discriminatory by the Anti-Discrimination Commission, the criteria continue to apply.

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

#### **1. Amount of tax relief under Article 18 of the Personal Income Tax Act**

In the past year, a significant number of complaints were received from citizens with impairments, who expressed their dissatisfaction with the failure to update the BGN 7,920 the total annual tax base reduction under Article 17 of the Personal Income Tax Act for persons with 50 and over 50 per cent reduced working capacity, which amount has not been updated since 2008.

In order to guarantee the rights of those affected the Ombudsman tabled a proposal in the draft 2022 State Budget Act for amendment of Article 18 of the Personal Income Tax Act, by introducing a mechanism for updating tax reliefs for people with disabilities.

The proposal was not accepted.

#### **2. Requirements for personal assistant**

In the past year, complaints continued to be filed in connection with difficulties faced by people with disabilities to use assistant support based on their individual needs.

Citizens are dissatisfied, on the one hand, that both the Personal Assistance Act and the Social Services Act do not cover the needy who have expert decisions from Regional Expert Medical Commissions/the National Expert Medical Commission, but no right to personal assistance is provided in these decisions.

On the other hand, users who meet the requirements of some of the two acts are not entitled to a personal assistant for more than 8 hours a day, as well as to have support on weekends.

#### **3. Remuneration of personal assistants under the Personal Assistance Act**

At the beginning of last year, there was a significant number of complaints related to the remuneration of personal assistants under the Personal Assistance Act (PAA), which were not indexed in the way originally intended when the act was passed in 2018.

Citizens expressed their concern that in §3 of the final provisions of Bill No. 47-102-01-12, submitted by the Council of Ministers, on the extension until 31 March 2022 of the effect of the provisions of the State Budget of the Republic of Bulgaria Act for 2021, the State Public Insurance Budget for 2021 and the Budget of the National Health Insurance Fund for 2021, it was proposed to postpone the entry into force of the provision of Article 31, item 1 of the PAA.

In connection with the above, a proposal was made to guarantee the right of personal assistants to decent pay as provided for in the original version of the Personal Assistance Act.

The Ombudsman's proposal was accepted and §3 was dropped when the amendments were voted on.

It is also a significant success that the provision of Article 31 of the Personal Assistance Act comes into effect retroactively from 1 January 2022.

#### **4. Contributory years of service for disability pension arising from general illness**

The Ombudsman of the Republic of Bulgaria brought to the attention of the caretaker Deputy Prime Minister for Social Policies and Minister of Labour and Social Policy a serious problem related to the provisions of Article 74 of SIC.

In her opinion, the public defender emphasised that the text of Article 74 requires disabled people with 50 and over 50 percent type and degree of disability/degree of permanently reduced working capacity to have contributory years of service until the specified date of disability in order to be able to receive a disability pension arising from general illness, which is difficult to be acquired for people with disabilities, especially those aged under 25.

The opinion also drew attention to another existing problem with the provision of Article 74 of SIC, i.e. the requirement for the contributory years of service to be acquired until the date of disability. However, regardless of the years of service acquired by the interested parties and additional – in the case of some citizens significant – insurance contributions, it turns out that the provision of Article 74 of SIC deprives those in need of the opportunity to receive a disability pension arising from general illness.

#### **5. Electricity and natural gas prices for social service providers**

Non-governmental organisations that provide social services to vulnerable people noted that after the drastic increase in electricity and natural gas prices, service providers had serious difficulties in meeting the costs.

Several recommendations were made by the Ombudsman to all responsible authorities, as a result of which the provision of electricity and natural gas to service providers and, accordingly, to consumers, without interruption, was ensured until a final decision is made on the matter.

#### **6. Requirements for exemption from payment of vignette fees**

In connection with the provision of Article 10c of the Roads Act (RA), which introduces restrictive requirements for the exemption of disabled people and their families from paying vignette fees, the Ombudsman also sent opinions to the Minister of Transport and Communications, to the Minister of Labour and Social Policy, to the Chairman of the 48th National Assembly and to the Chairman of the Committee on Regional Policy, Public Works and Local Self-Government of the 48th National Assembly.

In the opinions, the institution again took a clear position that the provision of Article 10c of the RA violates the rights of a significant number of needy people with disabilities and their families.

In the opinion to Chairman of the 48th National Assembly and to the Chairman of the Commission for Regional Policy, Public Works and Local Self-Government, it is emphasised that it is essential to regulate the possibilities of using the right to exemption from vignette fee within the relevant year, after the registration of the vehicles with an application submitted by those entitled under Article 10c of the RA was terminated. At present, the provisions of Article 10c, paragraph 3 only cover cases of transfer of ownership of the vehicle, but not cases of termination of ownership due to its scrapping. Checks on the matter show that a significant number of disabled citizens are adversely affected by the failure to regulate this matter.

No real action was taken to resolve these issues.

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

With a view to taking over the important function of providing medical devices, aids and equipment from the structures of the Ministry of Health and because of the complaints received by the institution, in 2022 the Ombudsman reminded the Minister of Health and the Director of the National Health Insurance Fund (NHIF) of the unresolved problems that seriously limited the persons in need, as well as of the position of the Ombudsman:

A major challenge for people with disabilities is the quality of medical devices, aids and equipment and their limit values, which have not been updated for more than 10 years. Adding to the problem of inappropriate and extremely long service life of the products, the situation of those in need can become extremely difficult, especially if they are elderly, without sufficient income and without relatives and friends to provide them with support.

At the moment, the question of the mechanisms by which the lists of medical devices, aids and equipment will be updated in relation to new and better products remains unresolved yet.

The Ombudsman sent two opinions to the Minister of Health, in which she recommended urgent consideration of the issues raised. She insisted that representatives of people with disabilities be included in the committee for the preparation of a draft specification of medical devices, aids and equipment/repair at the Ministry of Health.

The recommendation for the inclusion of representatives of people with disabilities was fulfilled.

### ***Medical expert opinion***

Problems with medical expertise were in the focus of the institution in 2022 as well.

The complaints received show that, especially after the COVID-19 epidemic, there is a significant delay in the certification/re-certification of citizens in need.

The lack of adequate measures to overcome the challenges faced by all people with disabilities (over 660,000 Bulgarian citizens), which led to the violation of their rights, entailed the Ombudsman's active action in this area.

#### **1. Extension of the term of validity of medical expert decisions after cancellation of the emergency anti-epidemic situation**

After many actions and a bill prepared and submitted by the Ombudsman, the National Assembly adopted amendments to the Measures and Actions during the State of Emergency Act announced by a decision of the National Assembly of 13 March 2020 and for overcoming its consequences, which had an impact on thousands of persons with disabilities.

The new provision of §20a of the transitional and final provisions of the Act on the State of Emergency, as announced by a decision of the National Assembly of 13 March 2020, entered into force on 1 July 2022 and retroactively extended the validity of expert decisions of medical examination bodies that expired in the period from 13 March 2020 to 30 June 2022. Based on the changes made, citizens had the opportunity to receive the support they deserved as people with disabilities for the entire period until the entry into force of the new medical document, but no later than 31 December 2022.

However, the Ombudsman's position that there is a real risk of the rights of citizens whose medical expert decisions expired after 30 June 2022 to be violated was not taken into account.

#### **2. Extending the term of validity of medical expert decisions in case of delayed medical examination**

Next, but not in importance, were the actions of the Ombudsman of the Republic of Bulgaria to prepare and submit to the National Assembly, at the end of November 2022, a legislative proposal in the PDA and HA. The proposal aimed to overcome the most serious problems of disabled people related to delays in their re-certification by medical examination authorities.

The proposal was adopted by the MPs, following a process of deliberation. It is important to note that the bill provides that disabled people will continue to enjoy all rights and support arising from the medical expert decision in the event of delay by the medical examination authorities until the issuance of the new medical expert decision, without interruption.

It is essential that the new provisions also apply to proceedings commenced and not concluded before the entry into force of the amendments, as well as those commenced and not concluded up to four months after their entry into force, where there are delays.

The accepted proposal provided an opportunity to address the serious problems that affected more than 660,000 vulnerable citizens in Bulgaria. The final text was promulgated in SG No. 8 of 25 January 2023.

### **3. Criteria under the Medical Expertise Ordinance**

In recent years, a significant number of complaints have been received in connection with the Methodology for the application of the benchmarks for the assessment of permanently reduced working capacity/type and degree of disability in percentages. As noted in the previous reports on the institution's activity on this issue, numerous recommendations were made to safeguard the rights of the affected citizens.

There were also alerts of the crisis situation of citizens whose health condition had deteriorated to a significant extent and this made it difficult for specialists to visit medical facilities to carry out the required tests to assess the type and degree of disability.

In 2022, new recommendations were made to the caretaker Minister of Health to address these issues. The recommendations were taken into account in relation to accompanying diseases, which, after the adoption of the draft amendment and supplement to the Ordinance on Medical Expertise on 25 January 2023, were reflected in the general type and degree of disability/percentage of permanently reduced working capacity.

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

For another year in a row, citizens with disabilities alerted the Ombudsman of the problem with the limited possibilities for appearing for certification/re-certification before the Transport Regional Medical Expert Commissions (TREMCS) in the country and obtaining medical certificates for issuing/re-issuing driving licenses.

Citizens were dissatisfied with the small number of commissions and their location in the country. In addition to the inadequate number of commissions, the organisation of work and the scheduling of dates after the expiration of the medical certificates were also a serious challenge. Another problem was the inaccessible environment in most of the TREMC buildings. Complaints also stated disagreement with the requirements of the current legislation that persons who received a finding on fitness to drive a vehicle from a TREMC or the Central Transport Expert Medical Commission had to be re-certified by these commissions, if a subsequent assessment of fitness was necessary. According to citizens, the texts did not take into account the possibilities for improved health over the years.

With a view to ensuring the rights and interests of citizens, recommendations were made to the Minister of Transport and Communications and to the Minister of Health for consideration and resolution of the issues raised.

### ***Rehabilitation***

The Ombudsman also expressed concern before the caretaker Minister of Health that the State provides adequate rehabilitation only for people with cerebral palsy. Similar opportunities are not provided for the rest of the citizens, who also have a need for appropriate and systematic rehabilitation in order to achieve an improvement in their functional state and to enable them to have active and dignified life.

### ***Accessible environment***

#### **1. Accessibility of the architectural environment**

Supporting citizens with reduced mobility to overcome the difficulties caused by the lack of accessible architectural environment was a main focus of the Ombudsman's activities in the past year.

The position defended by the institution is that failure to provide accessibility is a violation of the UN Convention on the Rights of Persons with Disabilities, especially Article 9, as well as the current national legislation.

It is important to note that the actions of the competent authorities show a growing understanding of the needs of people with reduced mobility and the importance of reasonable accommodation in their daily lives.

#### **2. Accessibility of intercity buses**

The Ombudsman made a recommendation to the Minister of Transport and Communications in relation to the difficulties faced by people with reduced mobility when using intercity bus services.

In the opinion, the Ombudsman noted that a significant number of buses were inaccessible to disabled people who use wheelchairs. She emphasised that due to the lack of suitable conditions, people were prevented from travelling to their destination.

#### **3. Requirements of the National Programme for Affordable Housing and Personal Mobility**

In connection with the proposed project for public consultation on the National Programme for Affordable Housing and Personal Mobility (the Programme) and in view of the complaints received by the institution, an opinion was sent to the Minister of Labour and Social Policy.

The opinion emphasises the difficulties encountered by citizens when applying due to restrictive requirements.

It should be noted that a significant part of the Ombudsman's recommendations and proposals were reflected in the final text of the Programme. In this way, citizens with disabilities can now apply according to their current address, under a procedure that obliges the responsible authorities not to require applicants to submit documents to which they have official access.

Despite the positive developments, problems remain with the possibilities to support beneficiaries who had difficulty in covering the costs of applying and allowing people in multi-storey properties but without a registered association to access the Programme.

### ***Ensuring access to elections for people with disabilities***

The Ombudsman also sent an opinion to the caretaker Prime Minister, the caretaker Minister of Health and the Chair of the Central Election Commission (CEC) to ensure the possibility of citizens in a vulnerable position to exercise their electoral rights in the early parliamentary elections scheduled for 2 October 2022.

It was noted in the opinion that the election rules again do not provide for adequate access of significant part of people with disabilities to the electoral process. Adequate conditions have not been created for these vulnerable citizens and the requirements of a number of international acts have not been fully met to ensure universal, equal and secret voting or an equivalent procedure ensuring the freedom of vote.

### ***Administrative services***

In connection with the complaints received in the institution regarding the charging of additional fees when contacting the single telephone number of the National Social Security Institute (0700 14 802), the Ombudsman sent an opinion to the Director of the National Social Security Institute.

The opinion emphasises that the single telephone number is the main channel for citizens to obtain information on issues related to social security.

In connection with the recommendation made, the NSSI announced that they will open an additional hotline (on phone number 02 926 11 11/mobile 0882 187 111), which is intended for pension consultations.

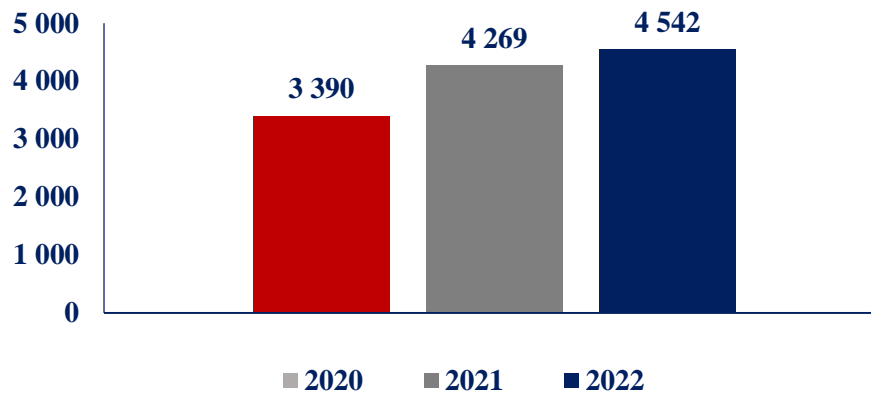
### **Main recommendations:**

1. People with disabilities or their representatives should be included and participate at all levels of management where decisions are made or policies are formed that affect their rights;
2. To resolve personal assistance issues under the Personal Assistance Act and to provide opportunities for all those in need to access the assistance support they need;
3. The amount of cash benefits for people with disabilities should be adequate and consistent with the current state of income in the country;
4. To apply an individual approach when allocating monthly and targeted funds and when providing social services;
5. To create appropriate social services in a family environment and in the community for an independent life, including for the elderly and those living alone who constantly need support, but are not certified by REMCs/NEMC or do not have a certain right to external assistance;
6. To ensure quality and affordable healthcare for people with disabilities, including appropriate rehabilitation;
7. To introduce integrated electronic services in state institutions for people with disabilities;
8. To implement adequate reform of medical examination and the examination of work capacity with the active participation of people with disabilities and their representatives;
9. To initiate legislative changes to ensure equality in acquiring the right to a pension with contributory years of service acquired before and after the date of disability, as well as the right to choose a less favourable pension, with a view to obtaining a more favourable amount of monthly financial support.

### III. CONSUMER RIGHTS

Complaints against providers of public services in 2022 again had the greatest share among all complaints received by the Ombudsman institution. In 2022, 4,542 complaints from consumers of public services were received.

*Chart No.11. Number of complaints and alerts received from consumers in the period 2020-2022*



*Source: Statistics of the Ombudsman of the Republic of Bulgaria*

*Table No.6. Complaints and alerts filed by consumers by industry in the period 2020-2022, %*

Industry	2020	2021	2022
Water supply and sewerage (WSS)	32.35	<b>24.83</b>	<b>29.59</b>
Electricity supply	8.10	<b>35.2</b>	<b>27.71</b>
District heating	28.02	<b>13.65</b>	<b>9.04</b>
Electronic communication services	9.49	<b>7.2</b>	<b>8.14</b>
Waste collection	2.09	<b>6.51</b>	<b>7.44</b>
Financial services	8.90	<b>5.48</b>	<b>5.0</b>
Transport services	4.41	<b>1.14</b>	<b>4.95</b>
Collection companies	2.29	<b>2.03</b>	<b>2.46</b>
Gas supply	1	<b>1.56</b>	<b>3.37</b>
Postal services	0.9	<b>0.7</b>	<b>0.7</b>
Insurance services	1.7	<b>1.7</b>	<b>1.6</b>

*Source: Statistics of the Ombudsman of the Republic of Bulgaria*

Inspections on 5,478 cases were closed, of which 2,188 were found to be in violation, 3,070 were not found to be in violation, and 220 were inadmissible. In 393 of the cases, recommendations were made, of which 28 were implemented and 61 partially implemented, in 2,451 cases an opinion was expressed, in 201 cases advice was given, in 81 cases mediation was carried out.

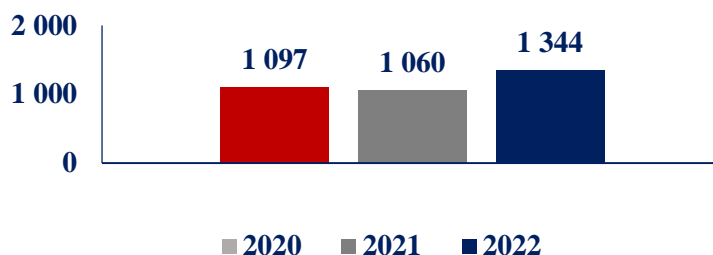
#### III.1. WSS SERVICES

In 2022, the Ombudsman institution received 1,344 complaints, or 27% more than in 2021. Inspections of 1,345 case-files were closed.

In 77 of the cases, the Ombudsman made recommendations, of which 71 were implemented; opinion was expressed on 960 cases; advice was given on 13 cases; there was successful mediation on 21 cases.

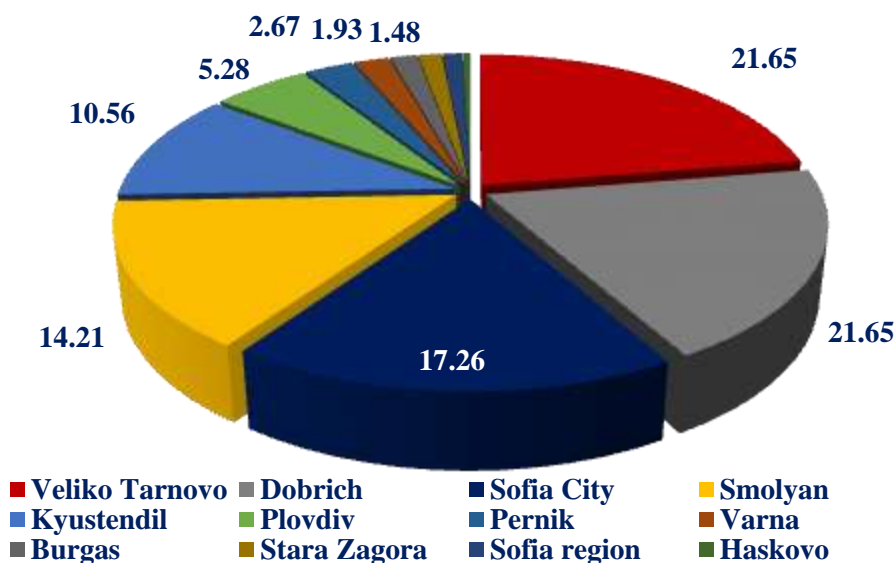
*Chart No.12. Number of complaints and alerts related to WSS sector problems in the period 2020-2022*





Source: Statistics of the Ombudsman of the Republic of Bulgaria

Chart No.13. Complaints and alerts in the WSS sector by region in 2022, %



Source: Statistics of the Ombudsman of the Republic of Bulgaria

**In 2022, the number of alerts against the poor quality of water supply and sewerage services across the country, which are provided at a high cost, remained high.**

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

In 2022, the Ombudsman received 876 complaints related to the quality and price of the provided water services, some of them with petitions by entire settlements, such as: the village of Radlovtsi, Kyustendil region; the village of Bulgarsko Slivovo, the village of Gorna Lipnitsa, the village of Dolna Lipnitsa, Veliko Tarnovo region; Rogachevo village, Dobrich region; Dobrostan village, Plovdiv region, etc.

Citizens' complaints are most often related to: introduced heavy water supply regime; frequent interruptions of the water supply service due to breakdowns in the heavily depreciated and outdated water supply system; water unfit for drinking and domestic use, etc.

The Ombudsman made recommendations to the water supply operators and the relevant municipalities to take coordinated actions to ensure quality and continuous water supply service.

The year 2022 is the beginning of the new 2022–2026 regulatory period in the water supply sector. At every public discussion of the business plans and price proposals of the water supply operators for the 2022-2026 regulatory period, the Ombudsman expressed

categorical opinions before the Energy and Water Regulatory Commission (EWRC), declaring against the drastic increase in the price of drinking water in the serviced regions.

By Decision No. II-32/30.12.2022, the EWRC approved the new prices of water supply services for 2023 and as of 1 January 2023 the price of water in 14 regions of the country will increase.

The position of the Ombudsman is that it is necessary to build a new vision for the water supply sector, through which to guarantee the right of citizens to quality and continuous water supply service, to be provided at an economically reasonable price.

The Ombudsman referred to the caretaker Prime Minister and the caretaker Minister of Regional Development and Public Works and pointed out that it was urgent to adopt a new Water Supply and Sewerage Act (WSSA).

On 30 November 2022, the Ministry of Regional Development and Public Works (MRDPW) published a draft of the WSSA for public consultation.

On 14 December 2022, the Ombudsman sent an opinion on the bill, in which she expressed the position that it needed to be substantially revised, as the dominant position of the public administration in the water and sewerage sector was strengthened and the rights and interests of consumers were not sufficiently protected.

The draft WSSA was not submitted for voting in the National Assembly.

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

In 2022, 202 reports were received regarding the violated right to pay for a service actually used. 26% of the complaints related to the distribution of the difference between the report on the common water meter in apartment buildings and the amount of individual consumption (the so-called “total consumption”).

The Ombudsman’s position is that fair and effective mechanisms must be developed to protect the rights of legitimate users in the allocation of “total consumption” of water quantities to individual lots.

Until the end of 2022, the regulatory framework has not been changed.

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

#### **Adopt a new WSS Act, which shall:**

1. Provide safeguards for 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 distinct 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.

## **III.2. ELECTRICITY SUPPLY**

The institution received 1,5259 complaints related to the provision of the electricity supply in 2022. Inquiries in 1,310 case-files were closed.

Alerts filed against Electrohold Bulgaria were 591,599 against Energo-Pro, and 12 against EVN.

**Complaints related to poor quality of electricity supplied for a year in a row remained the most significant problem in the sector.**

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

1,016 complaints were filed to the institution in 2022 in relation to breaches concerning electricity supply.

Mayors and residents of settlements sought assistance in the event of frequent power outages and voltage that did not correspond to the established standards.

In connection with the alerts received, the Ombudsman made recommendations to the energy distribution companies and requested the EWRC as the competent body to check compliance with license obligations of the electricity distribution companies in order to ensure a quality service and to take action if violations are found.

**There is currently no mechanism to fairly compensate affected customers for frequent and prolonged power outages, which in some cases continue for years.**

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

At the public discussion of the draft decision on approval of prices in the Electricity sector, effective from 1 July 2022, the Ombudsman opposed the planned increase in prices by an average of 3.3%. She upheld a strong position that it was necessary to change the approach to pricing.

In the context of the stated intention to introduce two electricity tariffs for households depending on consumption, in October 2022 at a meeting of the interdepartmental crisis headquarters for energy, the public defender insisted to the caretaker Prime Minister of the Republic of Bulgaria and the caretaker ministers of energy and economic policies not to apply different tariffs for electricity consumption, noting that the necessary calculations have not been carried out and important factors such as the number of persons in a household, their income, etc. have not been taken into account. Instead, an urgent definition of the concept of “energy poverty” should be adopted, which would allow to determine what people were entitled to support.

The Ombudsman brought to the attention of the caretaker government the issue of the liberalisation of the retail market (for household customers) of electricity, expressing an opinion that it should be postponed until after 31 December 2025. One of the main reasons for this is, despite the numerous recommendations of the institution, was the lack of criteria for identifying the energy poor people. Moreover, a large part of Bulgarian households are not prepared for these changes.

The problem with the existing clauses in the General Terms and Conditions of CEZ Electro Bulgaria AD, EVN Bulgaria Electric Supply EAD and Energo-Pro Sales AD was not resolved yet, obliging property owners to assume joint and several liability with tenants when re-registering an electricity lot. These issues have not been addressed, although they are in conflict with the Obligations and Contracts Act, which the Ombudsman notes every year.

The charging of electric energy at non-household prices in premises used for housing also remains a problem.

**The public defender’s position is that there are no justified factors for the price increase, such as improving the quality of service by energy companies.** As the Ombudsman repeatedly insisted, the distinction between household and non-household customers should be based on the purposes for which the electricity is purchased, not on the type of property.

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

There were alerts of delayed execution of contracts for the connection of sites to electricity distribution networks, increasingly from owners of sites for generation of electricity from renewable sources.

No violations of the energy companies were found during the inspections. The agreed terms for the construction of connection facilities are effective from the date of issuance of a construction permit, which in turn is related to conducting procedures under the Spatial Development Act.

Citizens were also seeking assistance in the event of interrupted power supply in their properties due to unpaid bills on time. They objected to the requirement to pay a fee for resumption.

The opinion of the Ombudsman is that payment of the costs of electricity distribution companies for the interruption of power supply is not a condition for its restoration, according to the regulations; transmission of electric energy and the access to the customer's power distribution network are restored after elimination of the reasons that led to their suspension.

### ***Right to information***

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

As the Ombudsman has already pointed out, that does not contradict the General Terms and Conditions of the electricity distribution companies and the Rules for measuring the amount of electricity, the companies should make maximum efforts to ensure the presence of the customer in order to guarantee the objectivity and correctness of the inspection and its results.

Citizens also complained about employees of electricity distribution companies who illegally entered their properties to replace CMD.

The opinion of the Ombudsman is that the provision of Article 67, paragraph 3 of the Energy Act does not give the right to representatives of the energy companies to enter and pass through other people's properties, insofar as this activity is not related to the operation or control of an energy site within the meaning of the Energy Act. This is supported by the existing case-law (e.g. Decision No. 9415 of 28.06.2012 in administrative case No. 14704/2011, Fourth Division of the Supreme Administrative Court).

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

1. Electricity distribution companies need to comply strictly the Energy Act, their obligations as per their licenses and the General Terms and Conditions to provide maintenance, reconstruction and modernisation of the electricity distribution network and energy facilities in order to ensure continuity of supply and quality of supplied electricity electricity;

2. The EWRC should carry out enhanced control over compliance with licensing obligations by companies in the Electricity Supply sector and should take into account the performance of indicators for the quality of electric energy and quality of service when setting prices in the sector;

3. Electricity companies should remove from their General Terms and Conditions the clauses providing for the joint and several liability of consumers in cases outside of the law, and should strictly comply with the provisions regarding the restoration of electricity supply to customers cut off due to non-payment, without requiring pre-payment of a fee as a condition for resumption;

4. Electricity customers should be notified in advance in an appropriate manner of upcoming inspections/replacement of electric metering devices.

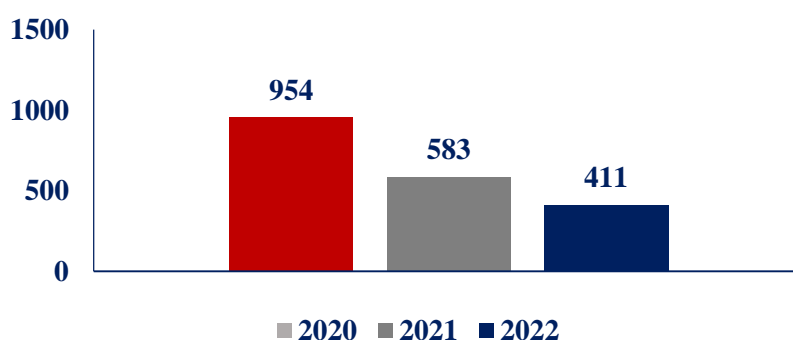
### III.3. DISTRICT HEATING

In 2022, the Ombudsman received 411 complaints regarding problems related to district heating. Their number decreased by 29.5% compared to the previous year. Inspections on 409 complaints related to heat supply were closed.

The decrease is entirely due to the receipt of fewer complaints against district heating companies (a decrease on an annual basis from 441 to 284), while complaints against heat consumption allocation companies marked a minimal growth: an increase from 105 to 127 on an annual basis.

On 1 July 2022, MPs adopted amendments to the State Budget of the Republic of Bulgaria Act for 2022, amending the VAT Act by reducing the standard rate of 20% to 9% for district heating and natural gas sales for the period from 9 July 2022 to 30 June 2023.

*Chart No.14. Number of complaints and alerts from consumers by industry in the period 2020-2022*



*Source: Statistics of the Ombudsman of the Republic of Bulgaria*

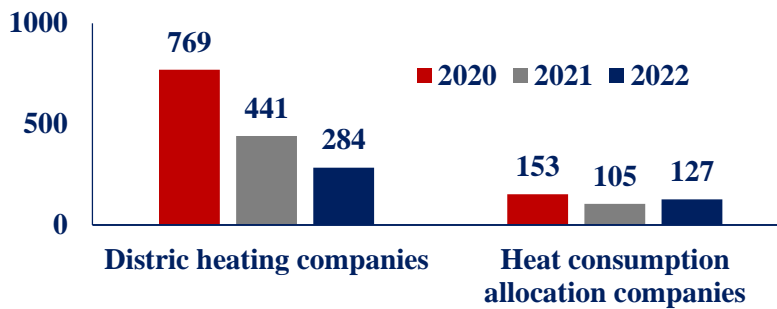
The Ombudsman found that in the balancing accounts for the consumption of heat energy for the reporting period 2021–2022, invoiced on 31 July 2022, after the entry into force of the reduced tax rate of 9%, “Toplofikatsia Sofia” EAD charged the standard VAT rate of 20%.

The public defender made a request to the Minister of Finance and the executive director of the National Revenue Agency for an urgent inspection of “Toplofikatsia Sofia” EAD regarding the application of § 15e, paragraph 2, item 1 of the transitional and final provisions of the VAT Act with regard to the balancing of bills for heating invoiced on 9 July 2022 and after that date.

After non-fulfillment of the specified provision was established, “Toplofikatsia Sofia” EAD issued corrected invoices and new credit notices to 201,222 household customers for the difference between the estimated heat energy billed and the actual consumption with charged sums for additional payment for the reporting period 1 May 2021 – 30 April 2022.

As a result, a total of BGN 3,050,000 for overpaid VAT amounts were refunded to affected customers. A longer term for voluntary payment of balancing invoices has also been set: 45 days, starting from the date of the new invoices (1 September 2022).

*Chart No.15. Number of complaints and alerts against district heating companies and heat consumption allocation companies in the period 2020-2022*



Source: Statistics of the Ombudsman of the Republic of Bulgaria

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

### **1. Lower VAT rate**

The Ombudsman made a proposal to the 47th National Assembly on its first working day (3 December 2021) to reduce the standard rate of value added tax (VAT) for energy. On 1 July 2022, the MPs adopted amended and supplemented State Budget of the Republic of Bulgaria Act for 2022, amending the VAT Act and reducing the standard rate of 20% to 9% for district heating and for natural gas sales for the period from 9 July 2022 to 30 June 2023.

### **2. Unprecedented increase in heat energy prices**

Heat transmission companies submitted requests to the EWRC for unprecedentedly high increases in the regulated prices of heat energy for the period 1 July 2022 – 30 June 2023.

The Ombudsman drew attention to the fact that the energy regulator should carry out a precise inspection of the costs of each district heating company, taking into account the financial assistance granted by the Council of Ministers for the period from December 2021 to 31 May 2022 in the amount of half of the unplanned increase in the price of natural gas.

She also called for a review by the EWRC of the uncollected income of the heat transmission companies, taking into account their extraordinary income from the sale of electricity on the free market for the previous price period.

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 of companies in the sector.

Subsequently, the EWRC approved an average increase for the country of 29.73% in the prices of heat energy for household consumers for the new regulatory period 1 July 2022 – 30 June 2023.

### **3. Economically justified prices of heat consumption allocation**

The problem referred by the Ombudsman to the attention of the Minister of Energy and the EWRC regarding the formation of prices for services of heat consumption allocation, carried out by heat transmission enterprises or by heat consumption allocation companies, remains unresolved. Currently, these prices, which are paid by end-customers, are determined by heat consumption allocation companies and approved by the heat transmission companies.

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

On the occasion of numerous complaints against inflated sums for heating energy provided from the building heating installation in condominiums, on 5 May 2022 the Ombudsman addressed a recommendation to the Minister of Energy for amendments to Ordinance No. E-RD-04-1/12.03.2020 on heat supply, in order to resolve problems related to the calculation of the amount of heat energy from the building heating installation.

The Ombudsman drew attention to the fact that there are no rules and methodology for actual measurement of the amount of heat energy given off by the building installation, which is an opportunity given to the general assembly of apartment owners, through a person chosen by it. It is logical that if such a measurement is possible, all other options for determining the energy from the building installation will be removed.

It is also proposed that during the implementation of projects financed with funds under the National Energy Efficiency Programme, a requirement to switch from vertical to horizontal installation in buildings must be introduced, both during the implementation of started and future projects under the programme, in order to reduce heating costs with district heat supply and conclude individual contracts with consumers.

Subsequently, in December 2022 this measure was included by the Ministry of Regional Development and Public Works (MRDPW) as an eligible investment under the procedure “Support for sustainable energy renovation of the residential building stock - stage I” with 100% free financing from the European Recovery and Resilience Facility established by Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021.

### ***Equipping homes with devices for remote metering of heat energy consumption***

Mandatory retrofitting of homes with new electronic devices makes it difficult for citizens due to the higher cost of radiator distributors and hot water meters with radio reporting and the higher prices for metering by heat consumption allocation companies.

Customers of heat supply services also face difficulties in connection with the legal requirement that hot water meters with remote reading be delivered by the heat accountant or be approved by it for use in the specific building (Article 140, paragraph 8 of the Energy Act).

On the one hand, this prevents customers from buying water meters at a lower price on the free market, and on the other hand, it forces waterworks operators to carry out an on-site report on devices with remote reading, due to the lack of a technical possibility for radio reporting of water meters of specific brand.

Within the framework of a public consultation of the draft Guidelines on applying for the granting of funds through the selection of proposals for the implementation of an investment under the “Support for sustainable energy renovation of the residential building stock - stage I” procedure in October 2022, the Ombudsman recommended to the MRDPW as eligible for financing the energy-saving measure “Thermal insulation of pipes”, which is an important part of the group “Measures on building installations” under the Long-term Strategy for the renewal of the national building stock of residential and non-residential buildings until 2050.

The recommendation was partially fulfilled.

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

Deviations in the normatively determined parameters for heating and hot water heating occupy a significant share of citizen complaints related to received heat supply services.

On the recommendations of the Ombudsman, during the year, joint inspections were carried out in condominiums by representatives of the heat transmission company, HCA companies, and representatives of the apartment owners to solve specific problems with the quality of heat supply services. In some of the cases, technical damage was detected in the subscriber stations, and in other cases the problems stemmed from impaired functionality of the building heating installations due to depreciation or reconstruction.

The problem with the lack of technical documentation for the building installations, and the limited possibilities for its procurement, remains unresolved.

On the other hand, the large number of uninhabited dwellings, as well as extreme forms of saving heat energy due to inability to pay for it, worsen the efficiency of central heating in multi-family buildings and lower the quality of services in homes with real heat energy consumption.

It is also necessary to set up simplified procedures for opting out of these services, when due to a significant reduction in the total consumption in the building, it is not possible to maintain efficient and high-quality heat supply to the inhabited properties.

### ***Right to information***

Citizens reported that they were not informed in a timely manner about the two regular dates for reporting of devices for partial allocation of heat energy for the period 1 May 2021 – 30 April 2022.

In April 2022, the Ombudsman found that the EWRC postponed the implementation of Article 15, paragraph 2 of the Energy Act to publish the price applications for the period from 1 July 2022 to 30 June 2023, submitted by the district heating companies by 31 March 2022.

In an opinion to the chairman of the EWRC, the public defender insisted on publishing the price proposals so that all interested parties can familiarise themselves with the applications for the new prices and the reasons for them. The applications were published on 25 May 2022, almost two months after the deadline for their submission.

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

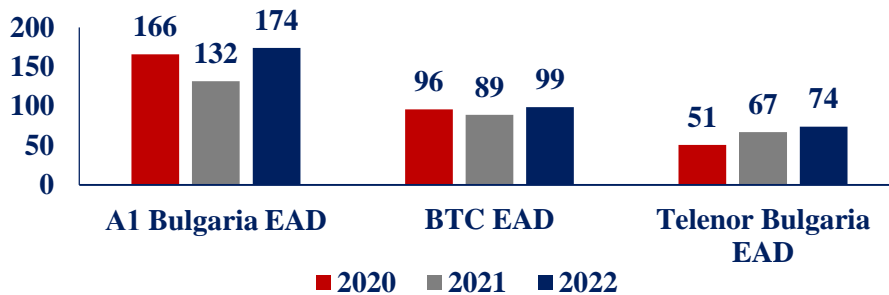
1. Prioritising the review of the statutory provisions for heat supply as part of the work of the legislature, the executive and the EWRC;
2. Review by EWRC of the General Terms and Conditions for the sale of heat energy for household needs;
3. Coordination and interaction of control units in the ME and EWRC in order to carry out effective checks on the quality of heat supply services, not allowing the checks to be delegated to the controlled persons themselves;
4. The executive should seek opportunities to provide financial support to household customers who have difficulty paying higher bills for heat consumption allocation with remote metering.

## **III.4. ELECTRONIC COMMUNICATION SERVICES**

In 2022, 370 complaints were received in connection with the provision of telephone, Internet and television services. 405 case-files were closed. Again, as in recent years, the most numerous complaints were against A1 Bulgaria EAD – 174, followed by Vivacom Bulgaria EAD – 99, and Yettel Bulgaria EAD – 74.

*Chart No.16. Number of complaints and alerts against mobile operators in the period 2020-2022*





Source: Statistics of the Ombudsman of the Republic of Bulgaria

Citizens mainly complained about: inflated bills; insufficient or misleading information when concluding contracts; quality of services; amounts charged for unsolicited services.

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

Most often, citizens complained about amounts charged for unsolicited value-added services, charging a standard monthly fee after the contract expires, charging for roaming services in border areas. During the inspections, in some cases, without giving a specific reason, the operators cancelled the obligations of the citizens.

### ***Unsolicited adding of services***

Citizens reported about misleading or inaccurate information to the Ombudsman when concluding contracts. They complained about the impossibility of familiarising with the content of a contract when signing it on an electronic display.

When carrying out the checks, the operators ensured that when concluding a contract, the user is necessarily provided with the required information regarding the conditions, terms, price, characteristics of the contract. At the request of users, contracts were printed and signed on paper rather than on electronic display.

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

Citizens complained about low-quality provision of television and/or internet services and poor mobile coverage.

The verification shows that these problems were most often caused by cable damage, malicious actions of third parties. Services were restored within the period laid down in the Operators' General Terms and Conditions.

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

1. Strengthening the control by the Consumer Protection Commission regarding the presented renegotiated information when concluding a contract with a mobile operator;
2. Ensuring quality mobile coverage by optimising mobile operators' networks.

## **III.5. WASTE COLLECTION**

In 2022, the institution received 338 complaints about problems related to charging of a fee for household waste, and inspections of 340 case-files were closed.

In March 2022, the Ombudsman referred to the Supreme Administrative Prosecutor's Office because of illegal texts in municipal ordinances on the determination and administration of local fees and service prices in the "Household waste fee" section.

In response, the Supreme Administrative Prosecutor's Office informed that as of 29 October 2022, in the course of the inspections carried out on the occasion of the alert, it was established that 95 ordinances of municipal councils contradicted the Local Taxes and Fees Act, including those specified by the Ombudsman. In this regard, actions were taken in accordance with the legality supervision procedure – 15 protests were submitted to the administrative courts, and as of the indicated date, three of them were upheld at first instance.

The number of complaints against the amount and method of determining the fee for household waste in different municipalities was also significant.

The opinion of the Ombudsman expressed before the competent municipal authorities, was that the amount of the fee should correspond to the real costs of the municipalities in performing the services.

Complaints also continued regarding the quality of waste collection and waste transportation services in individual settlements. The Ombudsman addressed the relevant municipalities with an insistence that a solution to the problems be found, including by strengthening the control over the activity of contractor companies regarding the collection and transportation of household waste.

**Main recommendations regarding waste collection:**

1. Municipal administrations should comply with the legal requirements related to exemption from the fee for waste collection and waste transportation in case of non-occupation of property;
2. When determining the amount of the fee for household waste, the municipal councils should take into account the actual costs of municipalities;
3. Competent municipal bodies should observe the quality of waste collection companies' activities, including to engage the responsibility of the contractors in case of non-fulfillment of the contracts under which they were assigned to perform the services.

**III.6. FINANCIAL SERVICES**

In 2022, the institution received 228 complaints, of which 143 against banks, 85 against payday loan companies.

***Banks***

In view of the high number of complaints in which citizens seek the Ombudsman's assistance in renegotiating the terms of credit agreements, the public defender recommended that the creditors should seek repayment options which are appropriate to the borrowers' financial capabilities.

***Payday loan companies***

In 2022, the institution received 85 complaints against payday loan companies. The most numerous complaints were against City Cash OOD, Viva Credit OOD, Frontex International EAD, FERATOM BULGARIA EOOD.

In regard to complaints against payday loan companies, the Ombudsman provided assistance in informing borrowers of the exact amount of their obligation, including the size of its individual components. She also mediated in renegotiation of the terms of the loan, according to the financial capabilities of the borrowers.

**Main recommendations:**

1. To exercise effective control over the activity of payday loan companies;
2. The amount of bank fees should be economically justified, should be

commensurate with the costs of the offered banking services.

### **III.7. GAS SUPPLY**

In 2022, the Ombudsman received 108 complaints about problems related to gas supply of households, and their number increased sharply (by 67.2%) on an annual basis.

Household customers of natural gas faced unprecedented fuel price increases in the last months of 2021 and in 2022. On this occasion, the Ombudsman made a number of recommendations to representatives of the legislative and executive authorities. Subsequently, the Council of Ministers adopted a Programme for compensation of household customers of natural gas and heating companies using natural gas as the main fuel, with support at a fixed amount per MWh (approved by Decision No. 31 of the Council of Ministers of 2022, amended by Decision Nos. 93, 202, 301, 356 and 488 of the Council of Ministers of 2022).

The government programme ended on 31 May 2022. However, the extreme increase in the regulated prices of natural gas for Bulgarian consumers continued even after that. On 1 July 2022, the Ombudsman addressed the Prime Minister with a recommendation for the fastest possible adoption of a new programme to compensate part of the increased energy costs of household consumers. By the end of the year, this was not done.

On 9 July 2022, one of the measures proposed by the Ombudsman in December 2021 in a letter to the 47th National Assembly came into force, namely a reduction of the value added tax rate from 20% to 9% on natural gas sales. However, the unprecedented increase in regulated fuel prices in the third quarter of 2022 severely limited the effect of this type of state financial aid.

On 19 December 2022, the Ombudsman made a recommendation to the caretaker Prime Minister and the caretaker Minister of Energy to prepare and implement as soon as possible a government programme for compensation of the increased energy costs of household natural gas customers.

#### ***Gas boilers***

During the implementation of the Compensation Programme, citizens who used local gas boilers for heating and domestic hot water supply in condominiums alerted that they were excluded from the category of household customers of natural gas, entitled to financial support from the State. In this regard, on 28 March 2022, the Ombudsman turned to the Deputy Prime Minister for European Funds, the Minister of Finance and the Minister of Energy for the inclusion of this group of household customers in the Compensation Programme approved by Council of Ministers' Decree No. 31/2022 and amended by CMD No. 93/2022.

The Ombudsman proposed an addition to the Compensation Programme, so that household customers using heat energy derived from the main fuel natural gas produced under Article 126, paragraph 2 of the Energy Act, be put on an equal footing with household customers of natural gas.

The recommendation was not implemented.

### **III.8. TRANSPORT SERVICES**

In 2022, the institution received 225 complaints related to transport services, or an increase of 359% compared to 2021. In the first place were complaints related to intercity bus transport: 172, followed by public transport: 38, air carriers: 9, BDZ – 6.

#### ***Intercity bus passenger transport***

The highest number of reports from citizens were received in connection with the lack of regular bus transport for small settlements.

In regard to received complaints, the Ombudsman made recommendations to the local administrations to seek opportunities to provide additional public bus transport by increasing the frequency of the lines.

Another problem reported by citizens is related to non-observance of the established bus schedule by transport companies – missing stops, delays along the route, etc. In this regard, the public defender requested the supervisory authority, the Executive Agency “Automobile Administration”, to carry out timely inspections and, in case of detected violations, to impose sanctions on the offending companies.

### ***City transport***

Most numerous complaints about the capital related to the changes adopted on 21 July 2022 in the Ordinance on the rules and conditions for travelling by public urban transport on the territory of Sofia Grand Municipality, concerning the type of transport documents, the requirement for their mandatory validation as a condition for regular transport document and the increase in the cost of the transport service by dropping off some economically advantageous transport documents.

During the public consultations on the draft Ordinance for amendments and supplements to the Ordinance on the rules and conditions for travel by public urban transport on the territory of the metropolitan municipality, the Ombudsman strongly disagreed with the abolition of previously existing travel documents. She insisted that actions be taken in the interest of those travelling by public transport in the capital, as well as the reform of the tariff policy for public transport on the territory of Sofia Grand Municipality to take into account not only the necessary changes related to the use of new technologies, products and services, but also the economic interests of passengers.

Regarding the mandatory validation of transport documents, she emphasised that it is unfair to fine a passenger who has a regular transport travel document only for not validating it.

After the entry into force of the Ordinance amending and supplementing the Ordinance on the rules and conditions for travelling by public urban transport on the territory of Sofia Grand Municipality, and in view of the huge number of complaints from citizens, the ombudsman once again turned to the Chairman of the Sofia Grand Municipal Council and the Mayor of Sofia Grand Municipality, once again emphasising that the adopted changes did not meet the transport needs of passengers.

#### **Main recommendations:**

1. To ensure public transport for people living in small population centres;
2. To align the schedule of intercity buses and trains to the passengers’ work commitments.

### **III.9 TRANSFER OF CLAIMS**

There were 49 complaints against debt collection companies. The alerts were mainly against S.G. Group OOD, EOS Matrix OOD, Debt Collection Agency EAD, Frontex International AD.

The complaints were mainly about mental harassment through threats and insults.

#### **Main recommendations:**

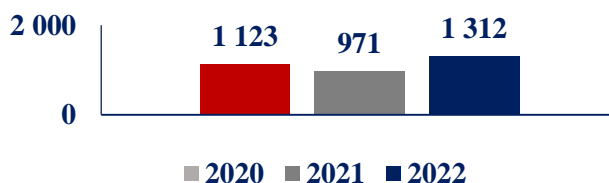
1. Public service providers should organise the collection of claims themselves, instead of using collection companies using methods on the edge of law;

2. To regulate the activity of collection companies.

#### IV. SOCIAL RIGHTS

Citizens' exercise of their social rights in accordance with national and international standards has become increasingly important, especially in the past year 2022, marked by the lifting of a number of restrictions imposed by the prolonged pandemic caused by COVID-19.

**Chart No.17.** Number of claims and alerts related to protection of social rights in the period 2020-2022



Source: Statistics of the Ombudsman of the Republic of Bulgaria

The proceedings of the Ombudsman of the Republic of Bulgaria in the field of social policy are also following a pro-active approach. The actions of the Ombudsman traditionally aim at providing support to persons seeking direct assistance from the institution as well as to those in need according to public media and civil society organisations.

**Chart No.18.** Number of complaints and alerts by type of rights for 2022



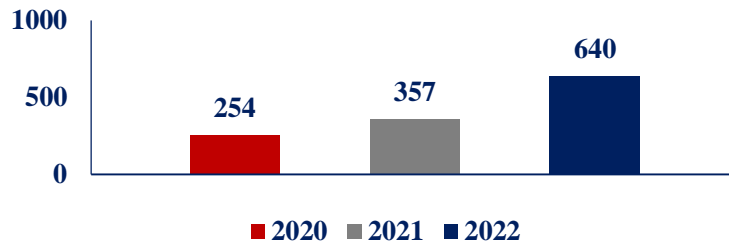
Note: \* Other social rights, including social aid and social services; housing assistance and housing support

##### IV.1. PENSION RIGHTS

In the period 1 January 2022 – 31 December 2022, 640 individual and collective complaints were submitted to the Ombudsman of the Republic of Bulgaria by citizens expressing their problems, ideas and proposals related to improvement of their social insurance and pension rights.

Complaints in 2022 relating to citizens' pension insurance rights were almost three times more than those in 2020: 254, and almost twice as many compared to those in 2021: 357.

**Chart No.19.** Number of complaints and alerts relating to citizens' pension rights in the period 2020-2022



*Source: Statistics of the Ombudsman of the Republic of Bulgaria*

Following up on the complaints and issues relating to pensions and pension entitlements lodged by citizens with the institution, 143 recommendations were made to competent authorities and institutions, most of which have been fulfilled. The opinions given were 302.

The issues that were most frequently raised in the period January 2022 – 31 December 2022 concerned the following:

- the low amount of pensions;
- the need for their recalculation as from 25 December 2021 (in the period January – March 2022 there was a petition and individual complaints from about 1,200 persons);
- the need for their update since 1 July 2022;
- recalculation as from 1 October 2022.

More than 20,000 pensioners dissatisfied with the model of recalculation and update of pensions contacted the Ombudsman institution for the specified periods with a request for its change and periodic recalculation of the amount of all pensions based on the average social insurance income for the country for the previous year.

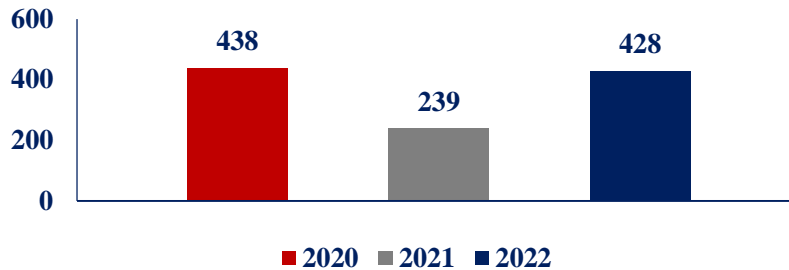
### **Recommendations:**

1. Taking the necessary steps so that the minimum amount of pensions is above the poverty line determined for the country;
2. Examining the possibilities of increasing pensions based on the average social insurance income for the country for the previous year and updating as a permanent annual measure;
3. Abolishing the condition for the maximum amount of one or more pensions received (paragraph 6 of the transitional and final provisions of the Social Insurance Code);
4. Revising the provision of Article 102, paragraph 2 of the Social Insurance Code, in force from 1 January 2021, so as not to limit the right of pensioners whose pensions are recalculated ex officio, to lose amounts for four months of the increased pension, which is for contributory service and insurance income for the period 1 January 1– 31 December of the previous year;
5. Regulatory amendment of the conditions for acquiring the right to disability pension due to general illness of those disabled since childhood and to remove the requirement in Article 74 of the Social Insurance Code that their work experience was acquired only before the date of disability;
6. Taking urgent actions to protect the interests of Bulgarian citizens who have acquired pension and insurance rights in EU Member States, in particular in the Republic of Greece.
7. Recalculating, from time to time, all pension amounts based on the average social insurance income for the previous year;

8. Setting up a legal mechanism for establishing a minimum amount of pensions that would bring annually their amount closer or equal to the poverty line.

## IV.2. LABOUR RIGHTS

*Chart No.20. Number of complaints and alerts relating to infringed labour rights of citizens in the period 2020-2022*

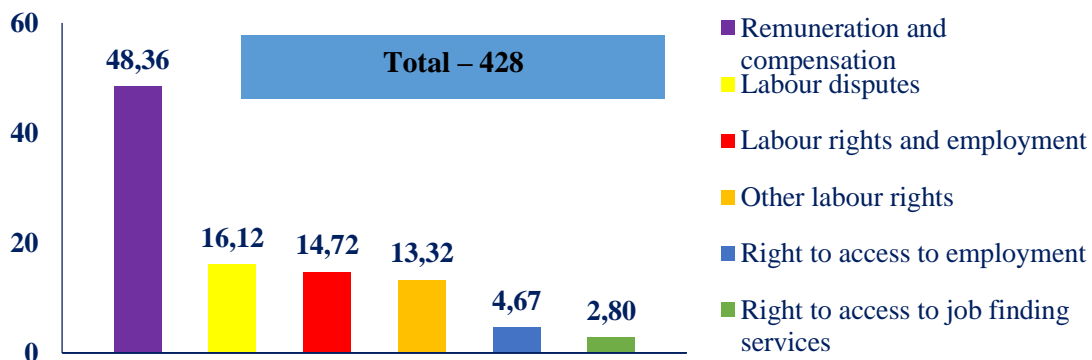


*Source: Statistics of the Ombudsman of the Republic of Bulgaria*

A considerable share of the received complaints, requests and alerts from workers or employees related to violations of labour rights: labour remuneration, benefits and employment.

In 2022, the emergency epidemic situation was cancelled and the imposed anti-epidemic measures were abolished, but the needs of the citizens and their expectations of the administrations for solving problems with their social rights increased.

*Chart No.21. Complaints and alerts relating to infringed labour rights of citizens by type of violation for 2022, %*



*Source: Statistics of the Ombudsman of the Republic of Bulgaria*

A considerable share of the complaints, requests and alerts received from workers or employees related to violations of labour rights – wages, benefits and employment – a total of 428 complaints and alerts in 2022, and nearly half of them, 207, were lodged by citizens seeking the assistance of the Ombudsman for the payment of wages and benefits owed by their employers, both during employment relationship and after its termination.

Last year, the Ombudsman assisted young parents receiving benefits in using parental leave up to the age of 2 of the child, and also the benefits for raising a child up to the age of 8 by the father (adoptive father). As part of the support provided, the Ombudsman made a recommendation to the 48<sup>th</sup> National Assembly to amend the Social Insurance Code, proposing that the amounts of benefits be equal to the amount of the minimum wage, and thus the updated benefits should follow the growth of the minimum wage.

The public defender also supported the bill to amend the Labour Code, proposing the establishment of a legal mechanism for tying the amount of the minimum wage for the country to the reference values under the Directive of the European Parliament and the Council of Europe on adequate minimum wages in the European Union.

The policy of providing support to workers whose employment relationships had been terminated, and also to vulnerable groups of workers to keep their jobs continued.

Assistance was also provided to workers and employees in connection with the possibility of contesting their dismissal in court. Assistance was provided by the Ombudsman to ensure safe and healthy working conditions. Recommendations were made to the control bodies of the Labour Inspectorate and to the Regional Health Inspectorates, depending on the specific case, to stop violations by employers. The recommendations were implemented.

In 2022, persons working in the structures of the central and local executive authorities sought assistance from the Ombudsman. Some of the complaints of civil servants related to violations in conducting competitive procedures, including violations in ranking, or hiring a person who was not ranked first. Other complaints related to the annual performance appraisal of employees, evaluation of the performance of the position and the possibilities of increasing remuneration.

In cases where violations of the rights of civil servants were found, recommendations were made to the appointing authorities or the relevant ministers and the inspectorates of relevant ministries to take action to remedy the violations committed. In some of the cases, the complainants were given advice on taking action to protect their individual rights, most often upon termination of employment.

In the past year, the work of the Ombudsman in regard to protecting people's labour rights was also affected by the flow of refugees from Ukraine, who fled to Bulgaria. At the beginning of the period, arriving Ukrainian citizens sought advice from the Ombudsman on their right to access the labour market. In the last months of the year, questions regarding the terms and conditions for terminating employment relations and the possibilities of concluding contracts with other employers, as well as negotiating the duration and distribution of working hours and payment of labour, were received. In relevant cases, citizens were directed to seek assistance for inspections of the employer by the control bodies of the Labour Inspectorate.

### **Recommendations:**

#### **1. Recommendations made by the Ombudsman of the Republic of Bulgaria relating to changes in legislation:**

– To create a legal mechanism for tying the amount of the minimum wage for the country to the reference values under the Directive of the European Parliament and the Council of Europe on adequate minimum wages in the EU.

#### **2. Recommendations made by the Ombudsman of the Republic of Bulgaria regarding complaints and questions posed by workers and employees to the Ombudsman:**

– Actions to be taken by the control bodies of the Executive Agency Chief Labour Inspectorate to assist workers or employees, including those with already terminated employment relationship, to receive the wages or benefits owed to them and unpaid by their employers;

– Establishing an effective control mechanism to ensure occupational safety and health, both for workers who have returned to employers' offices and for those working remotely;



– Establishing a sustainable system for providing assistance to workers and employees in deteriorating health condition for the implementation of legal measures providing them with special protection during employment relationship and upon its termination.

### IV.3. RIGHTS OF CIVIL SERVANTS

In 2022, assistance from the Ombudsman was sought by those working in the structures of central and local executive authorities.

Some of the complaints of civil servants related to violations of competitive procedures, including violations in the performance of rankings, or for hiring a person not ranked first. Other complaints related to the annual performance appraisal of employees, the revaluation of the performance of the position and the possibilities of increasing remuneration. Most often it concerned employees returning to work after a long leave due to illness or pregnancy and childbirth and raising a small child.

Other questions raised by applicants working in municipal enterprises related to non-fulfillment by mayors of respective municipalities of commitments under concluded municipal collective labour agreements.

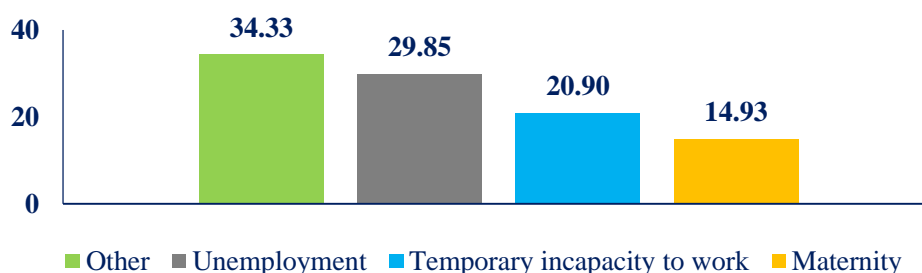
In 2022, workers in employment relationship in the public administration reported that they were deprived of additional remuneration for length of service and professional experience, to which all workers in employment relationship are entitled.

In cases where violations of rights were found, recommendations were made to the appointing authorities or the line ministers and the inspectorates of relevant ministries to take action to remedy the violations committed. In some of the cases, the complainants were given advice on taking action to protect their individual rights, most often upon termination of employment.

### IV.4. RIGHT TO SOCIAL SECURITY AND BENEFITS

Complaints relating to payment of benefits for temporary incapacity to work were 14, maternity-related complaints were 10, unemployment-related complaints numbered 20, and other complaints were 23. The main dissatisfaction of the citizens was that the National Social Security Institute delayed or suspended the payment of cash benefits for temporary incapacity to work due to various reasons, such as: suspected abuse of social security rights and inspection of social security insurers, often carried out over long periods of time.

*Chart No.22. Complaints and reports of citizens about violations of social rights: unemployment, temporary incapacity to work, maternity leave, other,%*



*Source: Statistics of the Ombudsman of the Republic of Bulgaria*

The main dissatisfaction of the citizens was that the National Social Security Institute delayed or suspended the payment of cash benefits for temporary incapacity to work due to

various reasons, such as: suspected abuse of social security rights and inspection of social security insurers, often carried out over long periods of time.

### **Main recommendations:**

1. Giving clear instructions what is in-patient and outpatient Medical Advisory Commission;
2. Facilitating the provision of administrative services by public institutions and, specifically, the preparation of documentation for use of NSSI prevention and rehabilitation facilities.

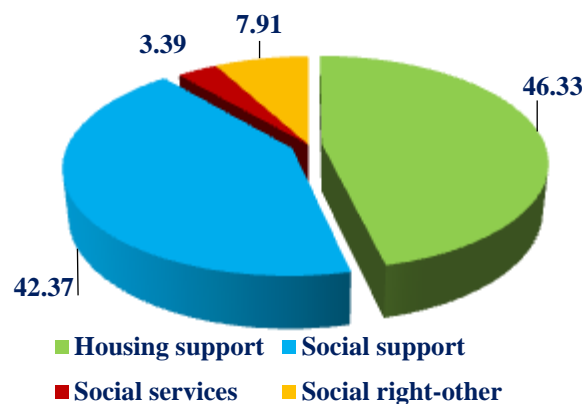
## **IV.5. RIGHT TO UNEMPLOYMENT BENEFITS**

The Ombudsman was addressed by citizens who were registered as unemployed in the Employment Bureau directorates and were receiving monetary compensation for a certain period. After the expiration of this period, if they are unable to find a job on the labour market, they were not entitled to a second unemployment benefit.

## **IV.6. RIGHT TO SOCIAL SUPPORT AND SOCIAL SERVICES**

In 2022, complaints relating to the need to provide social support numbered 177.

*Chart No23. Complaints and alerts relating to needed social support, %*



*Source: Statistics of the Ombudsman of the Republic of Bulgaria*

In 2022, there were 85 complaints regarding the need to provide social support. The main reasons cited by citizens were their low incomes, including those of working people, and high prices, as they experienced serious difficulties in meeting rising expenses in their households. They made requests for providing social support and changing the legal conditions. They also insisted on increasing the amount of social benefits due to high inflation in the country.

In 2022, society became extremely sensitive to the problems of homeless people. Due to the insufficient number of social housing on the territory of municipalities, crisis centres were an alternative for quite a few people to have shelter. During the winter months of the year, the existing 3 crisis centres for temporary accommodation of homeless people in Sofia, for example, operated at full capacity. However, these centres are planned to operate only in the coldest months, from the beginning of December to the end of March, and provide overnight

accommodation, but not daytime accommodation, and homeless people need support during the day as well.

#### **Recommendations:**

1. Reviewing the criteria for granting a license for the provision of social services with a view to guaranteeing the rights of users and preventing illegal actions;
2. In accordance with Article 22 and Article 23 of the Administrative Violations and Penalties Act to urgently prepare and submit to the Ministry of Justice of the Republic of Bulgaria a proposal for amendments to the Social Services Act, so as to provide for the application of coercive administrative measures for repeated and prolonged violations, as well as for the provision of social services without an issued licence. In order to protect the life and health of the people placed in social services, to foresee the preliminary enforcement of the coercive administrative measures;
3. In the criteria for issuing a license for the provision of social services, there must be included mandatory alarm bells (panic buttons) in the rooms to be used in emergency situations, as well as automatic fire alarm systems;
4. An emergency procedure should be provided for the removal of users of social services from places that do not meet the legal requirements (without a license or with an expired license);
5. Establishing a mechanism for mandatory study of the possibilities of relatives to visit and get information about the condition of the users of the service;
6. Finding a permanent solution to the disinfection problem, shortening the interval between spraying against pests if necessary and use of different preparations.

#### **IV.7. FAMILY ALLOWANCES FOR CHILDREN**

In 2022, complaints regarding family allowances decreased compared with previous years. For years, the position of the Ombudsman has been that the granting of social benefits should be tied to the individual needs of individuals.

Citizens receiving social benefits were seeking assistance to introduce a fair mechanism to determine the amount of benefits for vulnerable citizens. In this regard, the Ombudsman has always emphasised that there are still quite a few social benefits determined on the basis of the guaranteed minimum income (GMI) and the differentiated minimum income (GMI) such as the monthly child allowances granted under the Family Allowances for Children Act and the Regulations for the implementation of the Child Protection Act, as well as monthly, targeted and one-off benefits under the Social Assistance Act.

#### **Main recommendation:**

Implementing a sustainable policy on increasing the social benefits granted under the Family Allowances for Children Act.

#### **IV.8. TARGETED HEATING SUPPORT**

The complaints received at the Ombudsman institution regarding the targeted heating support concerned mainly 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.

Citizens complained that the amount of targeted support for heating is insufficient to cover the needs for the entire heating season. They were also seeking assistance in revising the concept of the heating season and expressed their desire to be granted heating support already in the summer months so that they can buy firewood at lower prices.

#### **IV.9. HOUSING ASSISTANCE**

In 2022, citizens continued to seek the Ombudsman's assistance to find solutions to their housing problems. The institution received 72 complaints in which citizens sought support from the Ombudsman in this regard. In the complaints, they insisted mainly on accommodation in municipal housing, on relocation to another municipal property, on the postponement and rescheduling of the obligations to pay utilities expenses, on the cancellation of orders for eviction from municipal housing. In connection with the requests, recommendations were made to the relevant municipal administrations.

##### **Main recommendation:**

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;
3. To provide the possibility of building more social housing in municipalities.

#### **V. CHILDREN'S RIGHTS**

##### **Public environment, children's rights and actions of the national Ombudsman**

With her active actions in 2022, the Ombudsman has steadily upheld her statutory mandate to protect children's rights. In this activity, the Ombudsman actively partners with civil organisations whose main activity is the protection of children's rights.

The Ombudsman purposefully pursues her mission to alert the public and institutions to the problems that children, families, professional communities and society face every day – violence, abuse, inefficient and uncoordinated social systems, limited access to quality healthcare, inaccessible architectural environment, slow justice.

The National Human Rights Institution introduced a new impact assessment methodology, carrying out an assessment of acts, decisions and policies regarding their impact on children's rights, developed by the European Network of Ombudsmen for Children (ENOC) and UNICEF.

An overview of the past year shows that it was once again difficult for children's rights and children's policies, a year in which thousands of Ukrainian children and their mothers sought protection on the territory of Bulgaria. The flood in the municipalities of Karlovo and Maritsa left many children homeless and revealed serious difficulties in coordination and support at the national level. The year will be remembered for the babies tied to their beds in a health facility in Sliven and for merciless hospital practices; dozens of complaints from parents of children with special educational needs and their ineffective integration in the educational environment; unaccompanied refugee children staying for a long time in detention. But 2022 has also been a year of intensive action by human rights bodies and NGOs united in common causes – for mental health in schools, to build a national children's hospital, to support children and refugees from Ukraine, for the rights of children whose parents live and work abroad.

Political instability, the lack of institutional continuity in children's policies are some of the factors that influence the situation with children's rights. Bulgaria is among the few countries in which no national strategic document has been adopted to define the national priorities and vision in the field of children's rights, to set the framework for policies and action.

The national Ombudsman launched a broad campaign to ban the sale and use of nitrous oxide (laughing gas) to children, which won the support of MPs and they passed urgent legislative changes. These actions show that measures can only be effective if they combine the efforts of civic and institutional resources.

The year 2022 is the first year since the severe pandemic that caused most serious damage to children and their rights, and the impact on them will undoubtedly have a long-term effect. In each of her recommendations, the Ombudsman strongly emphasised that sustainable solutions should be sought for the post-pandemic period. Therefore, already at the beginning of 2022, she emphasised the topic of mental health of children and students at school by holding a public discussion "Mental health at school – possible and necessary measures", which included school psychologists, parents and parental organisations, university teachers, civil organisations, institutions.

The year was marked by serious challenges for Bulgarian parents, who expressed their concerns about whether they would be able to provide for their children and give their child the best opportunities for a healthy and happy childhood. The complaints highlight a number of cases of vulnerability of children, which the Ombudsman believes are caused by constraints of the environment which prevent the child from developing his/her full potential.

In 2022, a new website of the national Ombudsman was created and introduced, and for the first time it has a children's section "Child Complaint" <https://www.ombudsman.bg/pravna-deteto/bg/p/poday-signal>. Consultations with children are held with the support from UNICEF BULGARIA for its optimisation.

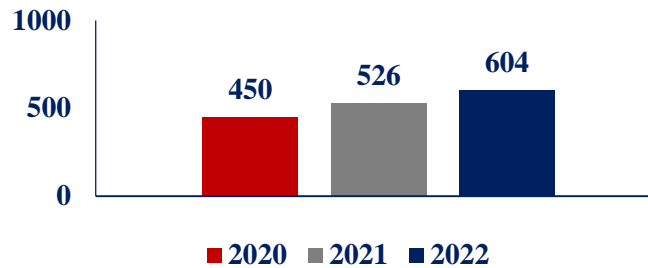
### **1. Types of violations in the field of children's rights**

In 2022, the main trend of the last three years, which marked an increase in complaints in the children's rights sector, persisted. There was an increase in the number of complaints concerning child welfare, complaints against actions of protection authorities, complaints relating to healthcare, protection from violence, as well as from inclusive education and the rights of children with special educational needs (SEN). Traditionally, there remains a high number of complaints affecting the child's family environment, and here priority is given to complaints from arguing parents that have severe parental conflicts in which the child is involved.

Most of the complainants are parents who state that their children have fallen into an unfair situation and their rights have been violated by someone's action or inaction, mostly institutional. The Ombudsman was also addressed by professionals working in social services for children, non-governmental organisations, experts, citizens.

The Ombudsman participated actively in the work of the standing committees in the National Assembly on children's issues, a number of opinions and positions were submitted. The position of the national monitoring body was very clearly presented on the issues of violence against children, Internet crimes against children, children and climate change, changes to the Family Allowances for Children Act, etc.

*Chart No24. Number of complaints and alerts related to children and their rights in the period 2020-2022*



Source: Statistics of the Ombudsman of the Republic of Bulgaria

**Table No.7.** Complaints and alerts related to children's rights by type of violation in 2022, %

Types of problems	2022
Welfare of the child	25.16
Other problems	17.21
Protection against violence	12.25
Child protection bodies	10.09
Right to education and children with special educational needs	8.94
Family environment and protection measures	8.6
Civil rights and civil freedoms	5.62
The children and the judiciary system	4.3
Children with disabilities	3.8
Right to access to healthcare	2.31
Right to participation	0.4

Source: Statistics of the Ombudsman of the Republic of Bulgaria

In 80% of the complaints submitted to the Ombudsman, a breach was found that led to violation or infringement of children's rights. 92 opinions were provided, 37 suggestions were made, in 59 cases advice was given, more than 45 of the recommendations made were implemented in full, 50 of the recommendations were partially implemented, at the discretion of the Ombudsman.

- **Citizens' complaints concerned mainly the following unresolved problems:**

During the year, a number of problems occurred in the field of healthcare, creating tension and dissatisfaction among parents. These questions had a strong public resonance. Chaos with **off-label** drugs that deprived hundreds of children with rare and oncological diseases of life-saving drugs. Limited access of needy children to vital enteral nutrition and refusal of the Ministry of Health to update the list of diagnoses. Impaired access to children's REMC and a slow cycle of decision-making. In the Sheynovo hospital, swapped babies who were raised outside their birth families for more than four months.

Dozens of complaints from **parents of children and students with SEN**, in which they clearly expressed their dissatisfaction with the ineffective inclusion of their children in an educational environment, limited access to pre-school education, the lack of enough hours for general and special preparation, insufficiently resourced teachers, lack of assistant teachers.

**Poverty, poor living conditions, lack of financial resources are among the reasons why children are still taken out of their family environment and placed in public care as a measure of protection**, which became the basis for complaints and alerts.

**In the area of justice for children**, the main complaints related to slow justice, the lack of decisive action to pass a new law on diversion from criminal proceedings and the imposition of educational measures on minor children, refusals of the protection system to

work with children in conflict with the law. An important step should be noted in the new attempt for a more complete transposition in the Criminal Procedure Code of Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and Directive 2016/800/EU on procedural safeguards for children who are suspects or accused persons in criminal proceedings, unfortunately again with a lot of compromises.

Over 17 lawsuits were filed against unaccompanied refugee children detained at our border with Romania and subsequently convicted. Most of the children were remanded in custody for more than 40 days. On 25 February 2022, three tenth graders were detained for writing “Save Ukraine” on the plinth of the Monument to the Soviet Army. Pre-trial proceedings were initiated in the case. The Ombudsman notes that “when it comes to children, the deprivation of their fundamental rights during police custody is absolutely unacceptable and the detained minor must be provided with legal protection”.

**Dozens of non-governmental organisations**, which are providers of social services for children, turned to the Ombudsman because they were unable to cover their costs for electricity, natural gas and other activities. Thus, in practice, the normal functioning of this type of service was at risk and there was a real risk of deteriorating support for thousands of children who are in public care. The Ombudsman prepared a special proposal for revising the Measures and Actions during the State of Emergency Act, to provide for deferred payment of electricity and heating bills for non-governmental organisations providing social services.

**Safe public environment** is increasingly becoming the subject of citizens’ complaints: the poor condition of playgrounds and facilities, the sale of snus to children, which they call “cheerful candies”, but definitely a dangerous nicotine product for the young organism, non-compliance with the prohibitions on use and sale of nitrous oxide (laughing gas) to children.

For the Ombudsman, the participation of children and young people in discussing policies and measures related to them is of utmost importance. Experts of the Ombudsman institution supported students in developing legislative proposals to ban the sale of energy drinks to persons under the age of 18, which were submitted to MPs at the Healthcare Committee in the National Assembly.

**Children engaged with sports.** Parents referred to the Ombudsman for serious problems faced by amateur children when changing sports clubs and systematic violations of their children’s rights. The Ministry of Youth and Sports found in its inspection that the Rules of the Bulgarian Volleyball Federation contradicted the Physical Education and Sports Act, but did not take any follow-up action.

In 2022, **alerts filed by children increased, and for the year they were 15.** The main problems posed by children related to:

- Reintegration of a child from a foster family;
- Domestic violence;
- Violation of a protection order by the father;
- Parental conflict;
- Bullying by a teacher;
- Proposal for ban of energy drinks;
- Limited access to education due to parental conflict;
- Violence in residential care;
- A student who is left without parental support and continues to study.

The Ombudsman is an established and reliable partner of civil organisations that present to her a number of problems related to the rights of large groups of children. Among the most

active organisations are: the National Network for Children (NNC), “For the Good” Foundation, “Karin Dom” Foundation, “Parents” Association, “Spina Bifida and Hydrocephalus” Association, “Children with Oncohematological Diseases” Association, “Life with Down Syndrome” Foundation and others. The questions and problems they raise include:

- lack of regulation of alternative forms of childcare;
- problems with the national co-financing of the National Centre for Safe Internet and the risk of its closure;
- involvement of children in political campaigns;
- the condition of the infectious disease hospital in Varna;
- supporting children with Down syndrome in the education system;
- supporting children with disabilities from Ukraine;
- problems with the management of the national hotline for children 116 111 and its transfer to the Social Assistance Agency;
- children and gambling.

Based on data from citizens’ complaints and alerts, as well as the results of independent monitoring of public areas in which children’s rights are implemented, the Ombudsman outlines in the Annual Activity Report the main challenges faced by children and their families, as well as most of the recommendations made in 2022. Based on the inspections carried out on the complaints and the analyses of the access of adolescents to their rights, the priority areas that need to be given special attention in policies and practices are identified.

## **2. Challenges in the field of children’s rights**

In 2022, the institution of the Ombudsman established the following challenges to the rights of the child in Bulgaria:

- lack of specific and targeted measures to overcome the consequences of the pandemic and its impact on children;
- ineffective integration of children with SEN; lack of teacher assistants, as there are currently 150 out of 25,000 children with special needs in the country;
- inaccessible school environment for children with disabilities;
- systematic violation of children’s rights in parental conflicts and lack of effective institutional support mechanisms;
- lack of national policy on those leaving public care;
- violated rights of children whose parents live and work abroad;
- deinstitutionalisation process at a standstill;
- lack of resources to support the child in the family, which is why children are removed from families and reintegration is not successful;
- no coordinated and sustainable measures to promote children’s participation in decision-making and policies;
- uncoordinated protection systems and transfer of the National Hotline for Children 116,111 to the Social Assistance Agency;
- increase in the number of children, victims of Internet harassment, violence and risk of closing the National Centre for Safe Internet and its hotlines;
- unreformed child-friendly judicial system;



– high child poverty and risk of social exclusion, especially in the Roma community, as well as lack of a sustainable family-oriented approach.

### **3. Resources provided in the field of children's rights in 2022**

In 2022, important steps were taken in the field of children's rights, the most important of which include:

– Early childhood development became a national priority, a National Framework for the Quality of Early Childhood Education and Care was introduced;

– A National Programme for the Prevention of Violence and Abuse of Children (2023-2026) and an Action Plan for its implementation for the 2023-2024 period were adopted;

– On 24 October 2022 draft amendments and supplements to the Criminal Procedure Code (CPC) were again submitted to the National Assembly. The bill was passed at the first vote in the plenary hall of the National Assembly, but due to termination of the powers of the 48<sup>th</sup> National Assembly, it was not considered for a second vote;

– Linking part of the social payments to the poverty line, not to the guaranteed minimum income;

– Legislative changes were adopted prohibiting the sale and use of nitrous oxide (laughing gas) to persons aged under 18;

– An Ordinance on the quality of social services was adopted;

– The Coordination Mechanism for unaccompanied refugee children was approved by the Minister of Labour and Social Policy;

– Ordinance No. 26 of 14 June 2007 on the provision of obstetric care to women without health insurance and on conducting examinations outside the scope of compulsory health insurance for children and pregnant women was amended;

– With the bill amending the Youth Act, a mechanism for youth policy planning was created through the introduction of specific parameters of the National Youth Strategy;

– A new site for the construction of a National Children's Hospital was determined;

– With the assistance of the State Agency for Refugees, a crisis centre for accommodation of unaccompanied refugee children was opened in Ruse.

#### **V.1. RIGHT TO CHILDREN'S WELFARE**

Most complaints were received in the area of child welfare.

##### **The leading problems found in the complaints are:**

– parental unemployment and lack of financial means to support the family, which seriously endangers family relationships and the well-being of children;

– difficulties in obtaining family allowances for children in cases where the mother is unaccounted for or absent from the country;

– financial support of the families from relatives and friends with whom children are placed as a measure of protection in accordance with the Child Protection Act (CPA), especially when the child is placed with elderly grandparents;

– restrictive municipal housing regulations, as well as lack of social housing;

– low amount of child maintenance support paid by the State;

– feeding of children with allergies in kindergartens;

- poverty among children from the Roma community, which according to Eurostat data is over 80%;
- social benefits have a narrow scope and a limited effect on the quality of life of children;
- uncoordinated child protection system.

### **Recommendations:**

1. Carrying out an analysis of the challenges faced by children placed with relatives and friends as a measure of protection and the effectiveness of the measure itself to protect the rights and interests of children under conditions of social support;
2. Finding a compensation mechanism for relatives where a child is placed, which does not depend on the indexation of pensions, especially since they are so small compared to the galloping inflation and prices, or to standardise the regime for granting benefits under Article 49 and Article 50 of the Regulations for Implementation of the Child Protection Act, which applies to children placed with relatives and friends, and for children placed in foster families;
3. Carrying out a review of the municipal housing regulations and the possibilities to support the most needy families with children;
4. Increasing the amount of child maintenance support awarded by the State;
5. Effective and measurable measures to reduce child poverty;
6. Implementing integrated measures to support the well-being of children in early childhood;
7. Carrying out a targeted study of social payments and the impact on the child;
8. Building support networks for families, especially for those where there is an identified risk for the child;
9. Making systematic efforts to reduce the high levels of air pollution.

## **V.2. RIGHT OF CHILDREN WITH SEN TO ACCESS TO QUALITY EDUCATION AND CARE**

After two difficult years of the COVID-19 pandemic and long-term online education of students, when children's rights were seriously affected, especially those with SEN, which became the cause of many complaints, the past year 2022 again was marked by a serious increase in complaints in this area. The Ombudsman received complaints from parents of children with disorders from the autistic sector who were at pre-school age. The families were from all over Bulgaria. They expressed their concern and dissatisfaction that their children were not wanted in kindergartens, they were treated formally, even the parents were insulted by the staff.

In regard to these complaints, the Ombudsman sent a recommendation to the Minister of Education and Science, specifically highlighting the questions raised by parents:

1. To take systematic actions for identification of children with SEN who have remained outside the educational system, as well as the reasons for this;
2. For the fulfillment of this goal, efforts should be made to coordinate the actions of the Ministry of Education and Culture, the Ministry of Labour and Social Policy, actively engaging the municipalities in order to reach out to every child. To establish the level and quality of his/her inclusion in pre-school education, especially for children aged over 4;

3. To set up a working group which, based on the established practice, will review the standards for support of children with SEN;
4. To carry out an analysis of the standards for the maintenance of children in special groups in kindergartens, opened in some of them;
5. To consider the possibility of providing financial incentives for teachers and assistant educators in general groups, which will be an essential step for more effective inclusion of children with SEN, as well as for adequate remuneration of specialists in the special groups;
6. To work with the principals in the pre-school education system to change their attitudes, including through mandatory training for principals and teachers;
7. To limit all practices that lead to violation of the rights of children with SEN.

#### **General findings:**

- Children and youths with disabilities and SEN are disproportionately excluded from the education system of pre-school and school education;
- At least one third of children with disabilities are outside the education system. According to UNICEF, nearly 10,000 children with SEN and disabilities are out of school;
- The quality of education for children with SEN is not good and lasts fewer years than for their peers;
- Lack of public data on children with SEN;
- Lack of accessible and inclusive environment;
- Unprepared teachers to work with children with SEN in the general classroom;
- Low levels of acquired skills for children with SEN in the education system.

#### **Recommendations:**

1. To carry out a comprehensive qualitative analysis of the conditions, environment and results of inclusive education in Bulgaria after the adoption of the Pre-school and School Education Act and the Ordinance on Inclusive Education;
2. To discuss and adopt a common national vision for inclusive education, based on the rights of the child, which would unite the goals, principles and tasks of this educational policy. This will help align and share understanding of the philosophy of inclusive education, include the measures and activities for educational transformation, as well as the resources needed for this systemic reform – changes in content, teaching methods, approaches, structures and strategies in education, which should be set out in a special Roadmap of inclusive education in Bulgaria;
3. To collect adequate and correct data on children with disabilities and children with SEN, with the analysis of which to build implementation strategies and policies;
4. Need to increase the standard of resource support for children with SEN at pre-school level;
5. Strategy for support human resources – speech therapists, psychologists, resource teachers, assistant teachers; providing ongoing support to teachers;
6. Accessible educational institutions, without discrimination, including buildings, information, communication, curriculum, teaching methods, assessments, language and support services;
7. Accessible educational materials that should be developed taking into account

the needs of children with various disabilities, incl. children on the autism spectrum, with communication disabilities and with sensory disabilities;

8. Training all teachers on the use of new accessible technologies, incorporating accessibility into teaching, learning and assessment processes and educational practices;

9. Adapted learning environment – including hygiene and toilet facilities, places for student sports;

10. Joint work between the school and the family, which is one of the most effective tools to reduce the pressure on both teachers and children;

11. To develop guidelines clearly defining the role, place, responsibilities of school psychologists and pedagogical advisors.

#### **V.4. RIGHT TO ACCESS TO QUALITY HEALTHCARE**

In 2022, the Ombudsman institution received 30 complaints related to healthcare problems, but in practice these are tens, even thousands of them, because the subject of the complaints affects large groups of children. In the context of these problems in healthcare and limited access to quality healthcare for children, the Ombudsman strongly notes that there must be a nationally responsible attitude towards the health of Bulgarian children.

##### **Recommendations:**

1. To carry out an analysis of all groups of children and patients who do not have access to food for medical needs, and for this purpose it is appropriate to outline a national plan with clear deadlines and specific officials to be responsible for reimbursing medical food for all groups in need;
2. To outline the algorithm of access to food for medical use;
3. To update the list of dietary foods for special medical purposes paid in full or in part by the NHIF;
4. To ensure consistency in the discussion of specific issues related to medical foods;
5. To implement a register of patients in Bulgaria who need special medical food, which would allow adequate follow-up of patients and more precise formation of budgets.

##### **• *Babies tied to their beds in Sliven***

The report with the babies tied to their beds in the “Dr. Ivan Seliminski” hospital provoked the humanity of citizens. The Ombudsman referred the case and started an investigation; meanwhile the institution received dozens of letters from parents and organisations demanding action.

During the inspection, it was found that this practice was in place for years in the pediatric department of the Sliven hospital. In the course of the inspection, a recommendation was sent to the Minister of Health for:

- conducting an inspection in all pediatric departments of the country regarding the implementation of medical practices that violate children’s rights;
- checking the conditions created for the companions of babies and children, as well as whether there are signals of unregulated requests for payments;
- to guarantee a companion for every child up to the age of 7;

– to take specific measures to improve the quality of the environment and care in the pediatric and children’s wards.

- ***The case with the swapped babies in Second Specialised Obstetrics and Gynaecology Hospital “Sheynovo” in Sofia***

Within a short period of time, when the switch of the two babies became public knowledge, the Ombudsman received a number of complaints from civil society organisations and citizens expressing their dissatisfaction with the medical practices in maternity wards – the separation of babies from their mothers immediately after birth. A parent of one of the swapped babies also approached the Ombudsman.

The Ombudsman notes that a long-term change is needed in maternity practices in hospitals, bringing them in line with European legislation and modern medical recommendations that are based on scientific evidence. It has been proven that the first contact of the mother with the baby, not separating him/her from the mother immediately after birth in the absence of medical necessity, is of great importance. It is mandatory to ensure full contact of the baby and the mother for a certain initial period of time.

**Recommendations:**

1. Mandatory introduction in the Medical Standard “Obstetrics and Gynecology” of a requirement for mandatory placement of babies with mothers immediately after birth, unless their health condition requires more special care. Even in these cases, the mother should be guaranteed a first contact with the baby, as recommended by the World Health Organization;

2. Maternity wards must be obliged to provide suitable rooms for mothers in labor and for babies who will be accommodated with them;

3. To provide opportunities for fathers to have full contact with the newborn baby;

4. It is necessary to introduce uniform principles and rules of good medical practice in healthcare for mothers and newborns, as well as uniform medical practice for children, to ensure that the health system follows best practices in the field of healthcare for children and fulfills its commitments under the UN Convention on the Rights of the Child and other international standards;

5. To appoint checks in all maternity wards with regard to the established rules for the organisation of maternity care and the protocols for the maternity wards;

6. To have a clearly developed control system that is regularly exercised and is an effective mechanism to protect children’s rights in healthcare.

- ***Building a National Children’s Hospital (NCH)***

The Ombudsman emphasises that the NCH is not just a field and a building, but is only one aspect of the overall concept and action plan, it is a nationally responsible position, a matter of reforms and concepts for children’s healthcare. The implementation of this concept requires constant communication, publicity and transparency in decision-making. An open dialogue is needed, in which specialists and managers of the children’s wards and clinics, parental organisations, representatives of the local government are included.

- ***Citizens turned also to the Ombudsman on the following issues:***

- problems with the medical examination of children – unequal criteria of the different REMCs in determining the percentage and term;

- lack of iodine prophylaxis for children;

- a petition from parents of children with diabetes, which has been signed by more than 500 people, demanding improved children's access to sensors for continuous monitoring of the glucose level; the reimbursement of the needles for the insulin pens, as well as the pens themselves; sufficient ketone strips;
- provision of medicines for a child with severe disabilities from Ukraine;
- access to emergency care outside the work schedule of personal physicians; payment for medical care that is not considered urgent;
- refusals to approve the treatment of a child abroad by the NHIF;
- complaint about the work of the expert councils in various medical specialties at the NHIF;
- non-payment by the NHIF for carrying out complete genome sequencing of children with disabilities;
- refusal of a personal physician to enroll a child;
- denied payment for a medical device for a child (valve) due to lack of prior authorisation.

## **V.5. RIGHTS OF CHILDREN WITH DISABILITIES**

An important part of the work of the Ombudsman of the Republic of Bulgaria is the protection of the rights of children with disabilities.

The complaints received during the past year show that in a number of cases the rights and interests of children were safeguarded in the best possible way. Proof of this is the numerous complaints from parents of children with Down syndrome, who complain about systematic violations by medical examination bodies in determining the needs of external assistance of their children and the refusal to recognize the definitive nature of the disability.

Another part of the complaints related to the monthly allowances under Article 8e of the Family Allowances for Children Act (FACA), which have not been updated since the end of 2016. There is also no mechanism for their automatic updating over the years. In view of the provision of Article 8e, paragraph 2 of the FACA, which does not allow the amount of aid to be less than the previous year, the amounts of financial support for individual groups of beneficiaries have not been updated for 5 years in the state budget of the Republic of Bulgaria acts.

Last but not least are the complaints regarding the lack of information from the Social Assistance directorates about the need to periodically submit the required documents to continue the right to monthly allowances for children with disabilities.

## **V.6. JUVENILE JUSTICE**

Every year, over 10,000 children in Bulgaria are affected by the outdated Combating Anti-social Behaviour of Minors Act, and over 2,000 adolescents pass through closed institutions – correctional facilities, pre-trial detention centers, police and border offices, homes for temporary accommodation of minors, socio-pedagogical and educational boarding schools, and their rights have been systematically violated.

- ***Foreign children remanded in custody***

Bulgaria fails to meet international standards for treatment of unaccompanied asylum-seeking children and to offer alternatives to detention.

Unaccompanied children, fleeing mostly from Syria and Afghanistan, face insurmountable physical and bureaucratic barriers, are held for long periods in detention, and

are brought before the courts without adequate legal representation, facing violence and suffering.

### **Recommendations:**

1. In any action taken against foreign minors, they must always be treated first and foremost as children, and in any proceeding, regardless of its nature, their rights must be respected, regardless of their migration status;
2. The country must comply with the standards for reception of asylum seekers set out in the Common European Asylum System;
3. Children should not be criminalised or penalised because of their immigration status or that of their parents;
4. Unaccompanied foreign children should not be deprived of their liberty, and detention should be used as a last resort;
5. To develop different alternative forms of detention of refugee children in order to provide appropriate care, services, support;
6. To improve the collection of data on child detention, make this data publicly available to facilitate monitoring;
7. To overcome the shortage and workload of the children's guardians at the Legal Aid Bureau, to have trainings and monitoring of their activities;
8. Bulgaria must take regular actions, including legislative ones, to be able to guarantee that their rights are safeguarded and they can receive the necessary protection as children.

### **• *Opinion of the Ombudsman on amendments to the Criminal Procedure Code***

In regard to re-submitted bill in the National Assembly, which aims to transpose into Bulgarian legislation Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings and Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012, the Ombudsman drew **attention to several provisions in the bill where she felt a different approach should be applied:**

- Children must necessarily be granted the right to an individual assessment, and the CPC should explicitly state in the rights of victims that they have the right to individual assessment;
- The envisaged measures to avoid contact between the victim and the perpetrator remain as an option and not as an obligation;
- Supports the proposal to create a provision regarding the mandatory presence of a pedagogue or psychologist during the questioning of a minor witness with specific protection needs, but suggests that the persons present at the questioning should be required to have a qualification in the field of child psychology and child development, as well as regulation of their participation;
- The detention of a child at any stage of the proceedings should be limited to the shortest appropriate period. **The specified terms are excessive and do not comply with international and European standards regarding juvenile justice;**
- To introduce the requirement in law regarding jurors to have the necessary knowledge and experience in the field of children's rights.

## V.7. RIGHT OF THE CHILD TO PROTECTION FROM VIOLENCE

Complaints related to violence against children and between children remain alarmingly high, indicating systematic societal and family problems that put children at risk, as well as dysfunctional and ineffective measures.

The themes that emerge based on the complaints and reports of citizens, parents, teachers and children are:

- violence by parents or persons taking care of the child in a childcare centre or at school;
- corporal punishment of children in kindergartens;
- various forms of violence against children in parental conflicts;
- violence in social and residential services;
- bullying at school;
- sexual abuse of children on the Internet;
- videos showing abuse of children by other children.

- **Violence in nurseries and kindergartens**

The Ombudsman institution systematically receives complaints from parents who report various types of violence against their children in nurseries, which often become public through television reports. In their complaints, they most often indicate physical violence against their children: slapping, pushing a child by a staff member; punishment, even locking children in isolated rooms; using methods of education that undermine the dignity of the child, as well as various forms of mental and verbal abuse: harsh tone towards the child, shouting and insults.

It was established that the regulations are not being followed, a report is not submitted about a child victim of violence, which is the obligation of everyone under the Child Protection Act.

**The Ombudsman supported efforts to change the criminal law in the part regulating criminal liability in cybercrimes, pointing out that “sexual abuse and sexual exploitation of children, including child pornography, constitute serious violations of children’s rights and their right to protection”.** The increase in these cases during the pandemic and the online education of students was highlighted, with a reported increase in extortion with intimate photos and videos, as well as contact with minors for sexual purposes.

### **Recommendations:**

1. Effective protection of the rights of children who are in parental conflicts;
2. Use of positive (non-violent) discipline in childcare facilities and at school;
3. Introduction of adequate measures to protect children against corporal punishment and humiliating treatment;
4. Increasing the number of social services for recovery and social integration of children who are victims of violence;
5. Regulation of sites with public activities such as daycare centres for children, private study rooms and places for hourly care for children;
6. Adoption of the amendments to the Protection against Domestic Violence Act;
7. Establishing effective mechanisms for reporting by children;



8. Fully transposing the European Audiovisual Media Services Directive by adopting amendments to the Radio and Television Act to better protect the most vulnerable viewers – children, with the Electronic Media Council also being responsible for online platforms;

9. To review the criteria for harmful media content for children, set out in the Radio and Television Act.

## **V.8. RIGHT TO CHILD PROTECTION IN PARENTAL CONFLICTS**

In 2022, there was an alarming trend of maintaining a relatively high number of complaints about violated children’s rights as a result of conflict and severely deteriorated relationships between parents. The Ombudsman considers these cases, called by the institutions “parental conflicts”, in the light of children’s rights, since children are at the center of the conflict between their parents. They are most affected by the deterioration of parental relationships and their rights are difficult to defend by the protection authorities.

The violation of the rights of children involved in a parental conflict and the lack of working mechanisms for their protection is unacceptable and reprehensible in a society that has adopted European and international standards for children’s rights. For years, the Ombudsman has called for a change in the model of working with parents and children whose rights have been violated in cases of parental conflict, but the protection system cannot meet the challenges of working on these cases.

The parents’ complaints also contain allegations of:

- failure to provide adequate care or raising the child in inappropriate conditions by the other parent;
- abuse of the Protection against Domestic Violence Act on limiting contact between children and a parent;
- non-payment of child support by the parent;
- change of permanent and current address of the children without the knowledge and consent of the other parent;
- intervention of the extended family circle and involvement of other relatives and friends in the conflict;
- dissatisfaction with the work of social workers in child protection departments, which leads to parents’ refusal to cooperate;
- dissatisfaction with social service providers;
- long court proceedings in which the rights and interests of children are affected.
- For yet another year, the Ombudsman found that:
  - the work of protection authorities is not sufficiently oriented towards the interests and rights of the child;
  - social workers refused to open cases on children, despite indisputable data about their being at risk due to parental conflict, the reason for the refusal is that the conflict is in the initial phase or a court decision is awaited;
  - social workers limit themselves to counselling the parents about how important it is for the child not to be involved in the conflict and do not seek other admissible legal actions and means, within their powers, to reconcile the positions of the two opposing parents.

- In order to ensure the protection of children's rights in cases of parental conflict, the Ombudsman recommended:
  - to make a precise assessment of the child's interest and protection authorities should take measures and actions after a comprehensive analysis of the degree of impact on the child's rights and interests;
  - to apply an individual approach in view of the specific circumstances and the history of the parental conflict;
  - to coordinate actions of the authorities in the protection system, even more so when several child protection departments are involved in the case;
  - to apply a multidisciplinary approach in the work with parents, working for their support and overcoming the conflict between them, if possible at the earliest stage;
  - parents should actively participate in the design of an action plan for the children together with the leading child protection department;
  - put more resources into providing practical help to children whose parents are in conflict, for example by providing neutral meeting places;
  - to set up effective legal mechanisms for emergency intervention in case of alienation of the child from one parent.

## V.9. CHILD PARTICIPATION

For the Ombudsman, the child's participation is a fundamental right, which is a mechanism to exercise all other rights. In 2022, the institution's efforts were aimed at providing more understandable information to children, developing and introducing a more accessible mechanism for reporting violations of their rights and seeking help in the event of violence or abuse.

### **Recommendations:**

1. To introduce civic education from an early age, which will give children the opportunity to form their own opinion on issues that are important for their development;
2. Targeted measures to increase public sensitivity, awareness and understanding of the importance of listening to and taking into account the views of children and adolescents in all matters that concern them in the family, in school and in communities;
3. Development and introduction of mechanisms at the national and local levels for consulting children and youths on policies and programmes.

## V.10. ACTIVE YEAR OF PARTNERSHIPS AND INITIATIVES:

The Ombudsman seeks to support and build a fruitful dialogue between the civil sector in Bulgaria working in the field of children's rights and public authorities, not only by supporting various initiatives, forums, but also by organising a number of discussions, round tables and seminars in which she meets their positions and opinions.

The partnership with the United Nations Children's Fund, **UNICEF**, has been going on for years and was fully developed in 2022. The areas in which the two organisations cooperate are to develop and strengthen the institution's capacity to carry out independent monitoring of the implementation of children's rights in Bulgaria; to consider individual complaints and alerts, including those submitted on behalf of or directly by children, and carry out inspections; to apply measures to increase the awareness and sensitivity of the Bulgarian society for knowledge, respect and observance of children's rights; work towards ensuring access to rights and services for children in conflict with the law.

### **Summary recommendations:**

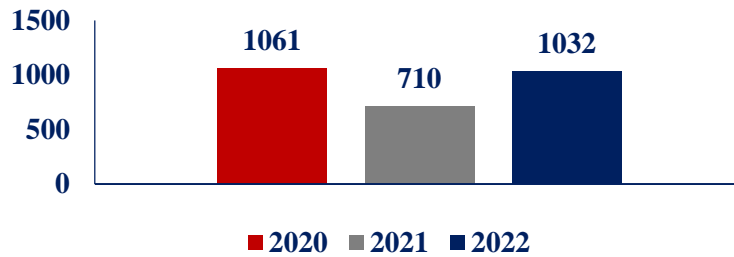
1. To increase support for children living below the poverty line, and in particular single-parent families, families with three or more children and families of children with disabilities, and to ensure that social protection measures cover the real costs of dignified life for children, including the costs associated with their right to a healthy life, nutritious food, education, adequate housing, access to water and sanitation services;
2. Planning targeted and accelerated actions to achieve the goals of ensuring a suitable and safe environment for children's development;
3. To carry out a precise assessment of the child's interest and protection authorities to take measures and actions after a comprehensive analysis of the degree of impact on the child's rights and interests;
4. To improve services for children and adolescents in the field of mental health;
5. To take specific actions for guaranteed admission of children with chronic diseases and with SEN to nurseries and kindergartens;
6. To adopt a mechanism for automatic updating of monthly allowances under Article 8e of the Family Allowances for Children Act, which has not been updated since the end of 2016;
7. To work for the effective inclusion of Roma children and children from vulnerable groups in education, adopting supportive measures aimed at preventing school drop-outs;
8. To discuss and adopt a National concept of mental health in pre-school and school education system;
9. To adopt a package of measures for support and protection of children whose parents live and work outside the country;
10. To prohibit the reversal of adopted children;
11. Development and introduction of mechanisms at national and local levels for consulting children and young people on policies and programmes;
12. To develop an integrated family policy to introduce a sustainable family-oriented approach to work with children and early intervention;
13. To adopt a Law on diversion from criminal justice and imposing educational measures on children;
14. To adopt a National Strategy for the Child, which clearly outlines the vision, priorities and commitments of the State to ensure children's well-being.

## **VI. RIGHT TO EDUCATION**

An important priority in the work of the national Ombudsman in 2022 was also the support for development of an educational environment to ensure equal access to quality education, equal footing and non-discrimination for all children and youths.

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

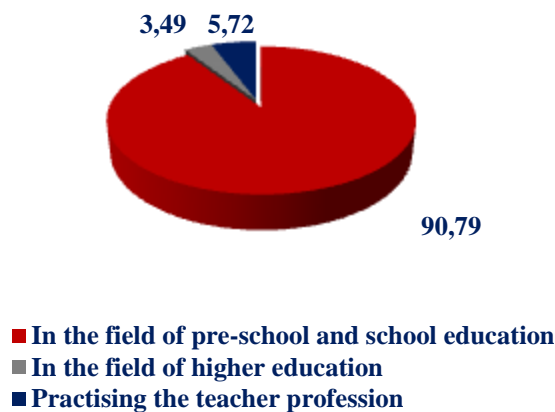
**Chart No.25.** *Number of complaints and alerts received in the field of education in the period 2020-2022*



Source: Statistics of the Ombudsman of the Republic of Bulgaria

A total of 1,032 complaints and alerts in the area of education were received in 2022.

**Chart No.26.** Complaints and alerts received in the field of education in 2022, %



Source: Statistics of the Ombudsman of the Republic of Bulgaria

In defense of citizens' rights, the Ombudsman issued 543 recommendations, advice and opinions. Closed inspections on complaints and alerts in 2022 in the field of education amount to 1,032.

## VI.1. PRE-SCHOOL EDUCATION

The most often alerted issues in the period related to the chronic shortage of places in nurseries and kindergartens in the capital, the rules for admission to nurseries and kindergartens, ensuring the quality of pre-school preparation and improving the scope of pre-school education, the zoning in some municipalities in the country regarding the system for admission to nurseries and kindergartens, the number of children in one group and the staff who cared for them, as well as with collective groups in the summer months, the closing of kindergartens in remote areas or villages with a declining population or with a population of vulnerable social groups. Other problems related to the qualification of assistant educators and their low pay, the provision of resource specialists to work with children with special educational needs.

In recent years, the Ombudsman has been pushing for the abolition of fees for kindergartens as a measure to support families with small children and to overcome barriers to access to pre-school education for children from vulnerable groups. Analyses show that free access to pre-school education would lead to the inclusion of children living in poverty as well as children from the at-risk groups.

The public defender encouraged authorities to make a decision to abolish the fees for nurseries and kindergartens paid by parents. This occurred with the amendment to the Personal Income Tax Act (SG No. 17/2022), paragraph 5, by amending the Local Taxes and Fees Act in section II *Local Fees*, which eliminates the fees for daycare centres and kindergartens, starting from 1 April 2022, and the funds are paid from the state budget.

### **Main recommendations in the field of pre-school education:**

1. Need to modernise childcare institutions and build new ones in order to achieve accessibility and high quality in kindergartens and nurseries;
2. Introduction of compulsory pre-school education for 4-year-old children in the country and provision of alternative forms of education and training;
3. Improving the scope of pre-school education and early inclusion in the education system of children from the Roma ethnic group and from risk groups;
4. Introduction of special programmes and classes for learning Bulgarian in pre-school groups for children for whom it is not the mother tongue;
5. The Sofia Grand Municipality should look for opportunities to allocate land for the construction of childcare facilities in newly built residential districts, in order to provide places in nursery schools and kindergartens for all those who wish to attend them;
6. To work to achieve high quality of the service provided by the children's facilities;
7. To build trust between parents and those working in childcare facilities through active dialogue and joint work;
8. Active interaction with parents in the process of children's adaptation in daycare facilities is not adequate.

## **VI.2. SCHOOL EDUCATION**

The tendency for the topics that citizens raise regarding problems in school education to be the most numerous and diverse was sustained this year as well. Citizens raised questions known to the system, that have not been resolved for years, as well as new ones, the resolution of which cannot be delayed.

The problems related to the formats of testing and assessment of their knowledge, to the conduct of state matriculation exams (SME) and the national external assessment (NEA) after 7<sup>th</sup> grade, the scope of topics included in the NEA and SME exams after 12<sup>th</sup> grade; the content of the examination materials for the SME by profiling subject, the appearance of children with motor disabilities in SME, the integration of adolescents from vulnerable groups. Complaints also concerned the heavy workload of children at school, the availability and content of learning material, the high prices of textbooks, school notebooks and aids that families pay for, the heavy backpacks of youngest students.

Requests were made to provide free textbooks and study notebooks to all students for whom education is compulsory, as well as to reduce the number of textbooks per subject.

Some of the problems raised related to the management of schools, the selection of teachers in some schools in the country, the competitions for school principals, the introduction of mandates for the principals of kindergartens and schools, the role of the regional administrations of education in providing methodological guidance to teachers and principals, the teacher workload.

Questions were raised about the material and technical conditions of the schools: the lack of gymnasiums and sports grounds (or their poor condition), the lack of free extracurricular activities in schools, the impossibility of switching to a single-shift training regime for students in large cities, providing transportation for students to consolidated and unified schools, increasing the amount of scholarships for excellent student success, as well as for children with pronounced talents.

Healthy eating in school cafeterias, school canteens, prices of items offered in school counters and control of products offered are also topics of interest to parents.

Along with the mentioned problems, new questions arose for the education system. Some of them were prompted by the war in Ukraine and the refugee crisis.

The Bulgarian public defender was approached by citizens of Ukraine who sought asylum in Bulgaria. The national Ombudsman provided assistance, in accordance with her powers, to Ukrainian citizens for the inclusion of their children in the Bulgarian education system, as well as for directing them to centres for free study of the Bulgarian language.

### ***Complaints requesting the possibility to increase the scores of SME***

In connection with passing of the mandatory SME at the end of 12<sup>th</sup> grade, citizens alerted the national Ombudsman, insisting that high school seniors should have the right to retake the exam in order to increase their score if it is unsatisfactory for them.

In connection with identified problems related to the lack in the current legal framework of the opportunity for high-school graduates whose SME score is unsatisfactory to improve it and expand their opportunities for access to the higher education system, the Ombudsman brought to the attention of MPs a legislative amendment to provide for such option.

The proposal was supported by the MPs on the Education and Science Committee in the National Assembly. Unfortunately, due to frequent elections in 2022 and suspension of the 48<sup>th</sup> National Assembly, this proposal was not adopted. The Ombudsman will continue to push for the adoption of this option.

### ***Complaints with a request for equal treatment of SME scores on a given subject, studied as profiling and as general subject***

Complaints were received at the Ombudsman institution regarding an unresolved problem with the equality of SME scores on a given subject, studied as profiled and as general subject. In some universities, the matriculation assessment of the learning content of the profiling subjects is required for certain specialties, and students do not always have the opportunity to study a subject of their choice as a profiling subject due to reasons beyond their control. For example, when the relevant school does not give a choice for such a subject because it is not designated as a profiling subject.

The Ombudsman considered that the proposed option would create equality in the admission of students to higher education institutions and made a recommendation to the Ministry of Education and the Education and Science Committee of the 48<sup>th</sup> National Assembly proposing regulation of the possibility of introducing SME at the choice of students – on a profile basis or on a general education basis.

The proposal was upheld by the MPs and the National Assembly adopted the proposed changes to the Pre-school and School Education Act (PSSEA).

The amendments give students who wish to take a course on secondary school content without having studied the subject as a profiling subject the right to do so. Students will be able to choose whether to take an exam on the content of their general education subject up to 10<sup>th</sup> grade or on the content of the compulsory modules of the profiling subject of the second secondary level (11<sup>th</sup> and 12<sup>th</sup> grades).

### ***Complaints related to the lack of textbooks on profiling subjects***

Twelfth graders reported to the public defender about a problem with the lack of textbooks for profiling subjects, which made it difficult for them in the upcoming SME on these subjects and in the preparation for applying to higher education institutions. They gave an example with the lack of biology and health education textbooks for the second high

school stage.

The Ombudsman made a recommendation to the Ministry of Education and Culture, stressing the need, in connection with the new format of matriculation exams, for students and teachers to be familiar with the requirements and content of the upcoming exams in a timely manner, so that they have enough time to prepare and overcome the serious gaps in their knowledge and skills during online study in the coronavirus pandemic.

In response, the Ministry of Education and Culture informed that procedures for writing and evaluating textbooks within the statutory deadlines had been announced, but the ministry was not aware of the readiness of publishing houses and authors' collectives for the preparation of such textbooks.

### ***Complaints about problems with vocational education***

In connection with problems related to vocational education, the public defender made a proposal to the Ministry of Education and Culture to amend Ordinance No. 1/19.02.2020 on the organisation and conduct of examinations for the acquisition of professional qualification. It refers to the reduction of the deadline for submitting an application to the school principal for admission to an examination for the acquisition of a professional qualification for each examination session no later than 5 (five) months before it. This deadline prevents students from taking the exam in the next remedial session, since it is impossible to meet the specified deadline of 5 months during the period between the June and September and also the September and January sessions.

The Ministry of Education and Culture took action in this regard and the said Ordinance was amended and promulgated in SG No. 102 on 23 December 2022. The deadline for submitting an application for admission to an examination for the acquisition of professional qualification was changed from 5 months to 3 months.

### ***Complaints about problems faced by children and youths with disabilities in their desire to continue their education***

The Ombudsman was alerted by parents of students with disabilities and mobility difficulties who sought support for their children in terms of their socialisation and for ensuring their right to education.

The Ombudsman made a recommendation to the Ministry of Education and Culture regarding the legal regulation of the possibility for students with disabilities to take the SME from home.

### ***Complaints about providing an accessible environment in schools***

From the complaints received by the Ombudsman institution and the inspections carried out on specific cases, it is established that the majority of schools and kindergartens still do not meet the requirements of the current legislation on accessibility of the environment. The failure to provide accessible environment prevents people with disabilities and special needs from fully participating in the community.

In this regard, the Ombudsman believes that a targeted policy is needed to address the problems with the accessibility of school buildings and kindergartens in the country. She made recommendations to the competent institutions to take action to resolve the problems with the accessibility of schools and kindergartens.

### ***Complaints about the provision of free textbooks to all students***

Parents noted that according to the Constitution of the Republic of Bulgaria, schooling is compulsory until the age of 16, and primary and secondary education in state and municipal schools is free. They insisted on the provision of free textbooks and exercise books for all students in the country.

In her recommendations to the institutions, the national Ombudsman stated that it was in the interest of the State to invest in free electronic resources and in free textbooks for absolutely all students, especially in view of the fact that it invests once every three or several years, i.e. textbooks are not purchased every year. She pointed out this would also contribute to their full inclusion in school education and supported the government's efforts to ensure equal access to education for all children.

The National Assembly adopted the proposed amendments to the Pre-school and School Education Act and from the 2024/2025 school year there will be free textbooks for all students from 1<sup>st</sup> to 12<sup>th</sup> grades.

#### ✓ Questions related to pursuing the teaching profession

Teachers and parents raised questions about the poor management of schools, unacceptable behaviour, as well as bad practices in the methods and working style of principals, which led to deterioration of the working atmosphere of teachers. There were also complaints about the lack of competence and professional attitude on the part of principals of educational institutions.

Citizens insisted on real control over the activities of principals, as well as the introduction of a term of office for them.

In a large number of complaints to the Ombudsman, questions were raised regarding increased workload of teachers, the regulation of their working hours, the administrative burden on teachers, the non-implementation of the Collective Labour Agreement in the education system and unfulfilled commitments to increase individual salaries of teachers in some schools, non-compliance with financial discipline and professional ethics by school principals in the country, as well as about the delivery of teacher qualification courses.

Questions were also raised about the competitions for principals of educational institutions and non-transparency in the selection of teachers, with the role of the regional administrations of education in solving problems that had arisen for teachers and schools, as well as regarding their methodological guidance.

#### **Main recommendations in relation to school education:**

1. Ensuring investments in educational and technological infrastructure in schools and creating conditions for all students to have access to education and quality learning process;
2. Measures to overcome the deepening imbalances in the educational results of students in online learning;
3. Sustained introduction of more free extracurricular forms and sports for children at school;
4. Modernising vocational education and training, providing innovative practices in vocational schools;
5. Expanding dual learning to make vocational education and training more labour market-friendly;
6. Regulation of the possibility to increase the SME score at the students' request;
7. Improving the effectiveness of qualification courses for personnel working in the field of secondary education;
8. Measures to strengthen the attractiveness of the teaching profession and overcome



the upcoming crisis for pedagogical personnel in connection with the aging of teachers;

9. Introduction of a system for performance appraisal of principals;

10. Sustained introduction of educational mediators to work with families from vulnerable communities to overcome the negative attitudes towards their children's education;

11. Ensuring wider participation and inclusion of parents and local communities in school life and accepting them as partners in the educational process.

### **VI.3. TERTIARY EDUCATION**

As in previous years, the complaints related to the quality of higher education, the high fees for certain courses, deteriorating relations between students and teachers, poor administrative services in individual universities, the occupation of academic positions and the financing of individual courses in higher education, the lack of sustainable link between education, science and business.

Other problems concern the low pay of PhD students, the availability and amount of scholarships for students and PhD students, the holding of academic posts and competitions in this regard, and the professional competence of the members of academic juries.

Citizens expressed their dissatisfaction with the lack of generally valid requirements for the scientific achievements necessary for acquiring an academic degree and occupying an academic position, the lack of sufficient control in conducting the procedures for acquiring an academic degree and occupying an academic position.

The poor condition of some student dormitories, the high electricity bills that student dormitory users pay were also topics that students brought to the attention of the Ombudsman.

#### ***Complaints related to the intention of the Ministry of Education and Culture to transform and merge universities***

Representatives of the academic community pointed out that the reforms were carried out hastily and without proving their effectiveness, which raised doubts about deepening the problems in higher education and its low quality. They insisted on preserving the identity of our national education system, national educational traditions and established good practices.

In the recommendation to the caretaker Minister of Education and Science, the Ombudsman emphasised that changes in the network of higher education institutions in the country should take place on the basis of a thorough and objective analysis of its condition and after a broad discussion with the academic community of the proposals of the Ministry of Education and Science, taking into account all the specific circumstances and needs of the country's development, of the respective region, which the responsible institutions must evaluate fairly and impartially. It is necessary to take into account the positions of the academic community as well, because only with broad public support can changes be implemented so as to actually improve the quality of higher education in the country.

#### ***Complaints related to high electricity bills in student dormitories***

In relation to the high electricity bills that the students living in dormitories had to pay, a position was brought to the Ombudsman institution by the National Representation of Student Councils demanding that student dormitories should switch from non-household to household customers of electricity, so that students did not have to pay industrial electricity.

It is stated that more than 50 thousand students lived in these dormitories, and a large number of them were not able to pay their electricity bills because the prices of electricity on the free market are unaffordable for them. As of 2020, student housing fees per person

increased 3 times and thousands of students are at risk of leaving their student residences and interrupting their education.

The Ombudsman made a recommendation to the chairman of the Council of Rectors in Bulgaria, insisting that action be taken to switch student dormitories from the free electricity market to the regulated market, where prices are set by the Energy and Water Regulatory Commission.

### **Main recommendations related to tertiary education:**

1. Increasing the efficiency and modernisation of higher education and its compatibility with European systems for its integration into the common European educational space;
2. Systematic efforts to improve the quality of higher education and its applicability to the labour market;
3. Inclusion of higher schools in international educational and scientific networks;
4. Stimulation of research in higher education institutions and development of innovations in them;
5. Taking measures to overcome the imbalances associated with an increase in the average age of the academic staff;
6. Increasing the funds for payment of PhD students in order to stimulate young people to engage in scientific activity;
7. Determination of prices for administrative services according to the costs of providing them;
8. Improvement of administrative services in higher education institutions;
9. Measures for stricter control regarding the procedures for conducting competitions for academic positions;
10. Reducing interest rates on loans for students and PhD students in order to give access to education to young people who do not have the opportunity to provide the necessary funds to pay the fees and tuition fees themselves.

### **GENERAL RECOMMENDATIONS IN THE FIELD OF EDUCATION:**

1. Modernisation of the material conditions and financial provision of the introduction of innovative practices in childcare facilities and schools;
2. Ensuring investments in the educational and technological infrastructure in schools and creating conditions for all students to have access to education and quality learning process;
3. Regulation of the possibility of increasing the SME score at the request of the students;
4. Improvement of the material conditions in schools – gymnasiums and sanitary facilities in the school buildings and the opportunities for free sports activities for children;
5. Sustainable increase of extracurricular activities and sports at schools;
6. Transparency and public discussion should be leading in municipalities' decision-making on school network optimisation;
7. Achieving high quality and accessibility of childcare facilities;

8. Provision of opportunities to switch to a single-shift training regime in schools;
9. Modernisation of vocational education, provision of innovative practices in vocational schools;
10. Expansion of dual training to better match vocational education and training and the labour market;
11. Provision of a system for effective personnel qualification;
12. Increasing the amount of scholarships for excellent student performance, which are the same for all schools, as well as for children with outstanding talents;
13. Improving the quality of higher education and its applicability to the labour market;
14. The funding model for higher education institutions should be linked to a greater extent to the quality of the education provided than to the number of students;
15. Increasing the financial support for research and participation of higher education institutions in international projects;
16. Taking measures to overcome imbalances related to an increase in the average age of the academic staff;
17. Introduction of a uniform standard for the quality of education in all educational stages.

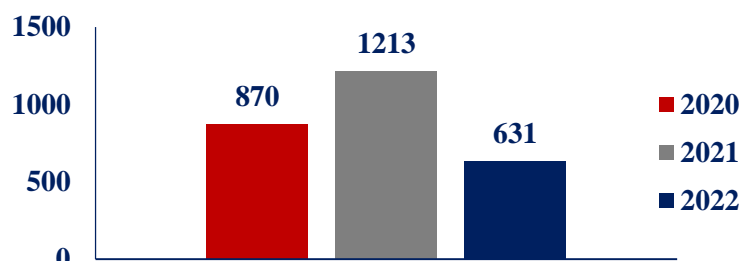
## VII. RIGHT TO HEALTHCARE

In 2022, the institution received 631 complaints and alerts related to healthcare rights. The lower number compared to the previous year is mainly due to the gradual elimination of temporary anti-epidemic measures, which were hugely disapproved by citizens as they believed they violated their rights and freedoms.

It should be noted that some of the complaints were accompanied by petitions and that many of the individual complaints and alerts, as well as those from non-governmental organisations, raised issues about the rights of a large group of people.

431 complaints and alerts resulted in recommendations, most of which were fully or partially implemented.

*Chart No.27. Number of complaints and alerts related to healthcare rights in the period 2020-2022*



*Source: Statistics of the Ombudsman of the Republic of Bulgaria*

The checks recommended by the Ombudsman were carried out, and information on the actions taken was received in response. In case of detected omissions and violations by

control bodies, the measures provided for in the regulations were taken against them.

Citizens were consulted and advised by the Ombudsman about the possibilities and approach to finding a solution to the problems they raised, assistance and mediation were provided to address them. 128 opinions were given in response to complaints and alerts.

**Table No 8.** Healthcare-related complaints and alerts received in the period 2020-2022, %:

Rights	2020	2021	2022
COVID-19 and implemented anti-epidemic measures	36.78	45.57	<b>7.44</b>
Medical expertise	20.11	14.75	<b>28.52</b>
Quality of medical services	8.16	7.41	<b>14.58</b>
Access to medical services	8.27	6.92	<b>12.67</b>
Access to medicinal products, medical devices and dietary food	4.48	3.87	<b>6.97</b>
Health insurance rights	4.71	3.79	<b>4.12</b>
Labour and professional rights of those working in the system	4.25	1.73	<b>2.21</b>
Proposals and opinions in relation to regulatory changes	2.75	1.89	<b>4.59</b>
Promotion and prevention, immunisations, health control	1.26	6.51	<b>2.37</b>
Access to health information	1.03	0.9	<b>2.85</b>
No specific request/Outside the powers of the Ombudsman	3.56	3.04	<b>5.13</b>
Other	4.59	3.62	<b>8.55</b>

Source: Statistics of the Ombudsman of the Republic of Bulgaria

## VII.1. RIGHT TO MEDICAL EXPERT EXAMINATION

### *Delays in medical expert examinations by Regional Expert Medical Examinations (REMCs)*

The numerous cases of delays in re-certification, with the resulting interruption in financial support, violate the rights of people with disabilities and are discussed in the relevant chapter of the report.

After the Ombudsman stated an opinion and made a recommendation, a change was adopted in the Measures and Actions during the State of Emergency Act, announced by a decision of the National Assembly on 13 March 2020, providing for extension of the term and the validity of expert decisions of REMC and NEMC.

The decision to extend their validity by only three months proved insufficient. In this regard, the Ombudsman prepared and submitted to the National Assembly a bill for amendments and additions to the People with Disabilities Act, which was recognized by the MPs and adopted by the National Assembly.

In connection with the received complaints and alerts, recommendations were made to the Regional Health Inspectorates (RHIs), also to REMCs and/or hospital directors, to determine a closer date. The Ombudsman believes that urgent measures are needed by the Ministry of Health to ensure timely certification of citizens by REMCs across the country.

### *Delay of NEMC decisions*

The delay of NEMC decisions, as well as the practice of repeatedly cancelling and returning expert decisions to REMCs for a new certification, was also a reason for violated rights of citizens.

### *Disagreement with the decisions of the medical examination bodies*

For several years now, the reason for setting a lower disability degree was the adopted

in 2018 and partially amended in 2019 Methodology for applying the starting points for the assessment of permanently reduced working capacity/type and degree of disability in percentages (Appendix No. 2 to Article 63, paragraph 3 of the Ordinance on Medical Expertise (OME)).

After repeated opinions and recommendations made by the Ombudsman on this matter, amendments and additions to the Ordinance on Medical Expertise were adopted, introducing a number of changes regarding lifetime term and determination of external assistance, as well as the Methodology, which are expected to lead to fairer assessment.

### ***Problems with the organisation of REMC work and attitude towards citizens***

The increase in the number of complaints and alerts in which citizens report problems with the organisation of REMC work across the country is very disturbing.

In this regard, a recommendation was made to the caretaker Minister of Health to strengthen the control by both regional health inspectorates and by directors of medical facilities in which REMCs were opened, regarding the created organisation of work, access and living conditions for patients, considering the winter season, as well as for compliance with moral and ethical norms and proper attitude of REMC members and technical staff towards certified persons and their relatives. Unfortunately, the responses of the Ministry of Health did not indicate specific actions to implement the recommendation.

### ***Complaints about medical commissions to territorial divisions of the National Social Security Institute***

The Ombudsman's view on this point is that the frequent appeals and the lengthy procedure violate the rights of disabled persons, given the inability to fully enjoy their rights for a long period of time, arising from an expert decision which has entered into force.

### ***Complaints about temporary work incapacity***

The delay, as well as the lengthy appeal process, leaves working citizens without any income. There are also complaints about the limitations in the total duration of the right to compensation in case of temporary work incapacity, as well as for taking care of a sick member of the family, including children.

Of note is also the insufficient control by the Regional Health Inspectorates (RHIs) and the small number of sanctions imposed for violations in the issuance of sickness notes.

### **Recommendations:**

1. Regulatory changes and comprehensive measures to accelerate the country-wide and timely delivery of healthcare certification by REMCs;
2. Reducing the time taken for the Specialised Panels of NEMC to deliver their decisions, prevention of repeated annulments and return of REMC decisions and NEMC should issue decisions on the substance;
3. Periodic analysis of the activity of REMCs in the country and providing them with methodical guidance and control;
4. Control by the RHIs of the organisation of work, access and living conditions for REMC patients, as well as compliance with moral and ethical norms and respectful attitude of the members of the commissions and technical staff to the certified persons and their relatives;
5. To discuss the abolition of the requirement for actual contributory years of

service for citizens with congenital permanent disabilities and for persons with acquired disabilities until they return to work, as a condition for granting a disability pension due to general illness;

6. Extension of the duration of payment of monetary compensation for caring for a sick family member, with priority for children;

7. Discussion and adoption of a protective clause in the Labour Code to protect workers from dismissal when their sick note is revoked.

## VII.2. QUALITY OF MEDICAL SERVICES

### *Inpatient medical care*

The aim to reduce costs and achieve a positive financial result, unfortunately, most often comes at the expense of the length of hospital stay and the quality of treatment.

Quality is mainly ensured by following the algorithm of the relevant clinical path, while the patient is discharged when the minimum hospital stay is reached with the explanation of “expired clinical path”. Accompanying diseases often remain undiagnosed and/or untreated.

Particularly disturbing are cases reported by citizens when they are forced to pay for additional services “requested” by them. The opinion of the Ombudsman is that such cases violate patients’ rights and are unacceptable, which entails strengthening of control.

### *Emergency, primary and specialised medical care*

Complaints and alerts about emergency medical care include delayed arrival of teams, as well as delays in hospitalisation, and often refusals of several hospitals to admit a patient.

Citizens who sought help themselves in the emergency wards of hospitals express dissatisfaction with delayed medical assistance, describe problems with the organisation of work.

The heavy workload of GPs and their commitment to administrative activities are also among the reasons for their patients’ complaints.

### *Complaints concerning death and serious injury*

There are many complaints and alerts from relatives of deceased patients, or patients whose condition has significantly deteriorated, who believe that the doctors were to blame. In these cases, the Ombudsman turned to the relevant competent control body, and upon completion of inspections and in the event of violations, the measures provided for in the regulations were taken, including penalties.

It seems that often the attitude of healthcare staff towards patients and their families, the lack of communication and empathy, are among the main reasons for the negative opinion formed on the quality of healthcare provided.

### *Rights of workers in the system*

In the submitted opinion on the bill of the budget of the National Health Insurance Fund for 2022, the Ombudsman proposed that for the period of announced emergency epidemic situation, payment of additional labour remuneration for other category of hospital staff should be provided, which was done only for assistant pharmacists.

In connection with numerous alerts received from medical workers who reported about tension in their circles as a result of the suspended payment of additional remuneration, the Ombudsman insisted to the Minister of Health that the monthly additional remuneration of doctors, medical specialists and other staff working on the front line be resumed.

### **Recommendations:**

1. Strategy and measures to ensure financial stability and quality of medical care at priority hospitals in the country and the national health policy;
2. Broad discussion of the possibilities for changing the way hospitals are financed, tying the financial result to the quality of the medical care provided and to patient satisfaction;
3. Changes of the regulatory framework to guarantee combined treatment of patients, including concomitant diseases;
4. Increasing the number of activities performed in the conditions of outpatient care, while ensuring their quality;
5. Strategy for retention of medical specialists – doctors and healthcare professionals in the country, in order to overcome the shortage of personnel and guarantee the quality of medical services and healthcare;
6. Optimisation of emergency care – both of mobile emergency teams and emergency wards in hospitals. Provision of modern means of transport, including air transport, medical equipment and staffing, minimising the arrival time of teams and hospitalisation;
7. Measures to ensure sufficient number of GPs and optimise their activities, reduce the administrative burden and increase the time for examination, promotion and prevention.

## **VII.3. ACCESS TO MEDICAL CARE**

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

For another year, the Ombudsman found that access to primary and specialised medical care for citizens in small, remote and hard-to-reach settlements was not ensured.

A significant number of complaints and alerts related to the impossibility of citizens to contact their general practitioner, as well as the lack of information or a contract with an on-call office.

The Ombudsman believes that measures are necessary to guarantee round-the-clock service for health insured persons in cases where medical care cannot be delayed, as well as for children.

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

Citizens seek assistance from the Ombudsman also in cases where their access to a specialist, medical-diagnostic tests, and also rehabilitation treatment is violated, as a result of introduced restrictions (limits) on the number of appointed specialised medical activities and the value of the appointed medical-diagnostic activities, as well as the costs of hospitals, mainly rehabilitation hospitals.

The public defender believes that this violates citizens' right to timely access to medical care.

### ***Preparation of medical expert documents***

People with disabilities and their relatives complain that the time to prepare the documents requested by REMCs is short. People with reduced mobility face serious difficulties with their access to required examinations and consultations with a specialist, as a result of their inability to visit medical facilities.

Citizens with interrupted health insurance rights and a deteriorating state of health also encounter difficulties in providing the necessary medical documents for their certification by REMCs.

### ***Access to hospitals for active treatment***

Cases of infringed right of access to hospital treatment are mainly related to refusals by medical staff to hospitalise emergency patients, including those referred by emergency teams.

Traditionally, part of the complaints and alerts are from patients and their relatives, who often had to visit several hospitals until the patient was admitted, which posed a threat to their life and health.

### ***Access to treatment, long-term treatment and medical rehabilitation, palliative care and healthcare***

Citizens noted the fact that admissions on clinical path for physical therapy and rehabilitation in the specialised hospitals run out almost immediately.

A serious problem is the lack of affordable opportunity to provide palliative care and healthcare for the terminally ill, as well as the long-term treatment and medical rehabilitation of sufficient volume and duration.

The Ombudsman believes that the problem is being unjustly ignored, as a result of which citizens are forced to pay for services such as hospices and residential care homes, the amounts in the majority of cases being unaffordable for households.

### **Recommendations:**

1. Measures to increase the attractiveness of work in remote and hard-to-reach locations, a strategy to increase the number of general practitioners and specialisation in general medicine;
2. Online information system on free hospital beds by specialty to ensure prompt referral of patients by emergency teams and their hospitalisation;
3. Measures to ensure continuous 24-hour access to emergency care for citizens on holidays and weekends, considering the establishment of special units and eliminating the possibility of individual provision by the general practitioner;
4. To ensure access of vulnerable groups to medical services, including home visits by GPs, specialists and healthcare professionals;
5. Implementing screening programmes for socially significant diseases;
6. Ensure public funding for adequate treatment, rehabilitation and palliative care in terms of volume and duration, as well as for healthcare, including from healthcare outpatient clinics opened under the Medical Establishments Act;
7. Ensure access of children to a full range of dental services as well as elderly people's access to dental services paid with public funds;
8. Setting clear rules and control regarding the possibility of a GP refusing to register a new patient in their patient list.

## **VII.4. ACCESS TO MEDICINAL PRODUCTS, MEDICAL DEVICES, AND DIETARY FOODS FOR SPECIAL MEDICAL PURPOSES**

### ***Access to medications***



High number of complaints and alerts from citizens related to the lack and shortage of medicinal products on the Bulgarian pharmaceutical market. This violates the patient's right to access to treatment, which in some cases has no alternative.

On each specific alert, a recommendation was made to the Minister of Health or the executive director of the Bulgarian Drug Executive Agency to carry out an inspection and in-depth analysis of the causes, strengthen control and discuss measures to permanently prevent the occurrence of similar cases in the future, as well as a mechanism to ensure sufficient availability of medicines in case of their absence or shortage in pharmacies.

In complaints and alerts, citizens also shared about problems with their treatment with medicinal products authorised for use in a Member State of the European Union and under the Medicinal Products in Human Medicine Act (MPHMA), but which were not distributed on the Bulgarian market.

As regards the use of medicinal products beyond the terms of the marketing authorisation, following a number of recommendations, including on the treatment of children with oncohaematological and other serious diseases, an amendment to the MPHMA was drawn up and adopted, providing for an exception to the prohibition on public funding and thus guaranteeing children's rights.

Knowing the statutory possibility for the NHIF to carry out inspections, where necessary, of expensive medicinal products, the Ombudsman was concerned when complaints and alerts were received at the institution in this regard.

The Ombudsman's attention was drawn to the refusal of the NHIF to pay for the emergency valve fitted to a child with hydrocephalus on the grounds that the documents were not submitted in time to obtain prior approval.

#### ***Access to medicinal products, expensive medical consumables, and dietary foods***

The institution continued to receive complaints from citizens who expressed dissatisfaction with the significant, often unaffordable amounts they had to pay extra for medical devices and expensive consumables. The problem has been raised by the Ombudsman for several years now, but still a large part of medical devices and expensive consumables are paid in full or in part, in large amounts, by citizens. Unfortunately, in response to a recommendation made by the Ombudsman in this regard to the Minister of Health and the director of the NHIF to consider possibilities of paying for intraocular lenses with public funds, no concrete actions were taken.

#### ***Access to medicines in small settlements***

The lack of pharmacies in small and remote settlements is also a cause for concern and a reason for violations of citizens' rights of access to treatment. In order to receive their prescribed medicinal products, citizens have to visit the nearest pharmacy that has a contract with the NHIF, which means travel costs, and for some of them, given their condition, this is impossible.

#### **Recommendations:**

1. Payment with public funds for new medical devices and expensive consumables, as well as increasing their level of payment;
2. Analysis of the reasons for the lack and shortage of medicinal products on the Bulgarian pharmaceutical market, measures, including regulatory changes, for their

prevention, as well as a flexible mechanism for their timely provision;

3. Simplifying the procedure for prescribing and obtaining expensive medicinal products for which the NHIF carries out expert assessment;

4. Payment with public funds of medicinal products for home treatment of acute diseases, priority for children;

5. Discussion and adoption of exceptions from the general procedure for cases in which, for reasons beyond the control of the interested parties, the deadlines specified in Ordinance No. 2 cannot be met.

## **VII.5. HEALTH INSURANCE**

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

Many citizens sought assistance from the Ombudsman, noting the need to use medical care and, at the same time, their inability to pay the contributions due for health insurance.

The problem is particularly serious for citizens without health insurance, whose condition has deteriorated sharply, they have appeared before REMC and the latter has determined a percentage of permanently reduced working capacity for them, then they have been granted a disability pension, but due to unpaid health insurance contributions for past periods, their health insurance rights remain interrupted.

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

For another year, the issue of restoring the health insurance rights of citizens insured in another EU country after their final return to the country remained unresolved.

### ***Delay by the NHIF in connection with the approval and payment of treatment abroad***

Unfortunately, the practice of NHIF delaying the approval of payment, as well as the reimbursement of sums for the treatment of Bulgarian citizens abroad continues.

### ***Supplement to the pension for vaccination***

After several recommendations by the Ombudsman, a one-time supplement of BGN 75 was set out and adopted, according to lists prepared by the RHIs, to the pensions of Bulgarian citizens who were vaccinated against COVID-19 abroad.

### ***Non-payment of related costs for treatment abroad***

A citizen whose treatment was carried out abroad, with an S2 form previously issued by the NHIF, expressed disagreement with a refusal received from the Social Assistance Agency to pay for transport and his stay there, with the argument that his treatment abroad was not carried out in accordance with Article 82, paragraphs 1a and 3 of the Health Act.

### **Recomendations:**

1. To discuss and provide for the possibility, upon acquisition of disability pension rights, disabled persons to acquire the status of health insured persons with continuous health insurance rights;

2. For those who have acquired the right to a pension for long-term insurance and old age and have interrupted health insurance rights, the possibility of deferred payment of due amounts should be provided;

3. To take measures to ensure guaranteed access to medical care for citizens who

have permanently returned to the country, who had insured in another EU country;

4. Speeding up the deadlines for approving the payment of treatment for Bulgarian citizens abroad, as well as for reimbursement of costs for delivered treatment;

5. Considering the provision of possibilities for payment by the SAA of one-off benefits to cover the costs of transport, living and accommodation for persons who have received prior approval by NHIF of payment of their treatment abroad, regardless of the procedure in which it is carried out.

#### **GENERAL RECOMMENDATIONS IN THE FIELD OF HEALTHCARE:**

1. Long-term strategy and measures to ensure equal access to a full range of health activities for all citizens, regardless of their place of residence;

2. Conducting medical examination in reasonable terms on the territory of the entire country;

3. Measures to guarantee the quality of inpatient care, treating all diseases that require active treatment, not only the main one;

4. Enhanced quality control measures, taking into account patient satisfaction;

5. Reduction of the level of co-payment by health insured persons;

6. Expansion of promotion and prevention activities, screening tests and treatment in outpatient care;

7. Completely free children's healthcare;

8. Long-term strategy for training and retention of doctors and medical specialists in the country.

### **VIII. RIGHT TO PROPERTY AND ECONOMIC FREEDOM**

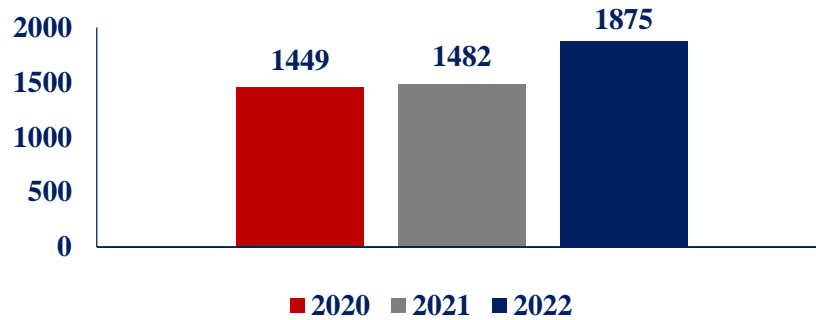
Complaints and alerts in the field of property rights increased significantly in 2022. 1,875 complaints were received from citizens and their associations, or 12.34% of the total number.

Again, numerous citizens' initiative committees with attached signatures sought assistance and protection of their property rights from the Ombudsman institution.

Citizens turned to the Ombudsman with the following main groups of complaints:

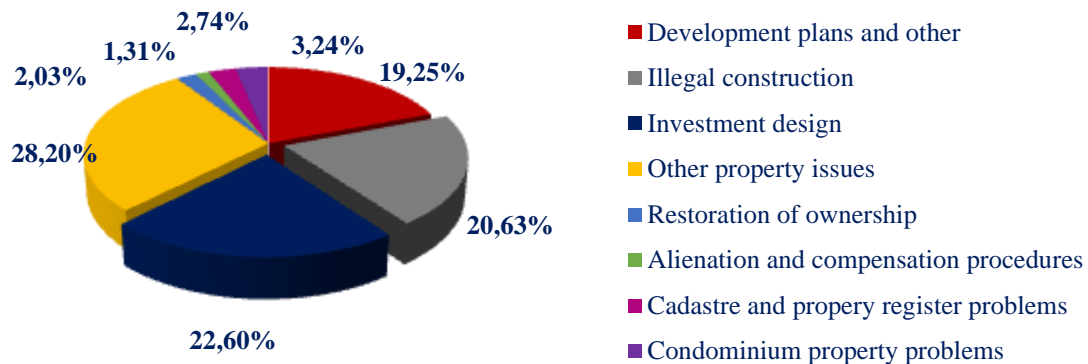
- development plans and their amendments;
- illegal construction;
- investment design and assessments under environmental legislation;
- affected rights in procedures for creating and maintaining cadastral maps and cadastral registers;
- alienation-compensation procedures;
- violations of the right to property on agricultural and forest properties;
- condominium organisations.

*Chart No.28. Number of complaints and alerts on problems with property rights in the period 2020-2022*



Source: Statistics of the Ombudsman of the Republic of Bulgaria

Chart No.29. Complaints and alerts on problems with property rights in 2022, %



Source: Statistics of the Ombudsman of the Republic of Bulgaria

## VIII.1. PROBLEMS CONCERNING THE PROPERTY RIGHT IN PROCEDURES FOR DEVELOPING, COMMUNICATING, APPROVING, AND IMPLEMENTING GENERAL AND DETAILED DEVELOPMENT PLANS

### ✓ Complaints

The Ombudsman received complaints about amendments to the General Development Plan (GDP), which provide for a change of development areas; redesignation of agricultural land to mainly industrial areas; failure to comply with the requirement to coordinate the public discussion of GDP projects as part of the consultation procedure on environmental assessment.

The requirements to make the design process of GDP compatible with the environmental assessment are not met. The public discussion of GDP projects is part of the environmental assessment (EA) and/or compatibility assessment consultation procedure organised and carried out by the project employer pursuant to the Environmental Protection Act and/or the Biodiversity Act (Article 127, paragraph 1 of the Spatial Development Act (SDA)). EA is part of the development plan.

In the process of drafting a Detailed Development Plan (DDP) for restructuring of residential complexes with the aim of densifying the development based on maximum permissible planning indicators in undeveloped spaces, the opinion of the interested public is not respected, and public consultations, in the cases of envisaged new construction, are held selectively.

The delay in communicating, considering and approving detailed development plans submitted at the initiative of citizens, in violation of the procedural requirements provided for

by law (for example: announcement within 10 days after the submission of the draft for DDP – Article 128, paragraphs 1, 2 and 9 of SDA; issuance of an approval order within 14 days of acceptance of the project – Article 129, paragraph 2 of SDA, etc.) affects the property right and violates the principles of good administration.

### **Recommendations:**

1. The general development plans should be developed with a clear vision for the territorial location of the sites of national and regional importance and the layout of development zones, in accordance with the planning and programming documents of a higher degree pursuant to the SDA and the Regional Development Act. To continue building a better balance between the phases of the multi-level process of regional planning and general development plans to provide a basis for sustainable spatial development in accordance with the Constitution and the obligations of Bulgaria as a full member of the EU;

2. GDP projects should create prerequisites for faster implementation of street regulation plans and other public property sites. In order to achieve an optimal territorial structure, the guidelines of the ecological assessment for harmonising planning with agricultural, forest and protected territories should be observed;

3. When drawing up and amending projects for DDP, the approach for a one-time achievement of the maximum indicators for development of the zones defined in the GDP should be considered, in view of the actual load on the territory in the horizon of operation of GDP. DDPs should be accompanied by plans-programmes for the funding of their implementation, including for initiation of expropriation measures within the timeframes under Article 208 of the SDA;

4. The Ombudsman recommends to the competent administrative authorities that development projects submitted at the initiative of citizens be processed within the legally established terms and in accordance with the principle of speed and procedural economy, pursuant to Article 11 of the Administrative Procedure Code.

### **✓ Other problems related to spatial development**

Citizens with affected rights approached the Ombudsman because of the lack of pedestrian and transport access to their properties, including as an obstacle to commencement of authorised construction; undeveloped networks and facilities of technical infrastructure, inaction of the administration to carry out alienation-compensation procedures for the implementation of street regulation plans, poorly maintained and not well developed surroundings and the need to build social infrastructure.

There is inaction on the part of local government bodies to expropriate parts of land property falling on the route of the planned technical infrastructure, which is not of primary importance. In this way, access for many land properties to a constructed road or street network and landscaped surrounding space is blocked and the full exercise of the property right is prevented for a long period of time. The systemic lack of budget funds is cited as the reason for this situation.

**Recommendation:** The regulation of public relations regarding forced expropriation of real estate allocated for public purposes should be done through a predictable legal framework that would allow the government and municipalities to initiate and complete, within a reasonable time after the entry into force of DDP, alienation and

compensation procedures.

## VIII.2. PROBLEMS OF THE CADASTRAL AND PROPERTY REGISTER. RIGHTS AFFECTED IN PROCEDURES FOR CREATION AND MAINTENANCE OF CADASTRAL MAPS AND CADASTRAL REGISTERS (CMCR) OF PROPERTIES

These complaints concern differences in the parameters of land properties in the newly created cadastral maps and cadastral registers (CMCR) with those recorded in the ownership documents and in the previous plans and maps; excessive delay in the work on files for amending the CMCR on applications filed by entitled persons to geodesy, cartography and cadastre offices; transfer to property owners of the obligations for creating CMCR for individual properties or a group of properties in territories for which there is no approved cadastral plan and maps and plans; transfer of the financial burden for amending the CMCR to the owners of land properties, in cases of incorrectly retrieved cadastral information from existing plans and maps.

### **Recommendations:**

1. The Ombudsman recommends that, when drawing up the annual cadastre and land registry activity programmes adopted by the Council of Ministers on a proposal from the Minister of Regional Development and Public Works and the Minister of Justice, priority be given not only to areas of strong investment interest, but also to administrative-territorial and territorial units that have a long history of unsatisfactory planning that makes it difficult to provide administrative services to citizens;
2. To comply with the requirement for correct transfer of information on real estate contained in previous plans, which is a statutory source of cadastral data. The Ombudsman consistently expresses the position that once it is objectively possible to retrieve the correct cadastral information, the necessary and sufficient condition is met that the owner does not pay the costs for the elimination of errors made in the process of its conversion into CMCR content in accordance with Article 12, paragraph 3 of the Administrative Procedure Code and Article 40 of the Cadastre and Property Register Act;
3. The activities of CMCR creation and removing deficiencies or errors in the CMCR by geodesy, cartography and cadastre offices should be carried out within the legally established terms, as provided for in the Cadastre and Property Register Act and in Ordinance No. RD-02-20-5 of 15 December 2016 on the content, creation and maintenance of CMCR.

## VIII.3. INFRINGEMENT OF RIGHTS RESULTING FROM ILLEGAL CONSTRUCTION

The Ombudsman noted with dissatisfaction the continuing tendency in the work of the construction control authorities not to exercise systematic and timely control and prevention during construction. The inspections were mainly based on complaints and alerts from citizens. The current regulations do not create conditions for addressing the problem with the “illegal construction”.

### **Recommendations:**

The main function of the State in the area of territorial planning and the investment

process is to develop the territory in accordance with the law and in accordance with the approved development plans. Illegal construction is dangerous by presumption of law. It is carried out without a building permit and other necessary building documents that ensure compliance with building rules and regulations. Therefore, it constitutes a threat to the life and health of people with access to it. On this basis, the Ombudsman is adamant in her recommendations for:

1. Legislative decisions for comprehensive and sustainable regulation of relations in investment design and construction with a fair balance between the public interest and protection of individual rights of citizens, which are in accordance with constitutional principles and with the relevant European law;
2. Exercise by the specialised construction control bodies of systematic preventive control and carrying out officially initiated inspections according to the currently effective regulatory framework.

#### **VIII.4. INFRINGEMENT OF PROPERTY RIGHT IN LAND RELATIONS**

##### ***Unfinished land restitution***

The Ombudsman found for another year that the unfinished proceedings for restitution of ownership of agricultural and forest properties remain an unresolved problem. The following large groups of owners were damaged: those who did not receive compensation with land on the territory of Sofia Grand Municipality, the Municipality of Varna, the Rodopi Municipality in Plovdiv, and other municipalities in the country; the owners with a recognised right of restoration within old boundaries; the owners and users of lands in territories under paragraph 4 of the transitional and final provisions of the Ownership and Use of Agricultural Land Act.

##### **Recommendations:**

1. To align the deadlines for completion of restitution with the deadline of the ban on disposal of lands from the residual land fund and, if necessary, to extend it;
2. To provide financing for the assignment of plans of the newly formed properties in the areas under §4;
3. To introduce a methodology for updating the compensations of the former owners of lands in territories under §4, which became disproportionate as a result of the lev denomination.

##### **GENERAL RECOMMENDATIONS:**

1. Despite the long delay in the processes, a priority should not be the speed in determining the necessary legislative changes, but adequate and complex solution of restitution issues at normative, administrative and organisational levels;
2. To provide for a special legal regime for the completion of land restitution to resolve the problems of restitution and compensation of agricultural land owners, including those caused by excessive delay, according to the general measures stated by the ECtHR; there is a practice of adopting separate laws to complete land restitution (Romania) in compliance with ECtHR recommendations;

3. To take into account the restitution issues in the regulation of land relations, including the requests of the owners to resume the period for making restitution claims on agricultural and forest properties;

4. The government should ensure financing of the technical activities to complete the restitution procedures.

#### **VIII.5. INFRINGEMENTS IN DEALING WITH PUBLIC MUNICIPAL AGRICULTURAL LANDS**

There is a tendency to violate the status of agricultural lands – public municipal property – by drawing up deeds for private municipal property and subsequent disposal. Some violations are provoked by the increased demand for compact properties with a large area for the construction of photovoltaic plants.

Regional governors do not effectively exercise their powers under Article 31, paragraph 1, item 5 of the Administration Act and Article 45, paragraph 4 of the Local Self-Government and Local Administration Act.

##### **Recommendations:**

1. For the conduct of competitive procedures for disposal and management of municipal property, provisions should be set out in the Municipal Property Act, with a set of minimum requirements of mandatory nature for the methods of publicising the calls for the auctions and competitions, the deadlines for conducting the procedures and other procedural rules to ensure a uniform minimum standard for compliance with the principles of publicity and transparency;

2. When exercising their powers, the regional governors should strengthen control over acts of disposal with agricultural lands.

#### **VIII.6. INFRINGEMENTS OF MUNICIPALITIES WHEN DEALING WITH LAND FROM THE RESIDUAL LAND FUND**

##### **Recommendation:**

In order to ensure land resources for the completion of restitution procedures, administrative and, if necessary, regulatory measures should be applied to clearly define the status of lands with “undetermined owner” in the plans of newly formed properties for the territories under §4 of the transitional and final provisions of the Ownership and Use of Agricultural Land Act, as well as align administrative practices.

#### **VIII.7. INFRINGED RIGHTS IN AGRICULTURAL LAND USE**

The findings summarising complaints to the Ombudsman about uncontrolled and widespread practices of large users enforcing contract terms, failing to pay contractual land use fee, while retaining all their rights to receive the subsidies paid per area, under schemes and measures of the Common Agricultural Policy precisely on the basis of the concluded but unfulfilled contracts with the owners, persisted. Smallholders find themselves cut off from the benefits of agricultural land and eventually forced to dispose of their property.

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



As was pointed out in the previous reports on the institution's activities, there is a need for a new policy and regulatory framework, in line with the overconcentration of land use, to protect small owners and users. To restore the disturbed balance from monopolisation of land relations, it is necessary to strengthen the regulatory functions of the State by introducing:

1. adequate taxation of large land property;<sup>1</sup>
2. restrictions on ownership and use of agricultural land;
3. access to land for landless and poor citizens;
4. minimum amounts of rent payments;
5. matching the size of the average rent payment for the lands – “white spots” with the market rent;
6. tying the payment of subsidies for area support to the payment of rent to the owners of the lands under the contracts for their use;
7. strengthening the control for compliance with the special legal requirements when concluding contracts for the use of agricultural lands;
8. out-of-court procedure for resolving disputes related to payments for agricultural land use.

#### VIII.8. OTHER PROPERTY-RELATED PROBLEMS

The trend towards unbalanced regulation of public relations related to forced alienation for state and municipal purposes is confirmed. Owners' rights and their protection are disregarded at the expense of fast procedures, identified to be in the public interest of building infrastructure projects, meeting deadlines for utilisation of funds under European programmes, promoting investment in the industrial sector, etc. In disputing acts of alienation, including the amount of compensation, the derogation from the general principle of the two-tier system of administrative procedures is maintained.

The regulated prices used in the absence of market analogues have not been updated: the Ordinance on determining the price of agricultural land has not been updated since 1998.

Alerts about the impossibility of owners to receive compensations owed to them for alienated properties due to absent clear regulatory procedures, leading to inconsistent administrative practices of competent administrations, in deviation from the ex-officio principle to require from entitled persons to present a number of documents issued after payment of fees at the expense of alienated owners, continued.

#### **Recommendations:**

1. The evaluation of compensation, in addition to market factors, should also take into account other factors, so as to preserve the quality of life of the owners of alienated properties and to avoid the risk of being deprived of their single home, with the adoption of an integrated approach;
2. To provide the right to choose the type of compensation – in-kind or monetary, in case of alienation of agricultural properties and forest territories;
3. Not the speed (unequivocally identified with the public interest in fast satisfaction of state or municipal needs), but the protection of the right to equal

<sup>1</sup> Bill No. 054-01-79 of 29.07.2020 supplementing the Local Taxes and Fees Act, providing for local tax on the possession of over 20,000 dca in the territory of the country, was not approved by the Committee on Regional Policy, Urban Development and Local Self-Government (Minutes No. 15 of 01.10.2020).

compensation should be prioritised and the dual-instance nature of administrative court proceedings should be restored when challenging alienating acts;

4. To establish procedures for payment of certain benefits to the owners of alienated properties and to align the administrative practice in order to stop the unlawful delay in payments and the shifting of the administrative and financial burden of obtaining documents to the alienated owners.

***Infringements of the right of owners of agricultural and forest properties in eliminating a clear factual error (CFE) in the cadastral map***

Unlike the complaints about unfinished land restitution, the problems with 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 compensation of the owners is carried out in accordance with Article 10b of the Ownership and Use of Agricultural Land Act and Article 6 and §8 of the transitional and final provisions of the Restoration of Ownership of Forests and Lands from the Forest Fund Act.

**Recommendation:** Regulatory changes and organisational measures to be carried out 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.

## **IX. RIGHT TO GOOD GOVERNANCE AND GOOD ADMINISTRATION IN 2022**

Citizens' alerts often highlight more serious or even systematic errors and problems in the work of the administration. The task of the Ombudsman is to identify these problems and, directing the attention of the administration to them, to assist it in improving their activity. Thus, through a constructive dialogue, the Ombudsman becomes an important part of the process of building trust between institutions and citizens, and bringing the public administration closer to the people.

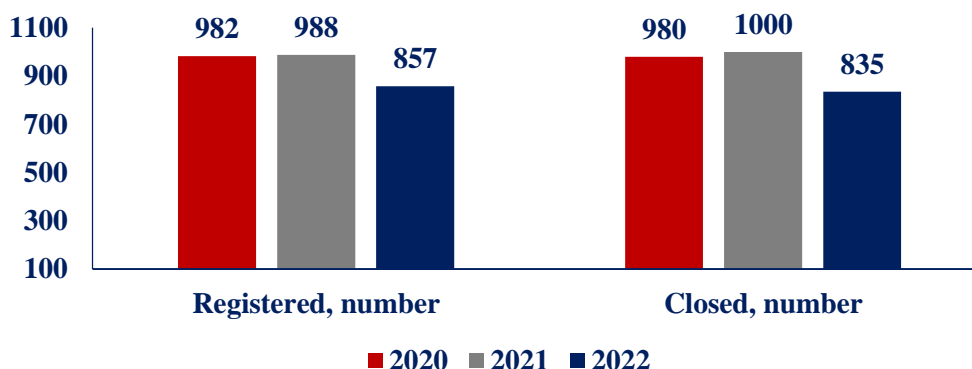
In 2022, a total of 857 complaints concerning the right to good governance and good administration were filed to the Ombudsman institution and 835 case-files were closed.

In 2022, the ratio between complaints in which no violation of the administration was found (445 complaints: 53.29%) and complaints in which the Ombudsman found a violation (356 complaints: 42.64%) sustained. 34 cases fall outside the Ombudsman's remit (4.07%).

Regarding the administrations against which citizens' complaints were directed in the closed complaints, they are as follows:

- central executive bodies and their territorial units, as well as public and executive agencies and state commissions: 343 complaints (41.08%);
- mayors of municipalities, districts and town hall officials, mayoral representatives and the respective administrations: 466 complaints were considered (55.80%);
- public authority in relation to which the Ombudsman has no powers: 26 complaints (3.12%).

*Chart No.30. Number of complaints and alerts received and inquiries closed relating to the right to good governance and good administration in the period 2020-2022*



*Source: Statistics of the Ombudsman of the Republic of Bulgaria*

Of the complaints against central executive bodies, most numerous are the complaints against the Road Infrastructure Agency (243), followed by those against the Ministry of Interior (22), the Consumer Protection Commission (15), the National Revenue Agency (10), the Commission for Personal Data Protection (9), the Executive Agency “Road Transport Administration” (8) etc.

Of the complaints against mayors of municipalities, districts and town hall officials, mayoral representatives and respective administrations, most numerous are the complaints against Sofia Grand Municipality (SGM) and its districts (129), followed by Varna Municipality (11) and Plovdiv Municipality (5), etc.

On the majority of complaints (418), an opinion was expressed or the citizens were given advice and explanations. In accordance with her powers and in defence of citizens’ rights, the Ombudsman made 322 recommendations and proposals to administrative bodies. The Ombudsman also continues to rely on mediation as an efficient means of finding a solution, resorting to it in 95 cases.

In the majority of cases, recommendations and mediation were followed by appropriate actions by the administrations.

### ***Major issues raised by citizens in 2022***

#### **IX.1. POOR CONDITION OF THE NATIONAL ROAD NETWORK, STREET NETWORK AND THE TECHNICAL INFRASTRUCTURE TO IT IN SETTLEMENTS (331 COMPLAINTS – 39.64%)**

In 2022, the high number of these complaints sustained.

Citizens are increasingly actively asserting their right to a favourable and safe environment in populated areas. With particular urgency, they make requests for: repair or construction of streets and the technical infrastructure to them; provision of parking spaces; construction of facilities to limit the speed of driving; construction, protection and maintenance of playgrounds and green areas; improving or changing the organisation of traffic, providing transport access to real estate, bringing dangerous shafts, underpasses, overpasses into safe condition; removal of dangerous trees, etc.

Traditionally, complaints concerning the state of the roads of the national road network and the activities of the Road Infrastructure Agency (RIA) prevailed, often accompanied by petitions.

In regard to the priorities announced at the beginning of 2022 in the work of the Ministry of Regional Development and Public Works (MRDPW), the Minister of Regional Development and Public Works was provided with information about the roads of the national

road network, about the poor condition of which citizens had signalled, with a proposal for discussion and their potential inclusion in the 2022 repair programme.

**Given the state of the national road network that emerged based on the reviewed complaints, the Ombudsman believes that it is particularly important to emphasise the problem of road safety.**

After one of the worst accidents in the country in 2022 of a Macedonian bus on the Struma highway, in which 45 Macedonian citizens died, the Prosecutor's Office assigned the inspection to the MRDPW and the State Agency for Road Safety.

Based on the analysis of the State Agency for Road Safety it can be concluded that the efforts of the competent institutions related to the condition of the road infrastructure and traffic safety should be focused on improving the organisation and management of the activities related to the investment process and the subsequent maintenance of the road infrastructure.

### **Recommendations:**

1. Setting out the priorities for the development of the road infrastructure should be carried out with the assistance of a wide range of stakeholders, in compliance with the principles of transparency and predictability;
2. Carrying out a full assessment of the state of the national road network;
3. Building an IT system with up-to-date data on the road network and its maintenance;
4. The setting of the goals and tasks, as well as the preparation of the plans for maintaining the road network should be based on an in-depth expert analysis of the current data;
5. Ensuring prerequisites and conditions for carrying out objective supervision over the entire process of repair and/or construction of the road network.

## **IX.2. VIOLATION OF LEGAL REQUIREMENTS (216 COMPLAINTS, 25.87%) AND/OR NON-PERFORMANCE OF OBLIGATIONS (28 COMPLAINTS – 335%) BY ADMINISTRATIONS**

In 2022, the percentage of complaints in which citizens expressed doubt or claimed that administrative bodies were acting in violation of legal requirements or were not fulfilling their statutory obligations remained high.

The Ombudsman highlights several issues that affect a large number of citizens, namely:

### **✓ Refusal by municipal administrations to perform address registration of citizens in studios**

The Ombudsman received a large number of complaints from citizens who were denied address registration in real estate with studio status. The predominant part of these complaints concerned district administrations of Sofia Grand Municipality.

After reviewing the regulations governing address registration, the Ombudsman concluded that the law does not explicitly require that the property for which address registration is requested be residential, but only that it be used “for residential purposes”.

The Ombudsman also pointed to a number of examples from practice indicating the possibility of using a studio for residential purposes, including:

- the possibility of enjoying a real estate tax relief provided for in Article 25, paragraph 1 of Local Taxes and Fees Act when used as main residence;

- the possibility of enjoying a tax relief for young families when buying a studio;
- the possibility for a person who owns such property to enter into a contract with a utility provider as a residential customer declaring that he/she has no other dwelling and that the property is used for housing purposes, referring to the amendments to § 1, item 2a and § 1, item 33a of the supplementary provisions of the Energy Act (SG, No. 54 of 2012, effective 17.07.2012).

In addition to the arguments set out above, it is of the utmost importance for the Ombudsman to enable any person subject to civil registration to fulfill their obligation to be registered at a permanent address and at a current address, such address reflecting the objective factual situation.

Checking on citizens' complaints, the Ombudsman found that until April 2021, pursuant to an order of the mayor of SGM, each specific case of a request for address registration in a studio is examined by a committee appointed by order of the district mayor, which decision-making should be guided by established explicit Rules for address registration in a studio or room.

By letter outgoing No. CO-21-BK084489(1) of 22 April 2021 of the Mayor of SGM to district mayors, specific instructions were given regarding the address registration of natural persons, including on suspension of address registration in studios.

As a result, a number of inconveniences were created for these citizens. Moreover, since they cannot register at a permanent address, they cannot also fulfill their obligations imposed on them under other laws, as well as enjoy rights provided to them by other laws – the rights to work, social assistance and socio-economic protection, etc.

In regard to the above, the Ombudsman made a recommendation to stop this practice.

After follow-up of the case-law on the issue, the public defender made a recommendation to the Mayor of SGM to bring her instructions to district administrations regarding the performance of address registration in line with Decision No. 5360 of 2 June 2022 of the Supreme Administrative Court, according to which it is not lawful to refuse studio address registration.

As a result, the SGM allows each regional administration to act at its own discretion. During checks on new complaints from citizens, the Ombudsman found that different districts of SGM apply different practices.

✓ **Refusal to issue a motor vehicle driver's license to persons who have completed primary education by 26 September 2017 under the repealed Public Education Act**

The Ombudsman was approached by citizens who had completed a driving course and successfully passed exams, and to whom the Regional Directorates of the Ministry of Interior refused to accept the documents for issuing a driver's license with the argument that from 1 August 2022 a new requirement was in force, i.e. that the person should have completed at least tenth grade.

During the work on the complaints, a thorough review of the regulations on the problem was carried out, i.e. the Bulgarian Personal Documents Act, the Regulations for Issuance of Bulgarian Personal Documents, the Road Traffic Act, Ordinance No. I-157 of 1 October 2002 on the terms and conditions for issuing a motor vehicle driving license, the report of drivers and their discipline (Ordinance No. I-157/01.10. 2002).

Pursuant to § 2a, paragraph 1 (new, SG No. 72 of 2018) of the transitional and final provisions of Ordinance No. I-157/01.10. 2002, persons who have completed primary education or tenth grade by 26 September 2017 under the repealed Public Education Act, instead of a copy of a document under Article 13, paragraph 1, item 7 for completed at least

first high school stage of secondary education, must submit a copy of a document for completed at least primary education.

A similar provision is contained in § 16 of the transitional and final provisions of the Road Traffic Act, according to which persons who have completed primary education or tenth grade under the repealed Public Education Act before the entry into force of that Act can be issued a driving licence under the previously applied procedure.

During conversations with Regional Directorates of the Ministry of Interior it was established that there is a difference regarding the application of these legal provisions. In view of this, the Ombudsman asked the Minister of the Interior to send instructions to the territorial divisions of the Ministry of the Interior in order to align the application of the law and prevent deviations from it.

In response the Ombudsman was informed that instructions for the implementation of the regulatory requirements were given in a special letter to the Regional Directorates of the Ministry of Interior.

✓ **Charging a vehicle tax for a passenger car by two municipalities for the same tax period**

Citizens who, after changing their permanent address, found that their motor vehicles had been taxed by two municipalities (the one where they were registered at their permanent address and the one where their new registered address was located) for the same tax period.

Article 61 of the Local Taxes and Fees Act provides that the tax is paid as revenue to the municipality's budget based on the permanent address, respectively the seat of the owner, and in the cases under Article 54, paragraph 5 it must be paid as revenue to the municipality of registration of the motor vehicle.

During inspections on these complaints, the Ombudsman found that when submitting a request for the refund of an unduly paid tax to the relevant municipality, different municipalities applied divergent practices. In some cases, municipalities refunded that part of the tax paid, which was also paid to the new municipality. In other cases, however, citizens were flatly denied a tax refund, often on the grounds that it was voluntarily paid. There were cases where the new municipality did not require the citizen to pay the tax after the change of his/her address registration, in case he/she presented a document for effected payment and charged tax for the period after that. Other municipalities charged a vehicle tax after a change of the vehicle registration.

This discrepancy in the practice of municipal administrations in the application of the law should be stopped. In this regard, the Ombudsman addressed the executive director of the National Revenue Agency, in accordance with his powers under Article 4, paragraph 6 of the Local Taxes and Fees Act, to give methodological guidance on the application of the law on the stated problem.

As a result, the Agency made a thorough analysis of the regulatory requirements and the practice that should be applied.

✓ **Traffic jams in the city of Russe caused by difficult passing of vehicles through the Danube Bridge border checkpoint**

Citizens reported to the Ombudsman on serious traffic jams in the city of Russe in the summer of 2022. The jams were caused by difficult passing of vehicles through the Danube Bridge border checkpoint.

The Ombudsman immediately recommended to the Minister of Transport and Communications, the Minister of Interior, the Regional Governor of Russe and the Mayor of Russe Municipality to take immediate steps in accordance with their competence to ensure: the safety of road traffic users; restoration of normal traffic on city streets; restoration of order

and cleanliness in the city; the peace of citizens. She also noted that special attention should be paid to the drivers and passengers in the blocked vehicles, by determining suitable routes for their passage, suitable places to stay, as well as providing them with water and food, if necessary. It was recommended to consider joint actions with the Romanian side for more expeditious handling of documents of those passing through the Danube Bridge border checkpoint.

In response, she was promptly and in detail informed about the steps taken by the institutions to address the problem.

✓ **Illegal practices of the municipal enterprise “Cemetery Parks” of Sofia Grand Municipality**

The Ombudsman was informed of the practice of citizens ordering the manufacture and installation of a granite slab with an inscription for urn niche only through the municipal enterprise, being forced to sign a contract with it. This deprives them of the right to choose a contractor. The municipal enterprise also set an unreasonably high price for the service at above BGN 700.

The Ombudsman made a recommendation to the Mayor of SGM to bring the municipal enterprise’s activity in line with the requirements and to stop this unlawful practice. As a result, she was assured that the actions of the municipal enterprise were brought in line with the Ombudsman’s recommendations.

**Recommendations to the administrations:**

1. To fulfill their assigned duties;
2. To strictly observe the principles of legality, objectivity and impartiality, in accordance with the Constitution and other regulatory acts;
3. To correctly inform and consult citizens on the problems and questions raised by them, reasoning their decisions.

**IX.3. PROBLEMS RELATED TO PAYMENT OF ROAD FEES (98 COMPLAINTS, 11.74%)**

In 2022, the number of complaints and alerts against the National Toll Administration (NTA) in connection with problems with the purchase of electronic vignettes remained high.

✓ **Citizens find out with great delay about a mistake made in writing the vehicle number when purchasing a vignette and about the repeatedly imposed compensatory fees and fines.**

The Ombudsman repeatedly made recommendations to the RIA to promptly notify the offenders of the sanctions imposed on them. On 10 February 2022, she again referred to the Deputy Prime Minister and Minister of Regional Development and Public Works, insisting that the illegal practice of collecting compensatory fees be stopped, as well as that the offenders be promptly notified of the fines imposed on them.

On 17 February 2022, with a letter to the Chairman of the 47<sup>th</sup> National Assembly and the Chairman of the Committee for Regional Policy, Public Works and Local Self-Government (Committee), the Ombudsman made proposals for legislative changes in the Roads Act concerning: the effect of correction of a wrong vignette; notification of offenders of the compensatory fees imposed on them; cancellation and/or refund of paid sums for compensatory fees in the event of correction, as well as regarding the administrative penal proceedings under the Road Traffic Act in these cases.

The efforts of the Ombudsman for amending the Roads Act continued in the 48<sup>th</sup> National Assembly, and on 2 December 2022 a proposal for legislative changes in the Roads Act and the Road Traffic Act was submitted again to the National Assembly and to the Chairman of the relevant Committee.

The Ombudsman's proposals for changes to these acts were unanimously supported by the MPs in the second reading in plenary hall on 2 January 2023.

The adopted changes in the Roads Act led to the following favourable consequences for citizens:

- a correction will be made if up to three characters of the vehicle registration number are wrong, as well as if a character from the car registration number is not written. The effect of the correction is from the moment of the initial declaration of will;
- in case of a correction of a wrong vignette, the imposed compensatory fees and fines are waived;
- drivers will be notified within three working days in case of being detected driving on the road network without a vignette;
- a fairer and faster mechanism is introduced for the refund of unduly paid sums for compensatory fees and fines, which, at the suggestion of the Ombudsman, will take place in a shorter period of time (up to 5 working days) to the bank account indicated in the application for correction by the owner/the user of the vehicle, and if it is not specified, at the cash desk;
- exemption from administrative penal liability upon correction will be automatic, without the person having to take any action;
- a restriction of up to three registered violations within one calendar year for driving on the paid road network without paying a toll was retroactively introduced.

#### ✓ **The “Prolesha” case**

The amendments to the Roads Act and Road Traffic Act as adopted by the 48<sup>th</sup> National Assembly were clarified by the competent institutions in regard to the “Prolesha” case – residents of the village of Prolesha travelled by their cars to Sofia without vignettes after they had been told in 2020 by the Ministry of Interior and RIA that they were exempt from payment of vignette for that road section. After two years, they found out about the fines imposed on them for not paying tolls, and 166 fines were imposed.

The Ombudsman immediately referred to the Minister of Regional Development and Public Works for timely action to resolve the problem in favour of the residents of the village of Prolesha. A recommendation was made to supplement the list of road sections of the national roads for which no vignette fee is paid, adding the Sofia – Prolesha road section. The decision should either be applied retroactively, thus waiving the sanctions imposed on the citizens for which they had no fault, or if not, the fees would be waived.

Since the MRDPW does not take the necessary action, the Ombudsman insists that the changes in the Roads Act for limiting the number of traffic violations without a vignette on the toll road network to have a retroactive effect in order to solve the problem of the residents of the village of Prolesha. The final provisions of the amended and supplemented Roads Act, in force from 10 February 2023, provide for its retroactive effect: from 1 January 2019.

#### ✓ **The purchase of e-vignettes is prevented by a technical issue**

At the height of the summer season, on 31 July 2022, due to a technical problem in the RIA, the purchase of e-vignettes was hindered.

Due to citizens' complaints, on 2 August 2022, the Ombudsman sent a recommendation to the caretaker Minister of Regional Development and Public Works and to the Chairman of the RIA Management Board, insisting that all imposed compensatory fees (of BGN 70) be cancelled on 31 July 2022.



After the recommendation, the Chairman of the RIA Management Board informed that the technical problem occurred on 31 July 2022 at 8:55 a.m. and was removed at 1:40 p.m. From the moment the technical problem occurred until the end of the calendar day on 31 July 2022, vehicles moved on the paid road network without paying the toll.

✓ **Administrations failed to address a question or problem within a reasonable time (35 complaints – 4.19%)**

The proportion of complaints against administrations that unduly delayed their response and/or failed to take timely action on the problems stated before them remains relatively high, in breach of Article 41 of the Charter of Fundamental Rights of the EU, which states that citizens have the right to a fair and impartial hearing of questions addressed to the competent administration which are of their right or legitimate interest, with a response within a reasonable time.

In 2022, a large number of these complaints were from citizens who did not receive timely responses to their requests for the provision of firewood at preferential prices.

**Recommendations:**

1. Creating good organisation, mobilising the available resources and taking the necessary measures to make timely and adequate management decisions by the administrations;
2. Maintaining a correct and open dialogue with citizens to clarify the reasons in case of delay.

✓ **Non-compliance with quality administrative service standards (44 complaints – 5.27%)**

The proportion of complaints against administrations that unduly delayed their response and/or failed to take timely action on the problems stated before them remains relatively high, in breach of Article 41 of the Charter of Fundamental Rights of the EU, which states that citizens have the right to a fair and impartial hearing of questions addressed to the competent administration which are of their right or legitimate interest, with a response within a reasonable time.

In 2022, a large number of these complaints were from citizens who did not receive timely responses to their requests for the provision of firewood at preferential prices.

**Recommendations:**

Expanding e-government, increasing its efficiency and easing administrative procedures through:

1. Increasing the opportunities for citizens to use electronic services, such as elimination of the requirement for individuals to have a qualified e-signature in order to use public e-services, and providing other methods for electronic identification with an appropriate level of security, such as e.g. PIC from NRA and NSSI, mobile applications, etc.;
2. Reducing fees for use of e-services;
3. Abolishing certificates the administration requires from citizens, and official collection of information;
4. Expanding the possibilities for secure electronic submission upon declared consent.

✓ **Problems related to personal data protection (33 complaints – 3.95%)**

The complaints most frequently submitted by citizens related to personal data protection issues, including:

- the processing of personal data by various state institutions and public service providers;
- publication of personal data on the Internet and social media;
- very delayed response from the Commission for Personal Data Protection (CPDP) to their requests and alerts.

In these cases, the Ombudsman explained to the citizens the legal framework for the protection of personal data and/or alerted the CPDP about the specific cases and requested the submission of an opinion and a follow-up action.

**Recommendation:**

Implementation of effective control regarding the application of the statutory requirements for the protection of personal data.

✓ **Problems of local self-government (24 complaints – 2.87%)**

Citizens are increasingly asserting their right to participate in the discussion of issues of public importance and in making decisions on them.

In 2022, these complaints mainly concern local administration and refer to:

- the way in which discussions and inquiries were conducted on issues of importance to the local community;
- provisions in municipal regulations.

**Recommendation:**

The process of discussion and decision-making should be transparent, and should provide opportunities for wide citizen participation.

✓ **Gaps in the legal framework resulting in infringements of the rights of citizens (26 complaints – 3.12%)**

***Citizens do not have a valid identity card and cannot apply for one***

Pursuant to Article 23, paragraph 1 of the Bulgarian Identity Documents Act (BIDA), the identity card of Bulgarian citizens is a basic identity document valid on the territory of the Republic of Bulgaria or on the territory of another country under international treaties. Failure to comply with this obligation is subject to sanctions.

Identity cards are issued and replaced by the authorities of the Ministry of Interior based on the permanent address of the person upon submission of an application and civil status documents issued by the local administration in accordance with the procedure established by an act of the Council of Ministers (Article 31, paragraph 1 of BIDA).

In 2022, the Ombudsman was informed by the Ministry of Interior that according to the data of the administrator of the National Automated Information Fund “National Register of Bulgarian Personal Documents” as of 9 May 2022, the number of Bulgarian citizens who do not have ID cards, do not have a valid civil passport and currently do not have an up-to-date permanent address is 44,670, of which 30,694 have a current address abroad. Other 1,014 Bulgarian citizens have expired identity cards and do not have an up-to-date permanent address, of which 556 have a current address abroad.

The Ombudsman believes that it is first of all important to systematically collect and analyse information on the number of persons without valid ID documents, as well as to identify the reasons why these citizens are without ID documents.

When working on complaints from citizens, the Ombudsman came to the conclusion that one of the reasons for this is that the BIDA and BIDA Implementing Regulation bind the issuance of an identity document to the existence of an up-to-date registration at a permanent address. According to Article 26, paragraph 1 of BIDA, the ID card contains data on a permanent address.

At the same time, a considerable number of citizens cannot meet the requirements to be registered at an address.

The Ombudsman has repeatedly raised the issues related to the address registration of citizens, the conditions and procedure for which are regulated in the Civil Registration Act (CRA) and Ordinance No. RD-02-20-9 of 21.05.2012 on the functioning of the unified system for civil registration, issued by the Minister of Regional Development and Public Works.

Under Article 90, paragraph 1 of the CRA, any person subject to registration is required to state in writing his/her permanent and current address, which must correspond to an address referred to in Article 89, paragraph 5 of CRA. At the same time, the CRA contains requirements that do not allow registration at a permanent/current address of citizens:

- who cannot present the required documents under CRA;
- Bulgarian citizens living and working abroad, entered in the population register, who cannot indicate a permanent address in Bulgaria;
- the registration address of which is indicated in a way that does not meet the requirements of CRA;
- the registration address of which is a studio and a villa building.

### **Recommendations:**

The law should create conditions for address registration and issuance of ID document for every Bulgarian citizen. To this end:

1. Information on the number of persons without valid ID documents should be systematically collected and analysed and the reasons why these citizens are without ID documents should be identified;
2. The necessary legal changes should be made to create the conditions for this to happen.

### **✓ Applying for a trader's registered office**

In 2022, citizens reported and sought assistance in relation to the inconvenience caused to them as a result of traders being registered at their address, without their knowledge and consent.

The Ombudsman has repeatedly brought the issue to the attention of the Minister of Justice as well as to the National Assembly in her annual reports, but to no avail.

The problem is prompted by a gap in the legal framework of company registration in the Commercial Register and 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 the register of non-profit legal entities (the Ordinance).

According to the regulations, entry and deletion from the commercial register and the register of non-profit legal entities is carried out on the basis of an application form under the annexes to the Ordinance. Part of the mandatory data that is filled in for all entities entered in

the commercial register and the register of non-profit legal entities is the data on their seat and registered office. Such data is indicated by the trader, but is not subject to verification, as well as the legal ground for using the property at the relevant address. This allows a trader to specify any management address upon registration. Thus traders are allowed to register at addresses of citizens without their knowledge and consent.

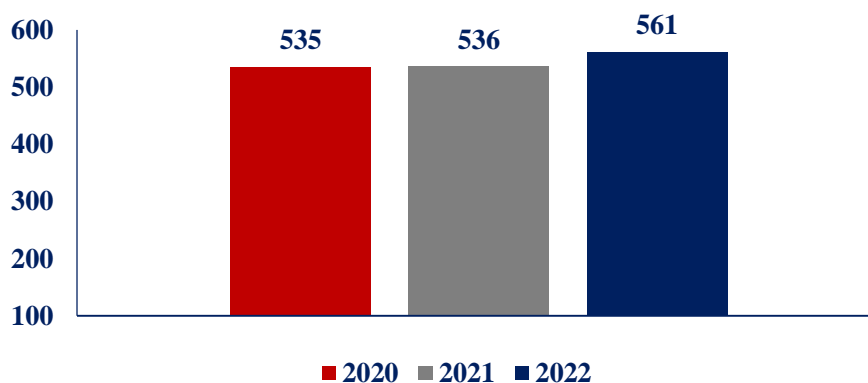
### **Recommendations:**

1. The Ministry of Justice should take action to stop the unfair 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.

## **X. RIGHT TO HEALTHY AND FAVOURABLE ENVIRONMENT**

In 2022, the number of complaints and alerts related to the right to a healthy and favourable environment increased. 561 complaints and alerts were received from citizens and their initiative committees, as well as from environmental organisations.

*Chart No. 31. Number of complaints and alerts in the field of healthy and favourable environment in the period 2020-2022*



*Source: Statistics of the Ombudsman of the Republic of Bulgaria*

Complaints mainly concerned the following groups of problems: violations and bias in carrying out an environmental assessment, environmental impact assessment and assessment of compatibility with Natura 2000 areas when authorising large-scale investment proposals; insufficient protection of settlements from activities representing a source of harmful emissions in the air, water and soil near them; non-compliance with the conditions of complex permits for the prevention of industrial pollution; insufficient regulation of the permit regime and non-application of measures to limit noise and pollution from waste-related sites in populated areas; lack of predictability in opening and expansion of quarries for extraction of construction materials in ecologically clean areas; violation of the public interest when changing the purpose of land properties related to common use of mineral waters; long-term problems of excessive intervention in the regime of rivers and riverbeds when withdrawing alluvial deposits for their cleaning; lack of control to ensure the mandatory minimum outflow when using water from hydropower stations; disregard of citizens' alerts and lack of timely response to establish pollution and its source by Regional Inspectorates for Environment and Water; inadequate procedure for bringing claims against air quality improvement programmes; allowing polluting facilities for electricity generation from agricultural residues and plant oils, which are supported by the State.

### **X.1. ENVIRONMENTAL REGULATION MONITORING**

The Ombudsman expressed her general support for the draft amendments and supplements to the Clean Ambient Air Act (CAAA), submitted by the CoM, signature 47-202-01-38/13.07.2022, in particular in the part of paragraphs 10 and 11 regarding the rights of access to information on air quality monitoring data, as well as the right to access to justice for contesting the programmes under Article 27 of CAAA. The subject of the draft also covers the limitation of pollution from highly odorous substances. The draft amendments and supplements were not passed in the term of office of the 48<sup>th</sup> National Assembly.

At the public consultation stage, with a deadline by 14 October 2022, the Ombudsman expressed a reasoned opinion against the adoption of a draft ordinance for the repeal of Ordinance No. 7 of 2004 on the requirements that must be met by sites for waste treatment facilities (SG No. 81 of 2004). The opinion substantiates the inadmissibility of introducing an irrefutable presumption, which provides for the specified sites to be granted amnesty immediately and irreversibly in regard to their location, regardless of their actual compliance with the requirements of the material law for environmental and health protection, which are of a higher rank of regulatory protection; respectively in the absence of compliance, such sites would be subject to removal. At the moment, the project has not been accepted.

#### **Recommendations:**

1. When drafting laws and by-laws, the requirement for a preliminary impact assessment and for holding public consultations with citizens and legal entities, in accordance with Article 18a of the Normative Acts Act and in view of the requirements of Article 37 of the Charter of Fundamental Rights of the EU, high level of environmental protection and improvement of its quality in accordance with the principle of sustainable development need be ensured.

### **X.2. PROBLEMS WITH THE ENVIRONMENTAL IMPACT ASSESSMENT (EIA) PROCEDURES**

On the basis of the analysis of complaints to the Ombudsman, inconsistencies with the substantive and procedural requirements of Chapter VI of the Environmental Protection Act and EU Directives were identified. Elements of the regulated procedures for preventive activities were misinterpreted and applied incorrectly in the practice of REWI as a competent authority, not allowing the possibility of implementing the basic principles of the environmental law and complying with the priority of the objectives for environmental and health protection of the affected population.

#### **Recommendations:**

Carrying out organisational measures and regulatory changes regarding:

1. A systematic analysis of the investment projects in respect of which many complaints from citizens were received and which were authorised for implementation without a full EIA procedure;

2. In the event of a violation in the interpretation and application of the law relating to projects subject to EIA, the administrative act must be reviewed in accordance with the procedure and within the time limits laid down in Article 100 of the Administrative Procedure Code, or without delay in cases of invalidity.

### **X.3. PROBLEMS RELATING TO COMPLIANCE WITH THE CONDITIONS OF THE COMPREHENSIVE PERMIT FOR THE PREVENTION OF INDUSTRIAL POLLUTION**

Based on the recurring complaints and given the outlined set of issues on the subject of control in the air quality-emission limits correlation, the Ombudsman found the need for further coordination of the functions of the Executive Environment Agency (EEA) and REWI as the authority issuing the comprehensive permit and monitoring compliance with the emission limits contained therein.

**Recommendations:**

In the presence of recurring complaints from citizens for non-compliance with the comprehensive permit and inaction by the REWI to establish pollution:

1. To set up a procedure for internal reporting on the initiative of the director of the EEA or the Minister of Environment and Water within a certain period;
2. Where necessary, EEA and MEW experts should provide methodological guidance and competence to assist the Board of Experts to the Director of the REWI, with a view to consider necessary control measures, including changes to the emission standards set. Conduct a systematic analysis of investment properties for which multiple citizen complaints are received but no full EIA procedure has been carried out.

**X.4. VIOLATIONS IN THE MANAGEMENT OF RIVER BED CLEANING TO ENSURE SMOOTH RIVER FLOW**

The removal of sediment from the river beds is an activity that can lead to many negative processes when not carried out in strict compliance with regulatory requirements and good practice. Such effects may include, for example, bank erosion, alteration of river beds, destruction of protected species habitats and drying of riverside agricultural land or increased risk of flooding. Trends and manifestations of these processes are observed to varying degrees in many Bulgarian rivers, with disturbances threatening not only the resilience of the river beds but also the bridges and other hydraulic facilities built in them. The determination of the range and the sampling parameters must be based on an assessment which is only rarely supported by hydrological analysis and hydraulic calculations. Lack of detailed morphological studies is considered a major cause of adverse effects.

**Recommendations:**

1. To carry out an assessment of the impact of the implementation of the Ordinance on the use of surface water in order to link more clearly the conditions of the permit for the use of water body under Article 140, paragraph 7 of the Water Act with the technical project for removal of sediment deposits, as well as introduction of a regulatory requirement to determine the areas and amounts of removal based on hydrological analysis and hydraulic calculations;
2. To commission an audit of the regime of removal of alluvial deposits for cleaning of river beds, in view of the conditions of providing public assets to persons outside the public sector, under Article 6, paragraph 2, item 8 of the National Audit Chamber Act.

**X.5. RIGHT TO PARTICIPATION AND ACCESS TO JUSTICE OF THE PUBLIC CONCERNED IN RELATION TO GRANTING OF PERMITS FOR EXTRACTION ACTIVITIES**

The exploration of underground resources close to settlements, mainly construction materials, continued to be among the sectors of public discontent being the subject of collective complaints from affected residents to the national Ombudsman.

Administrative procedures for granting permits and concessions for exploration and extraction of underground resources, because of their duration, hinder the effective possibility of exercising the rights to participate in the procedure and to access to justice by the “public concerned”.

It is socially unacceptable to reserve areas for future quarries in the absence of strategic planning of pre-defined areas for exploration and extraction of mineral resources (construction materials) and the lenient approach in the regulatory framework, which allows for (i) significant duration of the procedures in the phases of granting permits related to the extraction of underground resources, and (ii) reporting by formal indicators the period of validity of the decisions related to them under Chapter Six of the Environment Protection Act.

**Recommendation:** In order to ensure time adequacy of the recognised rights of participation and access to justice of the public concerned in relation to granting of permits and concessions for extraction activities, it is necessary to re-arrange the procedural elements and the period of validity of the related EA/EIA.

#### **X.6. VIOLATING THE RIGHT OF CITIZENS TO COMMON USE OF MINERAL WATERS**

In the context of numerous public initiatives, as well as complaints, alerts and petitions from citizens, in recent years the Ombudsman has been faced with the issue of inadequate regulation of citizens’ right to share mineral waters. Since 2014, the Ombudsman has received annual complaints from citizens regarding authorised destruction of public baths, e.g. in Kostenets, Banya village, Panagyurishte, Yagoda village, Maglizh municipality. Residents of the capital also insist on preserving the mineral baths in Ovcha Kupel and Gorna Banya districts, and oppose the plans to partially change their functional purposes. The Water Act does not provide for a protected status of buildings and facilities, and adjacent land properties, without which wide public access to mineral waters for bathing and water treatment purposes is impossible.

**Recommendation:** To take organisational measures and make regulatory changes to restore the public interest in the permanent preservation of spatial development and functional purposes of buildings and land properties designated for baths and complexes for mineral water use with wide public access.

#### **X.7. PROBLEMS WITH PROTECTING THE ENVIRONMENT AND COMPLIANCE WITH THE CRITERIA FOR SUSTAINABILITY IN THE PRODUCTION OF ELECTRICITY FROM BIOGAS**

The Ombudsman continued to receive collective complaints from citizens about pollution from the activity of plants for production of electricity from biogas, when applying a technology of anaerobic treatment of animal manure with addition of plant matter.

The Ombudsman found ambiguity regarding the establishment of quantitative indicators for the components of input raw material for the power plant in terms of the possibility of an objective assessment of compliance with the requirement of Article 24, item 3 of the Renewable Energy Sources Act (minimum content of animal manure) or compliance with other environmental protection requirements.

### **Recommendations:**

1. To update the scope of control powers for establishing compliance with the regulatory requirements for determining the amount of energy produced from renewable sources when applying a technology for anaerobic treatment of animal manure with the addition of plant matter;
2. To revise the administrative practice for applying the requirements for issuing a comprehensive permit for this type of facilities.

**GENERAL RECOMMENDATION:** The Ombudsman's recommendation from previous years on the need for better coordination between local authorities and the competent national authorities – REWI, the State Health Inspectorate, the Bulgarian Food Safety Agency – in monitoring and controlling environmental factors in settlements remains relevant.

## **XI. PROTECTION AGAINST DISCRIMINATION AND HATE SPEECH**

The issue of unequal treatment continues to be in the focus of the work of the Ombudsman institution. The institution of the Ombudsman has repeatedly emphasised the adverse impact of discrimination on the lives and opportunities of the victims. Although the institution is not a specialised body for protection against unequal treatment, the complaints filed in 2022 reflect the trust in the work of the Ombudsman and the proactive stance towards safeguarding the rights of citizens.

Complaints and alerts, however, also reveal serious deficiencies of the system and the lack of adequate actions for the prevention of discrimination and for its timely recognition.

In the opinions sent to the responsible authorities, the Ombudsman repeatedly defended such position and insisted on taking measures to appropriately resolve the identified problems.

In the past year, 17 complaints were received, but they covered a wide range of problems and large groups of people.

### **XI.1. DISCRIMINATORY PROVISIONS IN THE ORDINANCE ON THE CONDITIONS AND PROCEDURE FOR IMPLEMENTING THE PROTECTION OF GIFTED CHILDREN**

Citizens expressed their dissatisfaction with the conditions of Article 10 of the Ordinance on the terms and conditions for implementing the protection of gifted children (the Ordinance), which provides for support to gifted children to be provided to students from 8<sup>th</sup> to 12<sup>th</sup> grades. They believe that the introduced requirements are in conflict with the definition in the Child Protection Act, where it is indicated that “a child who has shown lasting abilities and achievements in the field of science, arts or sports, exceeding the achievements of his/her peers, is a gifted child”, and that they put children in the lower grades at a disadvantage.

In order to overcome the existing discrimination, in the last two years the Ombudsman sent recommendations to the competent authorities to amend the Ordinance, but so far there is no result.

### **XI.2. PAYMENT OF COVID-19 VACCINATION SUPPLEMENT TO PENSIONS ONLY TO CERTAIN GROUPS OF VULNERABLE PERSONS**



Citizens are dissatisfied that in Article 1, paragraph 1, and especially in paragraph 2 of Decree No. 474 of 30 December 2021 approving an additional transfer under the state social insurance budget for 2021 (the Decree), promulgated in SG No. 1 of 4 January 2022, effective 30 December 2021, the granting of the financial incentive for vaccination against COVID-19 was limited only to the category of “pensioners”.

It is noted in the complaints that there are other citizens who are in a vulnerable position and with an increased risk to their life and health in case of possible infection and severe course of infection with COVID-19.

The Ombudsman’s position, expressed to the Minister of Health and the Minister of Labour and Social Policy, is that actions to overcome the consequences of the pandemic require appropriate, wide-ranging and supportive measures to be taken by the responsible authorities, aimed at preserving the life and health of every person, while guaranteeing their other rights.

It was recommended that every possible effort be made to provide these citizens with timely and accessible information about the measures to prevent the spread of COVID-19 and how to protect themselves and others.

On the other hand, given the vulnerability in the event of possible infection, it is recommended to provide additional support mechanisms, including through the introduction of adequate incentive measures similar to those in Article 1 of Decree No. 474 of 30 December 2021 approving an additional transfer under the state social security budget for 2021, but without requirements for vested pension rights.

### **XI.3. UNEQUAL TREATMENT OF PEOPLE WITH DISABILITIES WHEN TAKING OUT INSURANCE CONTRACTS**

Citizens express their discontent with insurance companies in Bulgaria which refuse to take out “Assistance for travel abroad” insurance policy for persons with permanently reduced working capacity of more than 50% and persons aged over 84.

In the opinion expressed to the managers of the relevant companies, the Ombudsman emphasises that people with disabilities are vulnerable citizens who should have and be able to exercise all rights and freedoms on an equal basis with other citizens, without any discrimination. This is a basic requirement of the UN Convention on the Rights of Persons with Disabilities ratified by Bulgaria and should be applied in all areas of life of citizens with disabilities, including in relation to the insurance policy offered and taken out with them. Thus, Article 25, point D of the Convention, expressly reads “Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner”. The Convention requires a paradigm shift in decision-making in cases of children with disabilities, stating that in any action affecting children with disabilities, the best interests of the child shall be a primary consideration (Article 7 of the Convention).

### **XI.4. ABSENCE OF ACCESSIBLE ARCHITECTURAL ENVIRONMENT**

In the past year, complaints were received in connection with the absence of accessibility for people with reduced mobility. The absence of accessible environment is in violation of the rights of people with disabilities and a violation of a number of international and national laws and regulations.

In all cases of received complaints of violation of effective regulations, recommendations were made to resolve the problems. The findings are that in the majority of cases, the responsible authorities complied with the recommendations and took action to fulfill their legally established obligations.

It is necessary to highlight the recommendation, which has not been implemented for a second successive year, to ensure accessibility for the people with reduced mobility in all trains of tram line No. 11 in the city of Sofia. As noted in the Ombudsman's Annual Report for 2021, in connection with alerts received at the institution, the Ombudsman brought the problem to the attention of the Urban Mobility Centre and emphasised the findings that some of the ramps were "nailed".

The information obtained shows that old Bulgarian and Czech trains are still in operation, without the necessary accessible environment, and efforts are being made to find a balance by putting into service and using the same number of vehicles with a medium low-floor section on all lines, including tram line No. 11.

#### **XI.5. CRITERIA FOR EXEMPTION FROM PAYMENT OF VIGNETTES UNDER ARTICLE 10C OF THE ROADS ACT**

In the past year, complaints continued to be received in connection with the introduced restrictive requirements for the exemption of disabled people and their families from payment of vignettes under Article 10c of the Roads Act.

The main complaint of the citizens is related to the technical parameters required for passenger cars owned by citizens with disabilities or in marital property regime. The criteria have been declared discriminatory by the Commission for Protection against Discrimination, but regardless of this they continue to be part of the effective legislation.

#### **XI.6. ROMA COMMUNITY ISSUES**

The Ombudsman insists on including 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 Roma discrimination.

#### ***National Strategy of the Republic of Bulgaria for ROMA Equality, Inclusion and Participation (2022-2030)***

At the end of March 2022, the national strategy of the Republic of Bulgaria for Roma equality, inclusion and participation (2022-2030) was published for public consultation.

In the Annual Report of the Ombudsman for 2021, the Ombudsman notes that an important political sign for the integration process will be for the national strategy to be brought to the attention of the National Assembly and approved by an act of the legislative body. However, the strategy was approved by a decision of the Council of Ministers, which, as noted by Roma organisations that actively participated in the process of drafting the strategy, is a setback and does not give a clear sign that a political consensus has been reached on the subject.

The Ombudsman shares the objections of the Roma organisations and recommends that they be actively included in the process of preparing important strategic documents and in the implementation of the planned measures and activities.

#### ***Evictions***

The issuing and enforcement of demolition orders concerning illegal housing affects adversely and disproportionately mainly Roma families.

The reasons given by the authorities for forcibly removing dwellings are that the buildings are illegal, dangerous to the life and health of the inhabitants, illegal occupation of land owned by the municipality or other entities.

Once again, the Ombudsman finds it necessary to recall her opinion that the authorities should not be influenced by the hostility of one group against another and their actions should

not aim to satisfy the demands of only one party. It is imperative that every effort be made not to focus this problem on the ethnicity of the individuals affected.

It is important for the Ombudsman that these are the only homes of these people who have lived in them for years, including children and adults. Their eviction may have devastating consequences for them, because they will lose their homes, their personal and family life will be broken, which is a fundamental right protected both under the Constitution of the Republic of Bulgaria and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

For a consecutive year, the Ombudsman expressed her concern that the drafted amendments to the State Property Act, the Municipal Property Act and the Spatial Development Act, aimed at introducing the principle of proportionality in the demolition of illegal construction, have not been examined and adopted.

### ***Persons without address registration and identity documents***

For a consecutive year, the Ombudsman drew the attention of the legislature to a serious problem that has direct consequences for citizens affected by eviction, namely leaving them without an up-to-date address registration and, as a result, the inability to hold identity documents.

Regarding the problem raised, the Ombudsman found that the current regime of address registration, set out in the Civil Registration Act (CRA), creates a number of problems for citizens affected by eviction. The legislation does not provide for exceptions in regard to address registration of citizens who lost their home as a result of its demolition due to illegality.

Thus, a group of citizens who have lost their only homes bear an additional burden, as they are put in a situation where they cannot meet their obligations under the Bulgarian Identity Documents Act (BIDA) and request the issuance of an identity card, and they are liable for failure to fulfill this duty.

The Ombudsman has repeatedly brought these problems to the attention of the Ministry of Regional Development and Public Works. Some of them have been reported to the Ministry by municipal administrations, including the Sofia Grand Municipality, but to date no commitment has been made by the authorities to take action within their competence.

This leads to the conclusion that the rights and interests of Bulgarian citizens are not sufficiently protected.

The Ombudsman insists on finding a solution to the outlined problems, including through legislative changes in the CRA, and believes that the problems will be subject to careful analysis and legislative decisions will be made to protect the rights of citizens.

## **XI.7. 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 attention, which was further aggravated in the context of the COVID-19 global 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.

The Ombudsman is of the opinion that the establishment of a good regulatory framework will address the existing shortcomings not only in the State policy on the prevention of domestic violence, but above all it will provide more mechanisms for effective protection of victims and will have a deterrent effect on perpetrators.

There is an urgent need to adopt legislative proposals to amend the Protection against Domestic Violence Act and the Criminal 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.

#### **XI.8. 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. Recognising that the dramatic increase in the use and spread of hate speech is a pan-European challenge, the European Commission proposes that hate speech and hate crimes be included in the EU list of crimes.

The Ombudsman is concerned that the lack of adequate measures to tackle hate speech leads to lower public awareness of the problem and that hate speech is becoming part of citizens' daily lives. This threatens the existence of a public climate of respect for human rights that the Ombudsman advocates vocally. The Ombudsman insists on increasing awareness of this issue and on timely response from the responsible institutions, which have the power to impose restrictions and penalties on existing hate speech.

The Ombudsman expresses an opinion in relation to the draft amendments and supplements to the Criminal Code, published for public consultation on 23 August 2022. The aim of the draft is to eliminate the gaps and correctly transpose certain provisions of Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law. The position of the institution is that all hate-related crimes should be criminalised and effectively investigated and punished, and their victims should receive, in addition to moral satisfaction and justice, compensation for the damage they have suffered. The Ombudsman drew attention to the fact that gender and disability do not appear among the protected features in any of the penal compositions. Nor does the regulation provide for an express obligation to take into account discriminatory motives in the commission of any crimes as aggravating circumstances.

As an advocate for the rights of citizens, the Ombudsman requests, when preparing the final texts of the draft amendments of the Criminal Code, the above-mentioned notes be considered and actions be taken to conduct adequate consultations with all other stakeholders and responsible institutions to guarantee the rights of all citizens in the best possible way.

#### **Recommendations:**

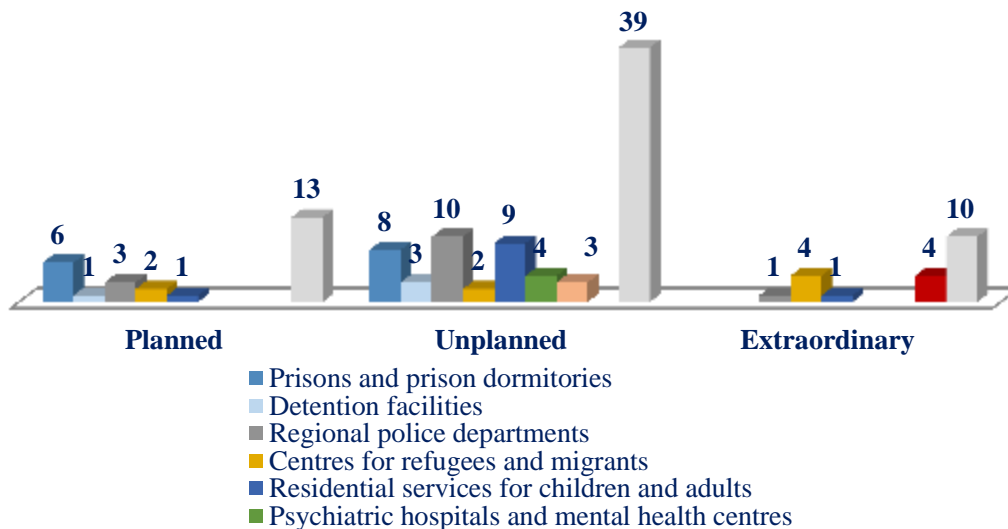
1. To take actions, including regulatory amendments to solve the problem of the lack of identity documents of citizens due to deletion of their address;
2. To take action to address the lack of accessible environment for people with reduced mobility;
3. To take action to solve the problem of the lack of sufficient recognition and tackle the use of hate speech;
4. Competent authorities should engage in measures and actions to increase the sensitivity of society to acts of discrimination and hate speech;
5. To adopt amendments to the Spatial Development Act, State Property Act and Municipal Property Act, introducing an explicit requirement to carry out an assessment of the proportionality of administrative intervention in cases of demolition

of an illegal building where it is the only dwelling of citizens.

## XII. NATIONAL PREVENTIVE MECHANISM AND FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

In 2022, the Ombudsman as NPM carried out 58 inspections in prisons and prison dormitories, state psychiatric hospitals and mental health centres, refugee and migrant centres, detention centers and family-type accommodation centers for children and adults, with an **additional and specific focus** being also placed on the conditions for supporting persons with temporary protection status from Ukraine, as well as crisis centers for persons who have suffered from domestic violence and victims of trafficking.

*Chart No. 32. Number of NPM inspections conducted by category of inspected body in 2022*



*Source: Statistics of the Ombudsman of the Republic of Bulgaria*

In 2021, the trend for a large number of inspections in the **places for serving sentences to the Ministry of Justice** continued – prisons (7), prison dormitories of open type (7) and closed (2) type. Four arrests were also checked. The general critical finding in this sector is related to the lack of effective solution to several major problems: systemic deficits in the medical care of prisoners, continuing deficits with depreciated, obsolete and hygienically unreliable bedding inventory; unsolved problems with the presence of cockroaches and bed bugs in places of deprivation of liberty, etc.

Compared to 2021, there was a significant increase in the number of **inspections in detention premises within the structures of the Ministry of Interior**. This is based on the findings of the Ombudsman acting as NPM from the inspection in connection with the detention of three minors at the First Regional Department of Sofia Police Directorate in February 2022. Their parents or guardians were not informed about their detention in the building of the regional police department and they were not provided legal protection in violation of the Directive on procedural safeguards for children (2016/800/EU). As a result of the inspections, the Ombudsman, in her capacity as NPM, also found other recurring weaknesses in the system of 24-hour detention of persons at the Ministry of Interior, such as: absence of service premises, lack of access to ventilation and natural light, and outdated material facilities.

For yet another year, the Ombudsman as NPM emphasizes that **it is necessary to adopt a national policy and strategy for juvenile justice 2021-2030**. The efforts of the authorities should be fully focused on the rapid closure of institutions for children in conflict with the law and the establishment of a protected a social system including the creation of a

network of services (integrated services and educational, psycho-social and protective measures and support mechanisms) in relation to these children.

*In 2022, the Ombudsman of the Republic of Bulgaria, in her capacity as NPM, found a disturbing practice of violating the rights of children during police custody involving the completion of a declaration of waiver of the right to protection by a minor in violation of all international standards of the Council of Europe and the European Union. In her opinion, the Ombudsman clearly emphasizes that the first and most important condition to be taken into account is that the detention of a minor is permissible only as an exception. This possibility is provided for in the law as a last option from among several other less serious measures, which do not include restrictions on the minor's freedom and which should be applied in relation to minors. Where children are concerned, depriving them of basic human rights while in police custody is absolutely unacceptable. The Ombudsman categorically believes that legal protection of detained minors should be guaranteed.*

*The Ombudsman institution has consistently maintained that **the competent authorities must take timely action to bring legislation in line with the existing international standards in order to ensure effective access to justice for children and treatment that is appropriate to their age, development and needs.***

The recommendation that effective legislative action is needed to **transpose EU Directive 2016/800 on procedural safeguards for children who are suspected or accused in criminal proceedings in the Criminal Procedure Code** continues to be relevant.

In 2022, **the upward trend in the number of checks in refugee and migrant accommodation centres** persisted in response to the increased migration pressure from persons seeking international protection – 11,761 foreign nationals were covered by the checked accommodation institutions within the system of the Ministry of Interior and the State Agency for Refugees (SAR) without any status in the Republic of Bulgaria. For the third year in a row, the Ombudsman as NPM continues to identify a number of problems in the system for granting international protection:

- Unresolved problems with the setting up of a safe zone for unaccompanied minors outside the capital (at Registration and Reception Centre-Harmanli);
- Unresolved problems with the control of hygienic and sanitary conditions in the centers for accommodation of foreigners;
- Problems with access to dental and specialised health care, etc

The second largest group covered by the Ombudsman's inspections acting as NPM includes **people with mental illnesses**.

In 2022, **for the second time, the Ombudsman, in her capacity as NPM, exercised her right to a constitutional complaint, this time in connection with the rights of persons with mental illnesses**. Pursuant to Article 150, paragraph 3 of the Constitution, the Ombudsman of the Republic of Bulgaria appealed to the Constitutional Court (CC) to declare unconstitutional the provision of Article 158, paragraph 5, third sentence of the Health Act<sup>2</sup>. The contested provision permitted participation of mentally ill and expert persons in proceedings for involuntary placement for treatment by videoconference.

In their decision on constitutional case No 14 of 2022<sup>3</sup> **constitutional judges supported the motives of the Ombudsman** on the unconstitutionality of this provision in contradiction to the principle of the rule of law (Article 4, paragraph 1 of the Constitution), the constitutional right of defence of every citizen at all stages of the process (Article 56 in

<sup>2</sup> (Supplemented, SG No. 110 of 2020, effective 30.06.2021)

<sup>3</sup> <https://www.constcourt.bg/bg/Acts/GetHtmlContent/f5ba49a4-651f-4028-b0cc-cfdb57c31849>

connection with Article 122 of the Constitution), as well as the right to personal freedom and inviolability (Article 30, paragraph 1 of the Constitution).

*In 2022, the Ombudsman of the Republic of Bulgaria, in her capacity as NPM, was referred by the Bulgarian Helsinki Committee in connection with violated rights of people with mental illnesses. According to reports brought to the attention of the Ombudsman Institution, in practice, involuntary treatment placements are now routinely heard via Skype video conference calls, without asking anyone's consent, while the affected person usually participates in it from the mental health center in which he/she is treated after emergency placement and his/her lawyer is in the courtroom and has no contact with the person. This is an absolutely unacceptable situation, even more so when it refers to a vulnerable participant in the process, such as persons with mental disorders*

*It its judgment in that case, the CC established requirements to the right of defence which are also applicable to a judicial review in case of placement for involuntary treatment and the contested provision does not comply with them.*

Other disturbing findings in relation to the rights of people with mental illnesses are related to **non-started implementation of the National Strategy for Mental Health of the Citizens of the Republic of Bulgaria 2021-2030, permanently poor indicators of food, medicine, and unsatisfactory health care for patients in the inpatient psychiatric care facilities**. The consistent shortage of medical and non-medical specialists at hospitals, low pay, overwork and professional burnout of staff have not been resolved for years and all this reflects on the quality of patient care.

**The rights of children and adults accommodated in residential services** are no less important – with a total of 11 institutions inspected in 2022 (398 persons accommodated), the critical findings remain valid regarding the **persistent worrying trend of poor-quality care for elderly people and children with disabilities in family-type centres**<sup>4</sup>.

**Over the years, the Ombudsman, as National Preventive Mechanism, has repeatedly recommended acceleration of the deinstitutionalisation process, since long-term stay of disabled people in institutions violates basic human rights, and the homes themselves can be defined as places of deprivation of liberty**. However, there are still seven institutions accommodating more than 100 people (one home with 228 persons) located far away from community centers and hospitals, with a lack of specialists to care for them.

In 2022, a team of the Ombudsman in her capacity as NPM carried out seven inspections in residential social institutions of the old type (homes). Once again it was found that **the homes do not meet the criteria for providing quality social services for people with disabilities**. The accommodated people are not properly treated and their stay there is not only bad and humiliating, but their basic human rights are violated:

- The right to free movement and contacts with the outside world;
- The right to quality psychological and medical care;
- The right to privacy and quality sanitary and living conditions;
- The right to individual care.

*In regard to these findings of the Ombudsman, which unfortunately have been the same for the last ten years, it must be emphasised again that there is a direct breach of Article 16, paragraph 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, namely: “Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.*

<sup>4</sup> <https://www.ombudsman.bg/>



*In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment”.*

In her reports, the Ombudsman as NPM has repeatedly noted **the negative finding of the apparent lack of will and vision to move residential care services into the community**. Instead, the opposite trend is observed – the facilities of the institutions remain the same, still far away from the municipal centres and in some cases without relevant infrastructure, being redeveloped with minimal funds to create sheltered housing and family-type accommodation centres. This leads to the practice of new services being actually located in the same building or in the yard of the respective resident service.

In 2022, the focus of the Ombudsman’s inspections as NPM of children’s institutions was on **crisis centres for children and women, who are victims of trafficking and violence**. Three social services were inspected.

Victims of violence and trafficking are groups with specific and complex needs related to their immediate protection, overcoming emotional crisis, social stabilisation, rehabilitation of the trauma and reintegration, after overcoming serious incidents and the consequences of them. This group needs quality and professionally provided social services not only to overcome the violent impact, but also to prevent subsequent incidents. Adults and children who have experienced the most common form of violence – domestic violence – have the greatest need of social services.

**The main problems** identified by the Ombudsman as NPM during inspections in crisis centres for children only are that some children do not meet the social service profile. There are children housed for runaways, burglaries, anti-social behaviour, sexual contact with criminals. Not only some children do not meet the social security profile, but the statutory residence period, which is not more than six months, is not respected, and this period is set only in extraordinary cases. Very often, children who are victims of violence and children who are perpetrators of anti-social acts, abusing narcotic substances and exhibiting aggressive behaviour towards the child victims are accommodated in one and the same place. Despite the fact that in both cases children are victims, the needs of the two groups of children are different, and work with them requires a different approach.

The Ombudsman’s annual report as NPM for 2022 unfortunately consistently highlights other persistently unresolved issues:

✓ **Persistent underfunding and chronic shortage of personnel to ensure quality medical care and health care for persons in all categories at inspected facilities** – prisons, psychiatric hospitals, socio-pedagogical boarding schools, centers for refugees and migrants, as well as family-type accommodation centers for children and adults.

*It is known that there are only 13 crisis centers for women and children in Bulgaria, and they are not located in all regional centers. In 18 out of 28 regional centers there is no accommodation for victims of violence. The lack of places where victims of domestic violence can find shelter and protection seems to be an extremely serious problem. The situation as of December 2022 shows that there are significant differences between the regions of the country in terms of support to victims of domestic violence, as there are still entire regions that lack specialised services including crisis centers to support victims of domestic violence.*

*The Ombudsman has repeatedly noted that **urgent measures are needed for crisis centers to become an essential part of the network of services that support victims and work at all levels, such as prevention, protection and rehabilitation. Opening of crisis centres is not the only solution to the problem of domestic violence.***

*The Ombudsman believes that it is extremely important to carry out thorough research*

*and data collection on the needs of the people in the area for a social service before the social service planning process.*

✓ **Lack of budgetary funding for social activities in the places of serving sentences to the Ministry of Justice** – social work and reintegration of prisoners continues to be questionable in many of the prisons.

Regarding all of them, a total of 114 recommendations were sent to various authorities and institutions, and the implementation of specific measures to improve the conditions in the places of accommodation, detention or imprisonment was monitored.

### **XIII. SUPPORT TO REFUGEES AND MIGRANTS**

On 24 February 2022, the Russian Federation began military aggression against Ukraine. Since then, millions of people have fled the war and sought refuge in EU countries and the Republic of Moldova. Hundreds of thousands of children, including orphans who are in institutional care, are leaving the country because of the war. The Republic of Bulgaria expressed solidarity with Ukraine and its people. Since the beginning of the Russian war in Ukraine, Bulgaria has welcomed 782,043 refugees from the attacked country, granting temporary protection under European law to over 136,000 of them. Of these, 87% are women and children, according to data from the United Nations High Commissioner for Refugees (UNHCR). According to the organisation's statistics, by the end of the year, 54,579 of these refugees remained in the country. The Bulgarian State took a number of actions on the organisation and accommodation of Ukrainian refugees, a special website "Bulgaria for Ukraine" was created, <https://ukraine.gov.bg/bg/>, many civil organisations are mobilising and providing volunteers, food, shelter for the women and children fleeing the war.

The institution of the Ombudsman of the Republic of Bulgaria has developed a special mechanism for providing information and support to the refugees arriving in Bulgaria from Ukraine. An expert from the institution has been elected deputy chairman of the Public Council of the Bulgarian Red Cross (BRC), created in connection with the emergency situation with the Ukrainians. The purpose of the Council is to ensure transparency of public funds collected in the campaign.

Using the experience gained as a national human rights institution in the conditions of the COVID-19 pandemic, the Ombudsman organised for **refugees a direct 24-hour telephone line for contact with the experts of the institution and for provision of timely and up-to-date information on the rights of Ukrainian citizens** regarding their stay in the Republic of Bulgaria and obtaining temporary protection. For the convenience of citizens, the announcement was published on the official website of the public defender in the Ukrainian language. For additional convenience, conversations can be conducted in both Bulgarian and Russian. Calls started within the first minutes of opening the hotline. Throughout 2022, hundreds of Ukrainian and Bulgarian citizens turned to the Ombudsman for help and assistance, the Ukrainian citizens being more than 215. Most of the people had more than one call. The most important thing at this difficult time is that they were given guidance on what actions to take to protect their fundamental rights to the maximum extent.

**Main recommendations:**

The crisis with refugees from Ukraine and the provision of adequate protection and support to displaced persons exacerbated existing problems about which the Ombudsman has long alerted public institutions:

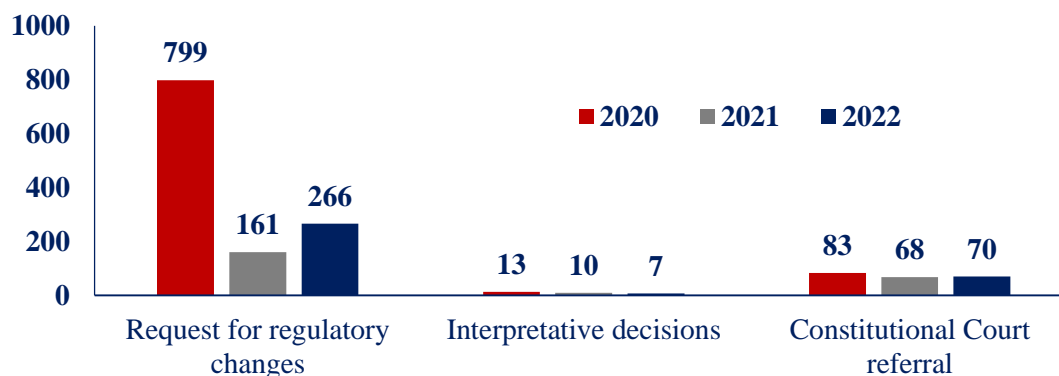
1. It is necessary to create a sustainable policy for providing adequate information to persons seeking protection regarding their rights and conditions for stay in the Republic of Bulgaria;
2. It is necessary to adopt a sustainable strategy for the support and integration of displaced persons, in order to permanently guarantee their rights of access to social, health and educational services.

## CHAPTER TWO – IMPACT ON THE LEGAL FRAMEWORK

### I. OVERVIEW

In 2022, the number of requests from citizens aimed at changing the regulatory framework slightly increased. This is a result of the absence, for most of the year, of a regularly functioning Parliament to which proposals for legislative changes can be made. The trend of a low number of requests for appeal to the supreme courts for interpretative decisions continued, giving the impression that citizens are not aware of the cases in which such requests can be brought to the courts. In their requests, they indicate a conflicting interpretation when considering the same case at different instances or request that the court interpret a regulatory framework, not conflicting case-law. Requests for referral of the Constitutional Court (CC) remained at almost the same level as in 2021.

*Chart No.34. Number of requests from citizens aimed at amending the regulatory framework in the period 2020-2022*



*Source: Statistics of the Ombudsman of the Republic of Bulgaria*

### II. LEGISLATIVE PROPOSALS

The Ombudsman institution sent a letter to the Deputy Prime Minister and Minister of Economy and Industry in regard to an initiative to discuss and prepare a draft law to regulate the activities of so-called collection companies. Following the publication of the bill on the collection of claims under consumer contracts (the so-called Collectors Act) for public consultation, an opinion with specific proposals and recommendations, as well as an opinion to the Committee on Legal Affairs of the 48<sup>th</sup> National Assembly on the already introduced draft was sent.

The Ombudsman made a recommendation to the Chairman of the National Assembly and the MPs from the parliamentary committees on labour and social policy and on budget and finance for adoption of an explicit regulatory provision under which the COVID supplements, paid as an anti-crisis measure to pensions, to become non-sequestrable in the event of attachment. As a result of the recommendation, the relevant provision was adopted, according to which no enforcement action is to be taken in respect of the above-mentioned funds.

In 2022, the Ombudsman was also advocating for the rights of citizens who have multi-year housing savings deposits. An opinion was sent to the Committee on Budget and Finance, in which it was insisted that the National Compensation Housing Fund not be closed. However, in § 12 of the State Budget Act for 2022, it was decided to close the National Compensation Housing Fund at the Council of Ministers. The local commissions under Article 8, paragraph 2 of the Settling the Rights of Citizens with Multi-Year Housing Savings

Deposits Act were terminated from the day of promulgation of the act in the State Gazette (4 March 2022). On the same issue, a recommendation was additionally sent to the Minister of Finance, in which it is expressly insisted that an option be provided for compensating the holders of the so-called saving interest points and only then proceed to the closure of the National Compensation Housing Fund.

The Ombudsman referred to the Minister of Health, the Chairman of the Health Committee of the 48<sup>th</sup> National Assembly and the Chairman of the Consumer Protection Committee regarding the mass distribution and use by minors of nitrous oxide, known as laughing gas. The recommendation was for legislative changes, and the proposal was unanimously accepted by the MPs, and the ban on the supply, sale, including online, and use by children of laughing gas was incorporated in the provisions of the Health Act.

In connection with the elections for MPs held during the year, a recommendation was sent to the caretaker Prime Minister, the caretaker Minister of Health and the Chairman of the Central Election Commission regarding the exercise of electoral rights by citizens in a vulnerable situation, as well as the problem with the lack of opportunity to vote for persons who are placed under mandatory quarantine or mandatory isolation for a period including the election day.

A bill to amend and supplement the Pre-school and School Education Act was also prepared and submitted to the attention of the National Assembly.

The Ombudsman proposed to the MPs to adopt changes in the Personal Income Tax Act to introduce non-sequestration of the amounts that the National Revenue Agency reimburses through the employers of workers and employees who had used tax benefits for children or for children with disabilities. The proposal was adopted and the Personal Income Tax Act was amended.

In 2022, after the submission to the National Assembly of a bill on the bankruptcy of natural persons, or the so-called Personal Bankruptcy Act, the Ombudsman sent a detailed opinion. Opinions were also sent on the bill to amend and supplement the Asylum and Refugees Act; the volunteering bill; the bill amending and supplementing the Condominium Management Act; the bill to supplement the Medicinal Products in Human Medicine Act; the bill amending and supplementing the Mediation Act; the bill amending and supplementing the Health Act in view of the introduced new obligations for patients; the bill amending the Obligations and Contracts Act regarding the reduction of the amount of legal interest, etc.

### III. REQUESTS TO THE CONSTITUTIONAL COURT

In 2022, after discussions and consultations with the members of the Consultative Constitutional Council of the institution, the Ombudsman made four requests to the Constitutional Court to declare unconstitutional legal provisions that violate the rights and freedoms of citizens.

- ✓ **Request for establishing the unconstitutionality of Article §5 of the transitional and final provisions of the Act amending and supplementing the Family Code (SG No. 103 of 2020)**

*Constitutional case No. 3/2022 was instituted on the request.*

According to the disputed provision, for persons for whom the circumstances determining the right to claim under Article 62, paragraph 1, sentence three and paragraph 5, sentence one, were present before the entry into force of the Code, the time limits for bringing the relevant claims start from the entry into force of the Code (Article 62, paragraph 1, sentence three of the Family Code regulates the filing of a claim to contest paternity upon proof that the child could not have been conceived by the mother's husband, after one year has passed from the knowledge of the birth, in the event that circumstances disproving

paternity were later discovered for reasons beyond the plaintiff's control – then the claim can be filed within the expiration of one year from the knowledge of these circumstances, but no later than from the child's coming of age; first sentence of paragraph 5 of the Family Code stipulates that a third person who claims to be the child's biological father may dispute paternity until the expiration of one year from the knowledge of the birth.)

According to the Ombudsman, the disputed provision contradicts the provisions of Article 4, paragraph 1 (the principle of the rule of law) and Article 14 (state protection of the family, motherhood and children) of the Constitution of the Republic of Bulgaria.

By Decision No. 11 of 28 July 2022 the Constitutional Court rejected the request of the Ombudsman to establish the unconstitutionality of §5 of the transitional provisions of the Act amending and supplementing the Family Code (SG No. 103 of 2020).

✓ **Request for establishing the unconstitutionality of Article 158, paragraph 5, third sentence of the Health Act**

*Constitutional case No.14/2022 was instituted on the request.*

The text of the Health Act challenged by the Ombudsman regulates the procedure for the placement of persons with mental disorders, who have been required by a court to be admitted to a medical institution for compulsory treatment. The person whose placement is sought must be questioned personally and, if necessary, brought in by force. Where the person's state of health does not permit him/her to appear at the hearing, the court must obtain a direct impression of his/her condition. Under the contested third sentence of Article 158, paragraph 5 of the Health Act, in those cases, as well as in the event of a declared state of emergency, a state of war, a disaster, an epidemic, an extraordinary epidemic situation or any other force majeure, the person whose placement is sought and the expert appointed to give an expert opinion may also participate in the proceedings by videoconference and their identity is certified by the director of the hospital or by a person authorised by him.

According to the Ombudsman, the text is contrary to the rule of law (Article 4, paragraph 1 of the Constitution), the right to personal liberty and immunity (Article 30, paragraph 1 of the Constitution) and the constitutional right to defence of every citizen at all stages of the process (Article 56 in conjunction with Article 122 of the Constitution).

By Decision No. 14 of 17 November 2022 the Constitutional Court found unconstitutional the provisions of Article 158, paragraph 5, third sentence of the Health Act (SG No. 70 of 2004, last amended and supplemented SG No. 62 of 2022).

✓ **Request for establishing the unconstitutionality of Article 10, paragraph 16 of the Roads Act**

*Constitutional case No.19/2022 was instituted on the request.*

The provision of the Roads Act challenged by the Ombudsman provides for the payment of a vignette and road toll as a condition for the regularity of a periodic technical inspection of a motor vehicle. The payment of the due toll is certified through a check in an automated exchange of information between the information system for electronic registration of performed periodic inspections of motor vehicles, maintained by the Ministry of Transport, Information Technologies and Communications and the electronic system for the collection of road tolls.

According to the Ombudsman, this provision is contrary to Article 4, paragraph 1 of the Constitution (the rule of law) and Article 35, paragraph 1 of the Constitution (the principle of freedom of movement within the country).

By Ruling of 10 January 2023, the Constitutional Court admitted for examination on the merit the request of the Ombudsman of the Republic of Bulgaria to establish the

unconstitutionality of Article 10, paragraph 16 of the Roads Act (SG No. 26 of 29.03.2000, last amended and supplemented SG No. 23 of 19.03.2021).

✓ **Request for establishing the unconstitutionality of Article 8, item 3 in the part “state” of the Higher Education Act**

*Constitutional case No. 20/2022 was instituted on the request.*

The provision of the Higher Education Act contested by the Ombudsman regulates the subsidies for the education of students by the State only in public higher education institutions, granting them scholarships, dormitories and canteens. The State is not allowed to provide scholarships to students in private higher education institutions.

According to the Ombudsman, this contradicts fundamental constitutional rights set out in Article 53, paragraphs 1 and 6 of the Constitution (right to education) and Article 6 of the Constitution (equality of citizens before the law).

By Ruling of 10 January 2023, the Constitutional Court admitted for examination on the merit the request of the Ombudsman of the Republic of Bulgaria to establish the unconstitutionality of the provision of Article 8, item 3 of the Higher Education Act (SG No. 112 of 27.12.1995, last amended and supplemented SG No. 102 of 23.12.2022) in the part regarding “State”.

In 2022, the Constitutional Court ruled by Decision No. 4/2022 on the request of the Ombudsman of 2021 to establish contradiction between the provisions of Article 68a, paragraph 1, second sentence of the Social Insurance Code in the “lifetime” part of Article 6, paragraphs 1 and 2, Article 16, paragraph 4, Article 4, paragraphs 1 and 2 of the Constitution and its preamble. The rule of the Social Insurance Code disputed by the Ombudsman refers to the possibility for citizens who have the required contributory insurance experience to retire one year earlier than required in Article 68, paragraph 1 of the retirement age under the Social Insurance Code, and in case they exercise this right, they will receive a reduced pension for life. By CCD No. 4/2022, the request of the Ombudsman was rejected.

## CHAPTER THREE – MONITORING THE IMPLEMENTATION OF INTERNATIONAL ACTS IN THE AREA OF HUMAN RIGHTS

### OVERVIEW

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.

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 2022, 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 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 harmonisation of the case law of the Bulgarian courts with that of the ECtHR and will contribute to fewer convictions. The new decisions of the ECtHR against Bulgaria in 2022 are 27<sup>5</sup>. The Ombudsman will continue to monitor the process and push for its ratification in 2023.

### I. EUROPEAN CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS



*“I accepted the invitation to participate in today’s conference with a sense of serious responsibility, because I think that today we are gathering not just to mark, to celebrate 30 years of the accession, ratification by Bulgaria of the ECHR and recognition of the jurisdiction of the ECtHR, but also because I believe this is a day and a moment when we can draw lessons of the past 30 years. And the lessons are never easy and unambiguous.*”

*“It can certainly be argued that if Bulgaria had not ratified the ECHR, it would be a very different country today and would certainly not have been accepted into the family of European countries with their shared values and ideas.”* Thus began the opening speech of the Ombudsman in **the conference “Thirty years since the accession of Bulgaria to the European Convention on Human Rights”**, organised under the patronage of the head of state Rumen Radev.

Human rights, democracy and the rule of law are inseparable, united and interconnected, the absence of any of the elements of this triad makes the existence of the

<sup>5</sup> [https://echr.coe.int/Documents/Stats\\_violation\\_2021\\_FRA.pdf](https://echr.coe.int/Documents/Stats_violation_2021_FRA.pdf).



other two impossible. The ECHR is a document with a rich history and content, it brings together in a single legal instrument all the civil, personal, economic, political and social rights enjoyed by the citizens of the European countries, clearly highlighting their indivisibility.

Pursuant to Article 46, paragraph 1 of the ECHR, as a party to the Convention, Bulgaria must execute the final decisions of the ECtHR establishing violations of the Convention, as well as those confirming the friendly agreements reached between the parties. The implementation of a judgment of the ECtHR means undertaking by the State of **individual measures** to restore the situation of the complainants before the infringement, and of **general measures** (e.g. changes in legislation, case law, etc.) aimed at avoiding future similar infringements.

The execution of the final judgments of the ECtHR is under the supervision of the Committee of Ministers of the Council of Europe (Article 46, paragraph 2). The Bulgarian State has an obligation to execute these judgments and, in this regard, should periodically send up-to-date information on the measures taken. The Committee of Ministers prepares an annual report with information on each State Party to the ECHR. Execution of the judgments of the ECtHR shall not be limited to the payment of the compensation determined by the Court, but shall also include other measures – resumption of proceedings where appropriate and alignment of national legislation with the case-law of the ECtHR. It is this approach that allows measures of a general nature to be taken with preventive effect in respect of similar infringements so that ECHR is not violated in the future.

At national level, the coordination of the execution of the judgments of the ECtHR is carried out by the Ministry of Justice. After 2012, pursuant to a decision of the 41<sup>st</sup> National Assembly, the Minister of Justice must submit a summary annual report on the implementation of the judgments of the ECtHR. This enables Parliament to exercise control over the process of bringing national legislation in line with the case-law of the ECtHR and to be informed about the necessary legislative changes. Summary information on the status of the cases against Bulgaria before the ECtHR and the cases under enhanced surveillance can be found in a special document prepared by the Department for the Execution of ECtHR Judgments.<sup>6</sup> Information on judgments whose execution is completed is available in the Annual Report of the Committee of Ministers<sup>7</sup> and in the Annual Report of the Minister of Justice. The execution of the judgments against Bulgaria ends with a final resolution by the Committee of Ministers after assessing whether the State has fulfilled its obligations and taken the relevant individual and general measures.

### ***General findings on the execution of final judgments of the ECtHR in 2022 within the meaning of Article 46 of the ECHR***

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 published 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

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<sup>6</sup> Information on Bulgaria is available at: <https://rm.coe.int/1680709740>.

<sup>7</sup> See the website for information on ECtHR judgments <http://hudoc.exec.coe.int/eng>

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 on time 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 2022, the following main conclusions can be drawn:***

First, **the total number of judgments to be implemented and monitored by the Committee of Ministers has increased significantly.** Statistics show that as of 31 December 2022<sup>8</sup>, the total number of ECtHR judgments in the implementation phase is **227**. Thus, during the year the number of unfulfilled judgments against Bulgaria in monitored cases increased. As of 31 December 2021 they numbered 173 versus 165 as of 31 December 2020 and 170 as of 31 December 2019.

In 2022, the ECtHR ruled on 62 cases against Bulgaria. On 25 of them, it passed judgments establishing a violation. In 2 cases, the Court concluded that there were no violations of the Convention. Judgments on inadmissibility on various grounds were ruled in 20 cases. An amicable agreement was reached on 10 complaints, and a unilateral declaration was made by the State on 5 cases. By way of comparison, in 2021, the ECtHR's judgments against Bulgaria totalled 60, of which convictions were 35.

Second, **in 2022, 37 new convictions were placed under the supervision of the Committee of Ministers, the number of which is significantly lower than the number of judgments in 2021, when they were 45.** The number in 2021 was 45, in 2020 it was similar to the number of judgments placed under supervision in 2018 (36), and significantly lower than the number of judgments placed under supervision in 2019 (18).

Third, regarding the compensations paid by Bulgaria **in 2022, our country paid EUR 725,695 in compensations**, or much more than in 2021 when it paid EUR 452,546. In 2020, their total value is EUR 320,393,<sup>9</sup> 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 2022 is EUR 112,850.

**In 2022, the conclusions made in the previous years are still valid, namely:**

- 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;

<sup>8</sup> Current data as of 31 December 2021, source: Country Factsheet <https://rm.coe.int/1680709740>  
<https://www.coe.int/en/web/execution/bulgaria>

<sup>9</sup> Current data as of 31 December 2021, source: Country Factsheet <https://www.coe.int/en/web/execution/bulgaria>

- In 2022, Bulgaria continued to be in a situation of being sentenced in similar cases and 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.

### **Main recommendations:**

1. Strengthening the mechanisms of coordination between various institutions that are responsible for the execution of the judgments of the ECtHR against Bulgaria. The lack of progress in this regard in 2022 once again proves the need for general prevention measures to be taken by the State;

2. The Ombudsman's observation for 2022 again shows that measures should be taken to strengthen the role of the Ministry of Justice and the Procedural Representation of the Republic of Bulgaria before the ECtHR Directorate in coordinating the process of bringing the national legislation and the practice of the institutions in line with the decisions of the ECtHR;

3. It is logical that the coordination of the implementation process should continue to be carried out by the Procedural Representation of the Republic of Bulgaria before the ECtHR Directorate, but a new format should be considered in order to be significantly more effective and to achieve real progress. This applies particularly to cases where action by the executive is required, as well as to measures that can only be implemented by changes in judicial or administrative practices or by amending the legislation;

4. For this reason, the Ombudsman proposes the creation of an interdepartmental coordination council, including representatives (experts) of all national institutions, which should be directly involved in the process of coordinating and monitoring the implementation of measures to execute ECtHR convictions;

5. Such a mechanism can ensure the effective execution of ECtHR judgments and contribute to a fruitful cooperation between the competent authorities and institutions in this area;

6. In addition, this body could significantly raise the awareness of the practice of the ECtHR and the standards of respect of fundamental human rights. This will actually lead to a reduction in convictions that have been under enhanced supervision by the Committee of Ministers for many years;

7. The alignment of national legislation and practice with the ECHR and the case-law of the ECtHR will also ensure a more effective safeguard of the fundamental rights and freedoms of Bulgarian citizens;

8. A similar interdepartmental coordination mechanism should include mostly representatives of the executive;

9. The mechanism would be effective, however, only if representatives of the judicial and legislative authorities are also present at its meetings;

10. It is good for the Council to meet periodically (at least four meetings a year) so that its members can discuss the measures that should be taken, commit to their implementation, ensure the coordination of the implementation in their own institution and provide information on the progress;

11. The Ombudsman should also be a part of this coordination process in her role as public defender who promotes the implementation of the conventions for the protection of fundamental rights and freedoms of individuals, as well as independent experts and representatives of non-governmental organisations.

## Key ECtHR judgments in 2022

In 2022, there is no key judgment of the ECtHR against Bulgaria<sup>10</sup>, unlike 2021.

### Judgments of the ECtHR on which measures have been taken to address the problem, but are still in supervision procedure by the Committee of Ministers (CM)

**The *Velikova v. Bulgaria* group of cases.** The judgment in the *Velikova v. Bulgaria* case entered into force already in 2000, and despite the reported progress, the enhanced supervision of it has not yet been closed.

The *Velikova v. Bulgaria* group of cases relate to deaths, torture (including inadequate incrimination of torture), ill-treatment or lack of timely medical care during arrest, during police detention or in places of punishment, and the failure to investigate these cases effectively (infringements of Articles 2 and 3 of the Convention). Bulgaria systematically fails to execute ECtHR judgments, as it becomes clear after the last review of the execution of Court judgments by the supervisory authority.

The review of the execution of the “Velikova” group cases was carried out in December 2021<sup>11</sup>, and again the CM came out with sharp recommendations to Bulgaria. In the *Velikova case*, the 2021 resolution is the third in a row. The publication of two resolutions within the framework of one sitting of the Committee means that Bulgaria systematically refuses to execute the judgments of the ECtHR for a long period of time and in relation to more than one fundamental right. Nevertheless, lack of sufficient progress on some significant and long-standing problems revealed by this group of cases raises expectations for decisive action to implement the commitments, especially given the fact that the *Velikova* case has been under the Committee’s supervision for almost 19 years. It is therefore essential to avoid further delays in the execution process, at least in regard to the implementation of crucial outstanding measures on:

- improving the practical operation of the right of access to a lawyer in police custody and of medical examinations in police custody and places of imprisonment;
- improving the organisation of reporting injuries of detainees in police custody and in places of punishment;
- introduction of judicial review of prosecutors’ refusals to open a criminal investigation in cases of ill-treatment during detention;
- putting in place sufficient safeguards for the independence of investigations and preliminary investigations into ill-treatment by members of law enforcement bodies;
- criminalisation of acts of torture and criminalisation of extracting a confession from a person who has not been officially charged with a crime, but is nevertheless suspected of committing a crime.

It is advisable to consider a legislative change to remove the statute of limitations for torture-related offences. In this way, difficult and hard to investigate cases will not be subject to a limitation period and can be reopened even with slow justice and after a judgment by the ECtHR.

- *S.Z. / Kolevi v. Bulgaria* group of cases

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<sup>10</sup> [https://www.echr.coe.int/Documents/Cases\\_list\\_2022\\_ENG.pdf](https://www.echr.coe.int/Documents/Cases_list_2022_ENG.pdf)

<sup>11</sup> <https://hudoc.exec.coe.int/eng#%7B%22EXECDocumentTypeCollection%22:%5B%22CEC%22%5D%7D>

In March 2023, the case will be heard once again.

In December 2021, with the judgments in the cases *Kolevi v. Bulgaria* and *S.Z. v. Bulgaria* the ECtHR raises questions about the efficiency, speed and independence of the criminal investigation.

- ***Nencheva v. Bulgaria case***

The *Nencheva v. Bulgaria case* was last considered at a CM meeting in September 2021. In 2022, it was not considered. The measures that have not yet been implemented relate to the provision of guarantees that children with disabilities placed outside their families can enjoy independent representation, allowing them to have complaints about their health and treatment dealt with by court or other independent body. The Ombudsman will continue to monitor the implementation of other commitments made in the Action Plan presented by Bulgaria:

- the frequency and results of inspections carried out by various local authorities to assess the living conditions and medical care provided to children in family-type residential centres and social-care homes;

- establishment of 20 new family-type medical residential centres tailored to the need to serve all children who need complex medical assistance.

- ***Stanev v. Bulgaria case***

The *Stanev v. Bulgaria case* is one of the cases that have been subject to enhanced supervision procedure for many years, but no effective measures have been taken to deal with the problem. The reason is the lack of a comprehensive policy related to support measures for persons with mental problems. In 2022, the Ombudsman, in her capacity as NPM, undertook inspections in residential services for adults and children, the findings of which are presented in this report. Checks were also carried out in psychiatric hospitals and mental health centres. The Ombudsman's observations reaffirm the conclusions and recommendations made in the institution's previous reports.

Psychiatric care remains unreformed and medical and the social care for people with mental health problems has not improved.

- ***The group of cases Kehayov v. Bulgaria***

The annual report of the ombudsman as NPM for 2022 again found a deterioration in the medical care provided. The medical care of the prisoners in the inspected facilities does not meet the legally established requirements and there are prerequisites for violating the rights of the prisoners as patients and health insured persons. There are places of imprisonment where there is no medical specialist for months on end (e.g. prison - city of Plovdiv), and in others the appointed persons are on civil contracts, which in practice makes them relatively independent from the management of the penitentiary institution with the resulting this limits the activities carried out (e.g. prison - town of Vratsa). The lack of medical professionals in almost all prisons is a systemic problem, but others are also identified, such as the neglect of prisoners' complaints, untimely referral of prisoners to external specialists for diagnosis and treatment, harsh treatment of prisoners by medical professionals and etc.

The Ombudsman will continue to monitor the implementation of the following key recommendations made in the annual reports on his activities as NPM.

- ***Group of cases Ekimdzhiev v. Bulgaria***

Strasbourg's first decision under the CPC Act was announced in 2007 on appeal by Atty. Mihail Ekimdzhiev and the Association for European Integration and Human Rights led

by him. In it, the ECtHR found that the Bulgarian law does not provide reliable control over the information collected by special intelligence means (SIM) and does not allow citizens to seek protection against abuse.

Since 2019, the ombudsman continues to monitor the implementation of the recommendations made by the Committee of Ministers to the Bulgarian institutions:

- regarding the changes in Art. 21 para. 2 of the Law on SIM, which stipulates that the term of application of SRS in relation to activities related to the protection of national security in the cases of prevention of serious intentional crimes under chapter one of the special part of the Criminal Code shall be two years. This term can be extended in accordance with Art. 15 for no more than three years in total;

- regarding the possibilities of creating a common database of requests for SIM, which would facilitate judicial control and control carried out by the National Bureau of Control over SIM;

- clarification of the powers of the court when considering claims for unlawful use of the SIM, when the person is not formally notified of the surveillance;

- the rules and procedures related to the filtering, verification, protection and destruction of information acquired by using the SIM;

- the role of the judge when an intelligence tool is used that falls outside the scope of the initial request.

In January 2022, Bulgaria was condemned for the second time in the European Court of Human Rights (ECtHR) in Strasbourg for defects in the national system of secret wiretapping and surveillance of citizens by the authorities.

The findings and recommendations of the ECtHR are sharp, namely: 1) the grounds for the application of the SIM, specified in the law, correspond to the requirements of the Convention, with the exception of the term "objects" in the sense of Art. 12, para. 1 SIM Act, which is not clear enough; 2) the rules for storage and destruction of materials acquired through SIM are not available; 3) the authorization to use the SIM on the basis of "national security" can last for 2 years, which is too long and weakens judicial control; 4) the manner in which permission to use SIM is granted in practice does not contain guarantees that surveillance is used only when necessary; 5) there are significant gaps in the legal provisions governing the storage, access, assessment, use, transfer and destruction of data; 6) the system of control in the person of the National Bureau of Control over SIM, as it is currently organized, does not meet the requirements for sufficient independence, competence and effective powers; 7) the provisions for notifying citizens are too limited in scope; 8) the claim under ZODOV is not an effective means of protection in all cases, because for its successful implementation it is necessary to notify the Bureau in advance that the SRS was used illegally against the person.

The ECtHR also notes the following shortcomings of the system in relation to the retention of traffic data: 1) the procedure for granting permission by the district court does not contain guarantees that access to data takes place only when it is necessary; 2) there are no clear deadlines for the destruction of data in criminal proceedings; 3) there are no publicly available rules for storage, access, assessment, use, sending and destruction of the data; 4) control is not effective; 5) the possibilities for a person to be notified of illegal access are very limited; 6) there is no means to compensate the persons in case of illegal access.

### **General recommendations:**

1. Fulfillment of the commitments made in the Action Plan for the implementation

of the recommendations of the sentencing judgment *Velikova v. Bulgaria*;

2. Incriminating the offence of torture in the context of Bulgaria's commitments under the ECHR and the UN Convention against Torture;

3. Abolishing the statute of limitations for crimes related to torture with a view to resuming proceedings after a conviction by the ECtHR or determining additional adequate compensations with a view to withdrawing the claims of the victims and closing the supervision of these cases;

4. Implementation of the Decision of the CM of 14 March 2019, including in terms of the effectiveness of the investigation and investigation of possible crimes committed by the Attorney General;

5. Development and implementation of specific rules for planning police operations, instructions on how to react if the wife or children are present during the arrest, and training of police officers;

6. Taking urgent steps to bring the bill on natural persons and support measures to the Council of Ministers and the National Assembly.

7. Taking urgent steps to introduce the bill for natural persons and the support measures in the Council of Ministers and National Assembly;

8. Change in Art. 42, para. 1 of the Constitution of the Republic of Bulgaria and in the relevant provisions of the electoral legislation in order to comply with the recommendations of the ECtHR.

9. Creation of an effective mechanism guaranteeing the right of association in all its components in accordance with Art. 11 of the ECHR.

10. Submission of the draft law for amendments and additions to the Law on Territorial Planning, prepared according to Order RD-02-14-652/28.06.2018 of the Minister of Regional Development and Public Works in the National Assembly as soon as possible.

11. Adoption of legislative measures to guarantee the independent representation of an affected bank in the appeal proceedings of the deed of revocation of the license and in the bankruptcy proceedings.

### **Specific recommendations:**

1. Taking measures to improve the poor conditions in places where people with mental illnesses are placed;

2. Adopting the National Strategy for Mental Health 2020-2030 and the Action Plan for it;

3. Extending the scope of the activity for provision of social services to people with mental illnesses in accordance with the needs of society and to end the long-term stay of patients in state psychiatric hospitals;

4. It is necessary to accelerate the process of deinstitutionalisation of the care for children and adults by building more social services in the community – daycare centres for children and persons with disabilities, community support centers, etc., and providing enough personal assistants.

5. Continuation of the implementation of measures to deal with the problem of overpopulation;

6. Introduction of the electronic monitoring system as soon as possible, including introduction of alternatives to the procedural measure "detention in custody" and effective implementation of recommendation Rec (2000)22 on community sanctions and measures;

7. Maximum integration of the health care system in places of deprivation of liberty with that of the Ministry of Health;

8. Decisive increase in meaningful social activities and real individual execution of sentence.

## II. UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Monitoring and promoting the effective implementation of signed and ratified international acts in the field of human rights is one of the leading functions of the Ombudsman of the Republic of Bulgaria.

The main focus of the monitoring is the implementation measures of the UN Convention on the Rights of Persons with Disabilities (CRPD).

The Ombudsman carries out monitoring based on the powers granted under Article 19, paragraph 1, item 12 of the Ombudsman Act and pursuant to Article 11 et seq. of the Persons with Disabilities Act (PDA), which regulate the participation of the Ombudsman in the activities of the Monitoring Council.

The Monitoring Council was established in 2019 pursuant to Article 33, paragraphs 2 and 3 of the CRPD and in 2022 it is fully chaired by the Commission for Protection against Discrimination. In view of the important role of the Council, the following paragraphs will briefly present its activities during the past year.

### ✓ **Monitoring Council activities in 2022**

The Monitoring Council held three meetings in the past year, and due to the COVID-19 situation, the meetings were in a hybrid format.

#### ***First meeting of the Monitoring Council in 2022***

The meeting was held on 20 May 2022 and the draft Annual Programme for the activity of the Council for 2022 was discussed and priorities were adopted.

The activities of the Commission for Protection against Discrimination related to the protection of the rights of people with disabilities in 2021 were presented.

The answers of the municipalities for the implementation of Article 5, paragraph 3 of Ordinance No. RD-02-20-2 of 26.01.2021 for determining the requirements for accessibility and universal design of the elements of the accessible environment in the urbanised territory and of the buildings and facilities (in force from 13 March 2021) were considered.

A solution was sought to the problem with the lack of support for disabled people whose medical expert decisions expired in the period from 1 April 2022 to 30 June 2022.

#### ***Second meeting of the Monitoring Council in 2022***

In response to complaints received by the Ombudsman and the Commission for Protection against Discrimination about existing problems faced by people with rare diseases, it was decided to organise a dedicated meeting of organisations of people with rare diseases and the Monitoring Council.

A proposal to set up a working group to prepare a Communication Strategy of the Monitoring Council was discussed.



A draft letter to the Ministry of Labour and Social Policy was discussed and voted on in connection with the implementation of Article 38 of the People with Disabilities Act and the subsidised employment programmes for people with permanent disabilities managed by the Employment Agency.

The problem with medicinal foods and consumables, which remain outside the scope of the mandatory health insurance, was discussed. The Council made a decision to submit a proposal to the Minister of Health and the NHIF.

Specific proposals to the Minister of Health for amendments to Ordinance No. 16 of 30 July 2014 on the conditions and procedures for registration of rare diseases and on expert centres and reference networks for rare diseases were discussed.

A recommendation to the NHIF to include representatives of the organisations of people with disabilities and the Monitoring Council in the working group engaged in the preparation of a Draft updated specification of aids, devices, equipment and medical devices and others intended for people with disabilities was approved.

### ***Third meeting of the Monitoring Council in 2022***

The last meeting of the Council for 2022 was held on 20 December 2022.

The Retina Bulgaria Association participated in the meeting and presented the problems of people with rare diseases. The issue of the lack of a National Strategy for people with rare diseases and the insufficiently updated list of rare diseases in Bulgaria was raised and discussed.

It was discussed and approved that a recommendation be made to the Minister of Health concerning the Medical Expertise Ordinance and the need to implement more rapidly a new disability assessment model and to abandon the MREC/NREC expert decisions as a uniform tool for exercise of rights.

### **✓ Implementation of the Convention by the bodies of the executive**

As in the previous Annual Reports, this report presents findings and recommendations of the Ombudsman on the implementation of the CRPD, which are based on inspections and analyses in relation to citizens' complaints, the institution's participation in organised public discussions, participation in interdepartmental working groups, reflecting the activities of public institutions directly responsible for the formation and implementation of policies related to people with disabilities.

In order to collect the necessary information for the fulfillment of the obligations under the CRPD, letters with questionnaires were sent to the Ministry of Labour and Social Policy and the Ministry of Health, in their capacity as bodies for the formation and implementation of such policies.

### **Based on information from MLSP**

In fulfillment of its main function of cooperation in the development and implementation of the policy on the rights of persons with disabilities, at five meetings in 2022, the National Council of People with Disabilities considered and approved 13 documents directly affecting the guarantee of the rights of persons with disabilities, specified in the UN Convention on the Rights of Persons with Disabilities.

### **✓ Concepts on bringing the Bulgarian legislation in line with CRPD**

In response to the need for full implementation of the CRPD, within the implementation period of the Action Plan of the Republic of Bulgaria for the implementation of CRPD (Plan 2015-2020), several concepts for changes in the regulatory framework were prepared to ensure the rights of people with disabilities. Detailed information on the question raised was provided in the Ombudsman's 2021 Annual Report.

## ✓ **Application of Article 9 – accessibility**

### • **Sign language**

Accessibility of the environment is crucial for the people with disabilities to have dignified and independent lives.

With the adoption of the Bulgarian Sign Language Act (BSLA), the legal status of sign language as a means of communication for deaf people and as a service to meet their needs has been settled. The legal act regulates the right of the deaf and deaf-blind persons to a free translation service in the Bulgarian sign language, provided by the social assistance bodies at the expense of the state budget. Therefore this type of social support is foreseen and provided respectively through the budget of the MLSP.

By Order No. RD-02-62/12.04.2022 of the Minister of Labour and Social Policy, an interdepartmental working group was formed to prepare draft amendments and supplements to the Bulgarian Sign Language Act by 30 June 2022. The prepared draft to amend and supplement the Bulgarian Sign Language Act was submitted for public consultation from 19 August to 19 September 2022, then was approved by the Council of Ministers with CMD No. 807 of 20.10.2022 and submitted for consideration to the National Assembly. The amended and supplemented Bulgarian Sign Language Act was published in the State Gazette No. 10 of 2023.

### • **Building an accessible environment and personal mobility through the National Programme for Accessible Housing Environment and Personal Mobility**

The MTSP continues to implement a specific measure for financing and implementation of activities for the building of accessible housing environment under the National Programme for Accessible Housing Environment and Personal Mobility, under Article 56 of the People with Disabilities Act, approved by the Minister of Labour and Social Policy.

In the first half of 2022, changes were made to the National Programme for Accessible Housing Environment and Personal Mobility to ensure improvement of the order, conditions and procedures for applying for the construction of affordable housing in order to eliminate identified inconsistencies and operational difficulties.

The minimum threshold for financing projects related to the building of accessible housing environment was removed and the eligibility conditions regarding the scope of the planned activities were specified, allowing the applicant to provide own financial contribution in cases where the planned value of the project proposal exceeds BGN 100,000, which is the determined maximum amount of financing under Component 1 “Accessible Housing” of the Programme. The adopted amendments ensure improvement of the rules, conditions and procedures for applying and carrying out activities to provide the necessary public support for building accessible housing environment.

### • **Building accessibility through the Social Protection Fund**

In 2022, the Social Protection Fund also implemented other activities to support people with disabilities:

Under Component 1 “Acquisition of fixed assets, current maintenance of the material base and construction of a new one, reconstruction and modernisation of the existing material base for provision of social services”, 15 projects were financed in 2022.

Under Component 2 “Support for the implementation of social activities and/or for achieving the social goals of social enterprises registered in the register of social enterprises”, 3 projects were financed in 2022.

- **Accessible information through the targeted programme “Development of a Bulgarian speech synthesizer for the needs of people with visual impairments”**

The purpose of the Programme is to support the process of social inclusion of people with visual impairments, with a view to creating opportunities to increase their educational level, employment and quality of life. By implementing the programme, more than 4,000 people with visual impairments have access to information.

- **Accessible environment under the Agency for People with Disabilities**

In order to provide conditions and opportunities for sports clubs in the country to expand the scope of people with permanent disabilities, to participate in sports activities with a view to improving their physical capacity, make full use of free time and their social integration, the Agency for People with Disabilities finances projects to provide an accessible architectural environment for people with disabilities at cultural, historical, sports sites.

In order to achieve sustainability of the programme, as well as the indicators set, measures were taken to promote it. Letters were sent to organisations and structures related to the provision of accessible architectural environment. Online events were also held – Open Doors Day, where potential beneficiaries were given the opportunity to ask questions about the preparation and implementation of their projects.

#### ✓ **Measures to provide aids for persons with permanent disabilities**

The updated National Recovery and Resilience Plan (NRRP) of the Republic of Bulgaria was approved by Decision of the Council of Ministers No. 203 of 7 April 2022. Part of the commitments of the MLSP under the NRRP is the project “Provision of aids for persons with permanent disabilities”. The project envisages the provision of high-quality and high-tech aids to people with permanent disabilities to create an accessible environment related to their mobility and free movement, as well as providing training for their use.

In the second half of 2022, a draft Methodology for the selection of persons with permanent disabilities (the Methodology) was prepared. The Methodology is based on the bio-psycho-social model in accordance with the International Classification of Functioning, Disability and Health (ICF) of the World Health Organization.

The methodology for the selection of persons with permanent disabilities was approved by Order No. RD-01-428 of 16 December 2022 of the Deputy Prime Minister for Social Policies and Minister of Labour and Social Policy and was promulgated in the unofficial section of the State Gazette, No. 102 of 23 December 2022.

#### ✓ **Application of Article 24 – Education**

There are 5 special schools for students with sensory disabilities – impaired hearing and vision – in the country, and the total number of children and students in them is 711. There are three special schools for hearing impaired students, and those for eyesight impaired students are two.

In the special schools for students with impaired vision, vocational classes in ceramics and gardening were established, which build the students’ professional skills and prepare them for independent life in the future.

Under the project “Support for Inclusive Education” funded under the Operational Programme “Science and Education for Smart Growth” 2014-2020, with a specific beneficiary the Ministry of Education, a series of specialised trainings under Activity 3 were conducted for specialists in personal development support teams and other teaching staff and non-teaching staff from the project’s kindergartens and schools.

In 2022, a total of 1,856 specialists were trained.

A Map was designed for the functional assessment of the individual needs of children and students with special educational needs and with chronic diseases in connection with the application of the International Classification of Human Functioning, Disability and Health for Children.

Since 2022, a platform for educational and therapeutic resources for children and students with special educational needs “Support Me” has been operating ([podkrepime.mon.bg](http://podkrepime.mon.bg)).

### ✓ **Establishing a State Agency for People with Disabilities**

With regard to the establishment of the State Agency for People with Disabilities (SAPD) the Ministry of Labour and Social Policy sought expertise for the implementation of the structural reform. The MLSP received technical assistance under the European Union (EU) Structural Reform Support Programme implemented by the World Bank with funding from and in cooperation with the Structural Reform Support Office of the Secretariat-General of the European Commission, through expert recommendations for establishment of institutional and governance structure of the SAPD at the Council of Ministers.

In line with the provisions of § 12, paragraph 3 of the PDA, an assessment of the appropriateness of legislative decisions regarding administrative structures is required, since the establishment of bodies with similar powers and functional competence creates a risk of duplication of functions, respectively duplication of funding of policies and activities, unclear boundaries of responsibility in making budget expenditures, difficulties in the budget procedure and budget planning, etc. To date, at all levels at which the issue has been discussed, no arguments have been found in support of the current regulations that would prove relevance of the provision regarding the carrying out of an individual assessment of the needs of people with disabilities to be transferred to the executive functions of the SAPD. This means transferring an executive function (currently carried out by the territorial divisions of the Social assistance Agency) to a state agency, breaking the division introduced between executive and state agencies under the Administration Act.

With the latest amendment and supplement to the People with Disabilities Act (SG No. 8 of 25 January 2023), a change was made in §12, paragraph 3, according to which the State Agency will coordinate the implementation of the policy for the rights of people with disabilities, and the individual assessment of the needs of people with disabilities is excluded from from the functions of the SAPD.

It is necessary to carry out broad public consultations, in which representatives of disabled people and legal entities to be included, in order to reach a consensus on finding a lasting solution to the structural change.

### ✓ **On the Report to the UN Committee on the Rights of Persons with Disabilities**

In line with Bulgaria’s commitment to the implementation of the Convention on RPD, as well as to implement the recommendations of the UN Committee on the Rights of Persons with Disabilities on the country’s first national report, an intergovernmental working group was established in April 2020 by an order of the Minister of Labour and Social Policy, including representatives of all ministries, agencies, public authorities, nationally representative organisations of and for persons with disabilities.

The task of the group was to develop an 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 with a timeframe for implementation 2021–2026.

The developed Plan includes all recommendations of the Committee, both implemented, for which the achieved results are indicated, and those identified as

unimplemented or those in the process of implementation. It lists measures and activities through which some of the recommendations have been implemented so far.

By Decision No. 110 of 12 February 2021 of the Council of Ministers, the prepared Action Plan for the implementation of the final recommendations to the Republic of Bulgaria issued by the UN Committee on the Rights of Persons with Disabilities with a timeframe for implementation of 2021–2026 was adopted.

The implementation of the Plan is expected to lead to development and improvement of policies targeting persons with disabilities, in line with the UN Convention on the Rights of Persons with Disabilities and other international instruments aimed at guaranteeing human rights to which Bulgaria is a party. The Plan envisages a periodic review of the progress made in implementing the recommendations, involving the designated disabilities coordinators and other stakeholders under Article 18 of the PDA.

#### ✓ **International Classification of Functioning, Disability and Health in needs assessment**

With the entry into force of the Persons with Disabilities Act, the right of persons with disabilities to an individual comprehensive assessment is provided for in accordance with the needs identified in the study of functional difficulties related to the health status and the presence of barriers in the performance of daily and other activities of the disabled person.

In this regard, in 2019, the Methodology for carrying out an individual assessment of the support needs of people with disabilities (the Methodology) was developed and adopted, setting out the terms and conditions for preparing an individual assessment of the needs of people with disabilities, including an assessment of the need to provide social services, personal assistance or other type of support under conditions and procedure laid down in law.

The Methodology is based on the bio-psycho-social model in accordance with the International Classification of Functioning, Disability and Health (ICF) of the World Health Organization.

In view of the possibilities for improving the current model for the individual assessment of the needs of people with disabilities, at the request of the MLSP, the Structural Reforms Support Service at the General Secretariat of the European Commission, together with the World Bank, provide technical assistance related to strengthening and further development of the system for assessing disabilities, the needs for support respectively. The technical assistance was launched in July 2020 and its main objective is to provide recommendations for improving the model of assessment of functional abilities and individual needs of people with disabilities.

The provided recommendations are not mandatory for Bulgaria, but can be used in reforming the model of assessment of disabilities and individual needs.

#### ✓ **National Map of Social Services**

The Social Services Act (SSA) for the first time introduced national level planning of social services financed from the state budget by developing a National Map of Social Services.

The map will also determine the maximum number of users of all social services for which full or partial funding from the state budget is provided. The criteria for determining the services and the maximum number of users in the National Map of Social Services are defined in the Ordinance on the planning of social services based on the number and demographic profile of the population.

Pursuant to § 31 of the transitional and final provisions of the SSA, the National Map of Social Services should be adopted by the Council of Ministers within 12 months of the publication of the results of the population and housing census in 2021, i.e. no later than the

last quarter of 2023, bearing in mind that the first final data on the census as of 7 September 2021 were published on the website of the National Statistical Institute on 3 October 2022, including the demographic characteristics of gender, age, citizenship, country of birth. The data on the health status of the population was published on 16 December 2022. The activities on the development of the analyses of the needs of municipalities for social services at the municipal and regional levels, which are financed in whole or in part by the state budget, have already started.

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

According to the 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), the measures envisaged for the implementation of the recommendation regarding the ratification of the Optional Protocol to the CRPD involve the preparation of the necessary additional legislative changes to regulate the implementation of the Optional Protocol. The deadline for the implementation of the measure is by 2025 and the preparation of the process of ratification of the Optional Protocol should be completed before the submission of the next national report to the Committee on the Rights of Persons with Disabilities in 2026.

At present, there is no change in the scheduled deadlines for the ratification of the Optional Protocol to the CRPD.

### ✓ **On information from the Ministry of Health**

#### *Medical expert examinations*

In order to resolve existing problems in the organisation of medical expertise and in view of the needs of people with disabilities, the following activities were carried out in 2022:

By Order No. RD-02-61 of 01.04.2022 of the Minister of Health (supplemented by Order No. RD-02-125 of 01.07.2022) a working group was established to examine and analyse all received opinions, proposals, signals and complaints related to difficulties in the process of carrying out medical examinations in the country, as well as the proposals of the organisations of people with disabilities for changes in this area.

A significant change is also the inclusion of people with mental disabilities in the category for which it is necessary to determine the need of external assistance at a lower percentage than 90 (80% and over 80%), which will contribute to their fairer evaluation and provision of adequate care in their daily existence, in order to compensate for the loss of basic social and key skills.

In 2022, Ordinance No. 3 of 2019 on medical activities outside the scope of mandatory health insurance, for which the Ministry of Health subsidises medical facilities, and on the criteria and procedure for subsidising medical facilities, was amended twice (SG, No. 33 of 29.04.2022, in force from 29.04.2022, and SG No. 54 of 12.07.2022, in force from 12.07.2022). Part of the two changes to the ordinance related to the subsidisation of medical expertise activities carried out by REMCs.

The essential change is the determination of new criteria for the formation of the value, namely an expert decision of REMC that has entered into force, and not, as before, an issued and reported decision. No payment is provided when a series of new appeals and REMC decisions follow within the same certification/re-certification procedure. The second regulatory change (in force from 12.07.2022) allows subsidisation of effective REMC decisions issued in the previous information system until a certain period.

The Ministry informed that in order to shorten the certification procedure as much as possible so that it is organized in a manner that excludes patient-REMC/NEMC dependence

and is fully objectified through conducted examinations, consultations and other medical activities proving the health status of the persons, a change is foreseen in the Rules for the structure and organisation of work of medical expert examination bodies and regional files of medical examinations. These changes should reduce the administrative burden for persons with disabilities, and the possibility of their mistreatment will be completely eliminated.

This regulatory change is planned to take place in the first half of 2023.

### ***The IT system for control of medical expert examinations***

The Ministry envisages termination of the simultaneous operation of the two similar systems, which complicates the processes of control and reporting.

The functionalities of the electronic system containing the **Information Database** under Article 108a of the Health Act are currently being improved, which is in line with the emerging problems in its practical application, as well as with the regulatory changes adopted in the field of medical expert examinations.

It is important to link the National Health Information System with the information database on persons subject to medical expert examination in order to achieve completeness of information on the health status of persons and to facilitate and speed up communication between medical examination bodies and between them and the bodies administering the processes such as regional health inspectorates.

### **✓ Assistive devices, devices, equipment and medical devices for people with disabilities**

According to Article 73, paragraph 2 of the People with Disabilities Act, the financing and provision of aids, devices, equipment and medical devices for people with disabilities is carried out by the National Health Insurance Fund. The provision was adopted by the National Assembly at the end of 2020 and is in force from 1 January 2022.

By Order No. RD-02-13 of 02.02.2022 of the Minister of Health, a working group was formed, which prepared the necessary regulatory changes regarding the activities of financing, provision and use of aids, devices, equipment and medical devices intended for people with disabilities.

By Order No. RD-18-315/31.10.2022 of the Director of the NHIF, the composition of a committee was approved, whose task is to prepare a draft specification under Article 56 of Ordinance No. 7 of 2021 on the terms and conditions for drawing up a list of medical devices and for determining the amount up to which they are paid.

### **✓ Children with disabilities**

In 2022, 4 homes for medical and social care for children continued to exist in the health care system, according to the latest amendments of § 45, paragraph 1 of the transitional and final provisions of the Social Services Act. The deadline for closing the homes was extended until 31 December 2023, because in the existing homes as of 31 December 2022 in the cities of Varna, Kardzhali, Pleven and Stara Zagora, there are 209 children – all with disabilities – in residential care.

### **✓ Independent living and inclusion in the community**

In 2022, the Ministry of Health participated in the development of an Action Plan for the period 2022-2027 for the implementation of the National Strategy for Long-Term Care. The plan was adopted by Decision No. 509 of the Council of Ministers of 21 July 2022, and in it, among the measures to increase the efficiency of the long-term care system, measure 3 was adopted: Provision of healthcare for needy persons with disabilities and elderly people who are unable to care for themselves. The activities of this measure are aimed at primary outpatient medical care and its accessibility, development of long-term treatment and

emphasis on the service of persons with mental disorders in very old age, including prevention and early diagnosis of dementia.

In 2022, Decision No. 58 of the Council of Ministers of 7 July 2022 for the establishment of the National Mental Health Council was prepared and adopted, promulgated in SG, No. 54 of 12 July 2022. The National Mental Health Council is a permanent advisory body to the Council of Ministers for coordination, cooperation and consultation in the implementation and monitoring of the National Strategy for Mental Health of the Citizens of the Republic of Bulgaria 2021-2030, which held three meetings until the end of 2022.

#### ✓ Access to health services

Subject to the fundamental principle of non-discrimination in the provision of health services, persons with disabilities are provided with the same scope, quality and standard of free or affordable health care and programmes as all other persons, including in the field of sexual and reproductive health and public health programmes conducted among the population.

Moreover, there are various forms of additional support for disabled people, such as exemption from hospital charges and doctor visits in outpatient care.

For women of reproductive age with proven oncological disease, the Centre for Assisted Reproduction finances (with public funds) the cryopreservation of preimplantation embryos or ova before starting antitumor therapy, with the aim of storing genetic material and its use at a later stage, after completion of treatment of the underlying disease.

#### **Findings:**

- The responsible authorities make efforts to overcome the existing problems in the individual areas of the rights of people with disabilities.
- The measures are not sufficient to overcome the difficulties faced by people with disabilities during examination/re-examination by the medical examination bodies and the significant delays in the issuance of expert decisions.
- Challenges remain for people with rare diseases in exercising their rights.
- Measures to update the lists of aids and medical devices do not contribute to the inclusion of devices adapted to the needs of people with disabilities.
- No action is being taken to overcome the delay in the ratification of the Optional Protocol to the CRPD.

#### **Main recommendations:**

1. Actions should be taken to continue the reform of medical expert examinations and the examination of work capacity, including through implementation of international standards, with active inclusion of representatives of disabled people in broad public discussions and publicity;
2. To take measures to ensure the rights of people with rare diseases;
3. Actions should be taken to appropriately update the lists of aids and medical devices, as well as to improve their quality;
4. To speed up the procedure for ratifying the Optional Protocol to the CRPD.



### III. UN CONVENTION ON THE RIGHTS OF THE CHILD

The UN Convention on the Rights of the Child (CRC) is an international legal framework that has a strong influence on national legislation, requires the application of the highest possible universal principles in the protection of the rights of the child, the observance of which the State is obliged to ensure. The Republic of Bulgaria, as a country that has ratified the CRC, has the obligation to make consistent efforts to ensure the compatibility of its national legislation with its provisions, as well as to align its practice by ensuring coordination of policies affecting children between all levels of government. By virtue of its accession to the CRC, the State bears responsibility if it fails to meet its commitments. Therefore, the main protection of the rights of the child is ensured by the State authorities at national level.<sup>12</sup>

Ratification of international treaties is important, but not sufficient, to build a national system to protect children's rights. In addition to the obligation to regulate them at the highest level, the State should establish effective and functioning control mechanisms to be applied in case of possible infringements.

At the core of this approach is the idea that the protection of children's rights is not just a national issue. Therefore, the legal status of the national institution in the field of protection of children's rights is determined by national legislation, but the organisation has responsibilities for compliance with the standards provided for in the international legal act. Article 4 of the Convention obliges the State Party to take all necessary legislative, administrative and other measures to implement the rights recognized therein. Independent National Human Rights Institutions (INHRI) are an important mechanism for promoting and ensuring the implementation of the CRC. The position of the United Nations Committee on the Rights of the Child (the Committee) is that the establishment of such bodies falls within the scope of the State's commitment made with the ratification. The Committee's General Comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child emphasizes the important role that the INHRI has in this mission and in raising public awareness of these rights.

National human rights authorities should comply with the Paris Principles on the Status of Institutions for the Protection and Promotion of Human Rights, presented by the Commission on Human Rights in 1992 and adopted by the General Assembly in 1993. As early as 2018, the Ombudsman of the Republic of Bulgaria was granted an "A" status under the Paris Principles, thus adding to her responsibilities the specific requirement to monitor the implementation of the CRC, as well as of other international instruments to which our country accedes, and in particular to ensure that national legislation adequately reflects them. In this context, the national Ombudsman responsibly accepts her fundamental role in promoting and implementing the 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 Ombudsman Act). The Ombudsman makes consistent efforts to develop her expertise, necessary both for independent monitoring of the implementation of the provisions of the CRC and for preparing alternative reports to the Committee and other bodies. Monitoring of the CRC is based on the principles enshrined in the international instrument and on a children's rights-based approach, with the actions of the INHRI being decisive, as they provide the link between the international standards protecting children's rights and their implementation at national level.

#### ✓ Independent monitoring of the implementation of CRC provisions in 2022

Pursuant to Article 19, paragraph 1, item 12 of the Ombudsman Act, the Ombudsman has the responsibility to monitor and promote the effective implementation of the conventions

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<sup>12</sup> Kovacheva, D. National Institutions for the Protection of Human Rights, Sofia 2021

for the protection of human rights to which the Republic of Bulgaria is a party, by including in its Annual Report a special independent part, assessing the extent to which the legislation and practices are aligned with the CRC. In 2020, a system of indicators was developed for monitoring children's rights from the point of view of the CRC and, more specifically, for their implementation in individual sectors. Monitoring, for its part, includes the development of special questionnaires, the collection of information on the implementation of CRC activities, as well as the assessment of measures and trends to achieve improvements in the various sectors. When carrying out the monitoring, the guidelines issued by the Committee are reproduced. The Ombudsman prepares ideas and proposals for addressing the identified problems, which are reflected in the report, while the monitoring includes only more general, key parameters (indicators) showing existence of problems in the field of children's rights.

The questions are structured around specific topics. Each group of rights is provided with a short list of questions that clarify different aspects of the right and its realisation. These questions can also serve as indicators that allow checking the practical implementation of the law. The data collected in the monitoring can inform the planning of more adequate policy measures to protect children's rights and can serve as an assessment of the progress in important areas, showing specific vulnerabilities of children.

For the purposes of independent monitoring, which is an important part of the Ombudsman's Annual Report, up-to-date questionnaires were prepared at the beginning of 2023 and sent to competent authorities, most of which are protection authorities, under the Child Protection Act (CPA)<sup>13</sup>:

### **National mechanism for implementing the recommendations of the Committee on the Rights of the Child**

In Bulgaria, no such mechanism has yet been established and is not functioning. On the basis of the information provided by the SACP to the National Council for Child Protection, an intergovernmental expert working group has been established to develop a mechanism to implement the recommendations of the UN Committee on the Rights of the Child. In the context of the submission of the 6<sup>th</sup> and 7<sup>th</sup> Consolidated Periodic Reports on the implementation of the 2022 CRC, letters were sent and constant liaison and communication with the members of the expert group were maintained. The information received from the involved institutions is aggregated, summarised and analysed before submitting the combined sixth and seventh periodic reports of the Republic of Bulgaria, which also includes an appendix with statistical information and data in response to the questionnaire.

#### **1. Main recommendations of the Committee made after the final observations in connection with the consolidated third, fourth and fifth periodic reports on Bulgaria (21 November 2016), which have not been implemented yet**

*This question was put to the evaluation of the civil organisations, and the Ombudsman turned to the National Network for Children (NNC)<sup>14</sup> – a network that unites over 134 organisations working in the field of children's rights.*

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<sup>13</sup> Reply from MLSP of 03.02.2023, Reply from MES of 05.03.2022, Reply from Ministry of Health of 28.02.2023, Reply from Ministry of Justice of 25.02.2023, Reply from Youth and Sports Ministry of 24.02.2023, Reply from Youth and Sports Ministry of 24.02.2023, Reply from Ministry of Interior of 13.02.2023, Reply from State Agency for Child Protection of 01.02.2023, Reply from State Agency for Refugees of 01.02.2023, Reply from Commission for Protection against Discrimination of 01.03.2023, Reply from National Network for Children of 02.03.2023.

<sup>14</sup> NNC – the National Network for Children is a coalition of civic organisations and like-minded people working with and for children and families across the country. NNC was established in 2003 as a loose alliance of non-governmental organisations. In 2006, it acquired the status of a non-governmental organisation for public benefit.

According to the NNC, in 2022 the legislation and the strategic framework relating to children's rights in Bulgaria remains too broad, containing more than 20 regulatory and strategic documents regulating various sectoral policies. Despite the recommendations of the Committee in this regard (CRC/C/BGR/3-5; para. 7-8), significant reforms regarding the legislative and administrative framework are lacking.

The lack of a National Strategy for the Child leads to ineffective monitoring, there is no up-to-date indicators to collect data regarding the rights of the child.

Significant problems exist with the collection of data related to child welfare, child protection, etc. There are many examples of discrepancies in the data regarding the number of children who are victims of the most serious crime – premeditated murder, where data of the Ministry of Interior, the NSI and the Prosecutor's Office differ up to 10 times, as well as the cases of child victims of violence, the number of unaccompanied refugee children.

There is a systemic regress of the protection system, despite efforts to support its capacity with funds provided under the Human Resources Development Operational Programme. Quite often social workers work in poor and degrading conditions. There are no induction and ongoing education programmes, no social work and average workload of child protection workers standards. On average, a social worker is responsible for **883** cases per year. The profession of the social worker is of low prestige, lacking opportunities for development and qualification, which is directly related to the huge turnover.

An example of deteriorated communication is the transfer in 2022 of the operation of the **National Telephone Line for Children** 116 111 to the SAA, and deterioration of this mechanism began in 2020, when the SACP took over the management of the line. Phone calls in 2021 are 35% less than in 2019. Without an analysis of the reasons for the critical condition of the children's phone line and measures to save it, in July 2022 it was given for operation to the SAA.

There is no evidence that the budgeting process related to children's policies considers the volume and effectiveness of public spending as an investment in children (CRC/C/BGR/3-5; para. 12). Key processes such as foster care and support of the capacity of professionals working in the protection system remain funded by European programmes. The tool developed by NNC for evaluating financial investments in children is not used.

Recommendations for children's participation remain unaddressed. There is no uniform and systematic approach to understanding and implementing child participation.

According to the Committee's recommendation for Bulgaria to adopt a human rights-based approach to disabilities, as well as to develop a comprehensive strategy for inclusion and realisation of children with disabilities in society and education, it is noted that the financing of services, including therapies for children with autism, are not covered by the NHIF; there is a systemic problem with consumables and aids; there is no developed algorithm for therapeutic behaviour in Bulgaria; there is no systematic approach in the care of children with disabilities, which is not implemented due to missing units, coordination mechanisms and staff.

## **2. General measures for the implementation of the Convention – Article 4, and the issues on the subject concern: legislation, institutions, programmes and plans, ratifications, dissemination of the Convention**

In Bulgaria, the policies on children are mainly determined by the provisions of the Child Protection Act, and Article 1, paragraph 3 of the Act reads that “the state policy for child protection is implemented on the basis of the National Strategy for the Child adopted by the National Assembly on the proposal of the Council of Ministers, built on the principles of this Act”. Bulgaria does not have an effective strategic document on the rights of the child after the expiration of the National Strategy for the Child 2008-2018. The latest

draft covering the period 2019-2030 was withdrawn by the government.

Political instability made 2022 another year of stagnation in legislation and policies affecting children. The reform of juvenile justice remains completely unimplemented.

- **In the field of juvenile justice**

*Draft Act amending and supplementing the Code of Civil Procedure (CPC)* – a draft prepared by an interdepartmental working group to transpose Council Regulation 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction.

The Draft Act was not considered due to termination of the powers of the National Assembly.

*Draft Act amending and supplementing the Protection against Domestic Violence Act*

The Draft Act was rejected in the plenary hall in first reading on 27.01.2023.

*Draft Act amending and supplementing the Code of Criminal Procedure* – for the purposes of transposing Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, the Ministry of Justice prepared a Draft Act amending and supplementing the Code of Criminal Procedure

Although passed in the first reading in plenary hall, the bill was not finally voted before the termination of the powers of the 48<sup>th</sup> National Assembly.

- **In the field of education**

An Act amending and supplementing the Pre-school and School Education Act was adopted. The amendments to the Act relate to a ban on political and party activities in the education system, as well as changes to 9 ordinances.

- **In the field of youth and sports**

In 2022, amendments and supplements to the Youth Act were adopted. The changes include: a change in the deadlines for preparing youth reports; change of its content; regulation of the activity of the Public Council on Youth Issues.

A new Ordinance No. 1 of 10.06.2022 on the terms and conditions for financing projects under national youth programmes was adopted.

In 2022, the SACD did not carry out Impact Assessments of policies and new laws in relation to children's rights.

- ✓ **Overall policy and coordination**

Policies and strategies – these are the measures that the executive takes in implementing the legislation, with the aim of practical realisation of the rights and implementation of the laws.

**For the monitored period, the Ombudsman notes:**

- A National Programme for the Prevention of Violence and Abuse of Children 2022-2024 and an Action Plan were adopted;

- An Action Plan was adopted in implementation of Recommendation (EU) 2021/1004 of the Council establishing a European Child Guarantee (2030);

- A coordination mechanism was developed for interaction between institutions and organisations in cases of unaccompanied children or foreign children separated from their families, located on the territory of the Republic of Bulgaria, including children seeking

and/or granted international or temporary protection, which has, however, only been approved by order of the Minister of Labour and Social Policy;

- A Mechanism for work and cooperation between institutions in cases of children involved in parental conflicts was implemented;
- A National Health Strategy 2030 was adopted, laying down measures to improve maternal and child health indicators; establishing a National Pediatric Hospital to provide integrated medical services for children is a priority task;
- In 2022, a draft National Strategy for Child and Adolescent Health and Pediatric Care 2030 was developed, but it was not adopted, as it was found that civil organisations were excluded from the consultation process.

**Since 2018, Bulgaria has not adopted a National Child Strategy.**

✓ **Resource allocation**

States Parties to the Convention undertake to collect appropriate *information, including statistical and scientific data, to enable them to formulate and implement policies with a view to its effective implementation.*

*The Committee recommends:*

- *include the child rights approach in the state budgeting process and indicate clear allocations for children in the social sectors;*
- *provision of disaggregated data, which is crucial for budget planning and for monitoring its implementation.*

- **Children's healthcare costs**

**There is no statistical information on the share of GDP allocated to child healthcare.**

0.6% of the funds paid by the NHIF are for medical diagnostic activity for children.

- **Education costs**

Education expenses for 2022 amount to **BGN 6,428.2 million or 4.5% of the gross domestic product for 2022.**

- BGN 15 million were invested in the construction of new and repair of existing sports grounds in state and municipal schools.

- **Social costs for children and families**

With the budget for 2022, **BGN 620,683,000** were approved to provide financial support for families with children under the Social Security Act. According to SAA data, the amount paid (under the Social Allowances for Children Act) for the period January-December 2022 is BGN 550,965,633.

**BGN 44,845,000** were approved to provide financial support for raising a child in a family environment under the Implementing Regulation for the Child Protection Act, including BGN 31,080,000 intended for salaries and social insurance contributions for professional foster families.

The funds paid out for aid under the Implementing Regulation for the Child Protection Act are in the amount of BGN 6,276,049, of which BGN 641,638 were spent on one-time aid for the prevention of abandonment and reintegration of the child in a family environment, for raising the child by relatives or by foster families (pursuant to Article 48 of the Implementing Regulation for the Child Protection Act).

- **In the field of sports for children and youths**

In 2022, the Ministry of Youth and Sports financially supports projects related to the renovation of sports grounds and playgrounds, sports halls and bases, stadiums and construction of sports grounds and playgrounds, irrigation systems and grandstands at stadiums and sports grounds on the territory of the Republic of Bulgaria in the amount of BGN **15,853,354.10** with VAT.

✓ **Data collection**

The Committee remains concerned that the lack of a single, centralised database has led to insufficient data on children, in particular on children with disabilities, children from marginalised groups and Roma children.

• **Ministry of Interior – data received in the course of monitoring<sup>15</sup>**

The Ministry of Interior does not collect differentiated data on violence against children, on which the system worked.

- Number and type of crimes committed by children – a total of 5,270, including by minors 1,413 and juveniles 3,857;
- **Number of crimes committed against children in 2022, affected children – 1,863**

**In 2022, 697 children were detained by the police, including:**

- 596 minor boys;
- 101 girls;
- 2 minor foreigners;
- 697 of these were detained for 24 hours at Regional Police Departments;
- 540 children were arrested for drug possession and distribution;
- 1,174 children were injured in car accidents, including 29 dead and 1,145 wounded.

• **Data received from the Ministry of Justice**

Within the framework of a project implemented by the Ministry of Justice, 12 dedicated premises were built and equipped for lenient hearing of minors in civil and criminal proceedings (“blue rooms”) in the cities of Varna, Pleven, Kozloduy, Vratsa, Haskovo, Smolyan, Dobrich, Razgrad, Lovech, Silistra, Targovishte and Kardzhali.

After the completion of the project, in the period 2019-2022, based on information submitted by the courts, **2,840 cases involving children were examined, and 38 children were heard in the “blue rooms” built under the project.**

• **Annual education-related data**

According to NSI data, in 2022 there were 1,817 kindergartens and 2,373 schools, including 1,948 general education, 8 special and 417 professional schools. According to data of the Centre for Information on Education, there are 42 special educational support centres and 38 specialised service units.

• **Data from the Ministry of Labour and Social Policy**

In 2022, data of the National Telephone Line for Children 116,111 shows that 28,400 calls were received and 7,700 psychological support consultations were conducted. The share of children who were consulted was 54.75% compared to adults. There is a slight increase in calls from mothers, compared to fathers, who look for advice regarding their child upbringing and dealing with certain situations.

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<sup>15</sup> Data provided by the Ministry of Interior with letter No. 328600-8744/13.02.2023.

- **Social services for children and families in 2022**

According to SAA information, as of 31 December 2022 a total of **654 social services** for children and families, which performed a state-delegated activity, were active.

According to data from the European survey “Statistics of Income and Living Conditions (EU-SILC)”, in 2021 the share of children at risk of poverty in Bulgaria was **24.2%**, being a decrease of 4.1 percentage points compared to their share in 2020. Compared to 2020, the decrease is 3.2 percentage points or **40.3 thousand less children at risk of poverty or social exclusion** in absolute terms.

- ✓ **Violence against children**

*The right of the child to freedom from all forms of violence*

- **Within the Ministry of Interior system**

In 2022, **430** police protections were granted, of which 30 were at the request of the child himself. Police protection is carried out in homes for temporary accommodation of minors, in Regional Offices, in Crisis Centres and in Family-type placement center for children and youth.

- **Within the MLSP system**

According to SAA data, in 2022 the number of reports received by Child Protection departments to the Social Protection Directorate in the country about child abuse was **1,354**, and **522** of these were opened on a case-by-case basis. In 2022, the number of reports on child victims or at risk of violence, on which the Violence Coordination Mechanism was implemented, was **1,249**.

- **State Agency for Child Protection in protection of children against violence**

In 2022, the **National Programme for the Prevention of Violence and Abuse of Children 2023-2026 and the Action Plan for its implementation in the period 2023-2024** were drawn up and adopted by Council of Ministers Decision No. 51/23.01.2023.

In 2022, employees of “Control of Children’s Rights” Chief Directorate carried out 249 inspections, during 70 of which the child’s right to protection from all forms of violence was examined.

- ✓ **Education, leisure and cultural activities**

- *Students who dropped out of the education system*

According to the Mechanism Implementation Information System, at the beginning of the 2022/2023 school year, **53,464** children and pupils of compulsory school age dropped out of the education system. For **39,653 of the dropouts, the emergency response teams received reports that the families had gone abroad**. The highest risk of students dropping out is the transition between seventh and eighth grade.

**The enrollment ratio of 5-year-olds is 1.96 higher** than in September-November 2021.

- *Children with special educational needs (SEN)*

According to the Centre for Information on Education, in the 2022/2023 school year, resource support was provided to **24,036** children and pupils with special educational needs in the pre-school and school education and training system, of which 18,600 in schools and 5,436 in kindergartens. A total of 694 children and pupils with hearing and visual impairments were enrolled in special schools for pupils with sensory disabilities and 2,776 children and pupils with special educational needs were enrolled in special educational support centres (SESCs).

- *Support for children with disabilities and children with SEN*

The Ministry of Education and Science does not have data on the number of children with disabilities and children with SEN, who are outside the education system.

**573 teaching assistants** were appointed in kindergartens and schools, **333 of them were appointed in kindergartens and 240 in schools.**

- *Equal access to kindergartens*

From 1 April 2022, the State Budget Act for 2022 abolished fees for visiting kindergartens, and the costs of maintaining kindergartens, which were financed from municipal budgets at the expense of local revenues, were taken over by the state budget as a delegated state activity.

- *Roma children in segregated schools*

The Ministry of Education and Science does not have data on the number of children studying in segregated schools. In 2022, a total of **1,490 kindergartens**, general education schools and vocational high schools received funds to work with vulnerable groups.

- *Educational mediators*

The number of educational mediators appointed in the Bulgarian education system, as of 16 December 2022, according to data of the Centre for Information on Education, is **1,105, with 131 in kindergartens and 979 in schools.** The total number of educational mediators is higher than the total number by type of institution, because there are persons who work in more than one educational institution.

- *Support to mental health at school*

In kindergartens and schools, the number of appointed psychologists and pedagogical advisers is also constantly increasing, with **1,313 psychologists and 687 pedagogical advisers** currently employed there.

- *School aggression*

The number of incidents for the 2021/2022 school year is **3,164**, compared with 2,539 in the previous school year.

- ✓ **Family environment and alternative care**

- *Adoption*

In 2022, **no progress was made in developing a legal and technical possibility for adoptees to have access to information on their origin.**

In 2022, **196 children were recorded** in the register under Article 113, paragraph 1, item 1 of the Family Code of children who can be adopted by persons habitually resident abroad under the conditions of full adoption.

From those entered in 2022 in the register under Article 113, paragraph 1, item 2 of the Family Code, there are 146 adopters with habitual residence abroad. None of the registered adopters have Bulgarian citizenship.

According to SAA data, **584 children** were entered in the register of children who can be adopted under the conditions of full adoption in 2022. As of 31 December 2022, a total of 977 children were entered in the register of children who can be adopted under the conditions of full adoption, of which 431 were healthy children and 546 were children with disabilities.

In 2022, a **Methodological Guidance was developed regarding the entry of a child in the register of children who can be adopted under the conditions of full adoption, within the framework of an interdepartmental working group formed by the chairman**



of the SACP. Representatives of all involved parties take part in it.

- **Protection system**

According to SAA data, as of 31 December 2022 there were **815** employees in Child Protection departments at the Social Assistance Directorate, **including heads of public health services, social workers, psychologists and legal advisors**. As of the end of 2022, there is still no data on the average workload of a social worker.

- **Foster care**

As of 31 December 2022, 1,892 foster families are registered in the register of approved foster families. Of these – 9 voluntary foster families and 1,883 professional ones.

**The total number of children placed in professional foster families from the beginning of 2022 to 31 December 2022 is 683.**

- **Children in parental conflicts**

In 2022, SACP employees carried out **1,978 consultations, 403 of which concerned children whose parents are in conflict**. The number of these cases increased compared to previous years, and the parents' lack of desire for cooperation and communication between them leads to a high rate of inefficiency in resolving the case in the interest of the child.

According to the data from the Integrated Information System of the SAA, the number of signals in 2022, in which a risk of parental alienation was identified during the assessment by the Child Protection Department, is **357**.

- **Health and healthcare services**

According to data of the National Centre for Public Health and Analysis, the medical specialists in the country exercising acquired specialty in the field of child health are as follows:

- registered 604 practices carrying out work in pediatrics.
- 21 operating practices in the specialty “Child Psychiatry”.
- 125 children’s wards opened and operating on the territory of the country.
- 308,818 hospitalisations of persons under 18 years of age were carried out.

- **Child mortality in 2022**

In 2022, the infant mortality rate is 5.6 per 1,000 live births/according to NSI data.

In 2022, no adequate actions were taken to update the outdated legal framework regulating the work of health offices in kindergartens and schools.

- **Ensuring children’s right of access to vital medical food**

The NHIF only pays for 27 types of dietary food for special medical purposes, suitable for children in different age groups, 20 of which at 100%.

- **Palliative care for children**

With a view to creating conditions for sustainable improvement of maternal and child health in the country, Centres for Children with Special Needs were opened. In 2022, there were 10 Centres for Children with Special Needs functioning, and in 1 of them in the city of Burgas, the possibility of providing specialised palliative care for children in a terminal condition is ensured. In 2022, palliative care was provided to 8 terminally ill children.

According to data from the NHIF, in 2022 maternity assistance was provided to **6,959 pregnant women without health insurance**.

## Special protection measures

### *Asylum seeker and refugee children*

In 2022, **3,348 unaccompanied children** seeking international protection were registered in the SAR at the Council of Ministers, including 3,278 were boys and 70 were girls. The largest age group is 16-17 year olds (1,848), followed by 14-15 year olds (1,091) and 0-13 year olds (409).

The main countries of origin are Afghanistan (1,803), Syria (1,383), Iraq (35), Morocco (34), Somalia (20), Ukraine (11).

– The number of unaccompanied children granted international protection – humanitarian and refugee status for 2022 is 1193.

– In 2022, 839 decisions were made on applications for family reunification. Of these, 802 were decisions to allow family reunification and 37 were decisions on refusal of family reunification. 121 of all the decisions were made on the requests of minors.

– In 2022, 29 unaccompanied children were placed in social services. The SAR implemented a set of measures for initial social adaptation and cultural orientation of asylum seekers.

– During the year, 3,476 unaccompanied minors were accommodated in SAR centres.

– In 2022, 11 unaccompanied children from Ukraine seeking international protection were registered in the SAR at the Council of Ministers.

– In 2022, temporary protection in the Republic of Bulgaria was granted to a total of 52,863 minors from Ukraine, of which 589 were unaccompanied minors.

– ***The SAR does not have data on the number of unaccompanied refugee children who have been detained and sentenced in Bulgaria.***

***At the end of August 2022, the first meeting of the Standing Expert Working Group*** was held to monitor the implementation of the Coordination Mechanism for interaction between institutions and organisations in cases of unaccompanied children or foreign children separated from their families and being on the territory of Bulgaria, including children seeking or granted international protection (IP), the purpose of which was to enable all bodies and institutions involved in the implementation of IP to share problems and difficulties encountered.

### ✓ **Juvenile justice**

In 2019, a working group in the Ministry of Justice **drafted a Disciplinary Measures against Juvenile Criminal Offenders and Administrative Violators Act. By the end of 2022, no consensus was reached on the scope of the draft Act**, from the scope of which minor children are currently excluded, and in this regard on the possible need to further develop appropriate counselling and support services in relation to them, as well as on the proposed disciplinary measure “special supervision by a foster family” proposed in the draft act.

**In 2022, no changes occurred in the juvenile justice system.**

#### • **Children’s access to specialised legal aid**

- legal aid under the CPA was provided to 829 children;
- legal aid under Council Regulation (EC) No. 4/2009 and under Article 143 of the Family Code for allowance received 56 children;
- legal aid pursuant to Article 25 of the Asylum and Refugees Act was granted

to 3,380 refugee minors.

- **Judgments of the European Court of Human Rights against Bulgaria, affecting the rights of children**

Two judgments issued in 2022 generally affected the rights of vulnerable children. These are the judgments in *A. and others v. Bulgaria* and *Nencheva and others v. Bulgaria* cases.

*A. and others v. Bulgaria (complaint No 51776/08)*

*Nencheva and others v. Bulgaria (complaint No 48906/06)*

Prohibition of **marriages of children under 18 years of age**: the Family Code allows exceptions if important reasons require this, and a child who has reached the age of 16 can enter into a marriage with the permission of the district judge of the person's permanent address. A total of 26,620 were concluded in Bulgaria, of which 19,175 in cities, 7,445 in villages. Under the age of 18, **22 boys and 423 girls** got married.

- ✓ **Civil rights and freedoms**

- **Discrimination – actions of the Commission for Protection against Discrimination**

In 2022, **a total of 52 files** related to violated children's rights in the field of anti-discrimination legislation were opened. Of the indicated total number of files, 35 were based on "damage", related to inaccessible architectural environment of nurseries, kindergartens and schools on the territory of the country, initiated on reports for approaching the CPD based on statements of ascertainment from inspections carried out by Commission's regional representatives.

In 2022, **11 proceedings** were initiated in connection with complaints/allegations of violated rights of Roma, in three of the cases children were concerned. The majority of them have not ended with a final act. In 9 of the cases, a violation of the Protection against Discrimination Act was found, 7 fines and pecuniary sanctions were imposed, 4 mandatory prescriptions and 2 recommendations were given.

- ✓ **Civil organisations and structures working in the field of children**

In 2022, civil organisations were very active. More than 60 opinions, positions and recommendations were prepared and sent by the NNC to the Ombudsman in relation to children's rights, as well as to various institutions, which clearly show the problems in the implementation of children's rights set out in the CRC.

For the non-governmental sector, 2022 was an extremely difficult year due to the piling of crisis circumstances: the consequences of the subsiding COVID crisis overlapped with the energy crisis at the beginning of the year and the refugee crisis immediately after that. The first response to the refugee crisis fell entirely on the non-governmental sector due to inability of the State to manage and coordinate adequately the available resources in the first weeks and months, as well as due to limited human resources. In 2022, the two main external factors that hindered the effective work of NGOs were the lack of stable independent funding both at national and European levels due to limitations for NGOs in the application conditions under operational programmes, aggravation and complication of administration and reporting in practically all national and European programmes and the shrinking human resources due to the economic crisis. At the same time, the sector continues to be under constant organised attack in the form of disinformation, propaganda and fake news, receiving a widespread support from some parliamentary parties as well – a huge problem related to national security and independence, which remains unrecognized and unaddressed by any public institution or administration.

### **Recommendations:**

1. To develop a special mechanism for monitoring the implementation of the Convention and to develop indicators for its implementation;
2. To introduce a procedure for assessing the impact of legislation and policies on the child's rights;
3. To amend and supplement the Family Code by removing all exceptions that allow marriages under the age of 18;
4. Targeted investments and effective actions to prevent child abandonment, to support families of children with disabilities and children from vulnerable communities;
5. To provide opportunities for children with disabilities to engage with sports, outdoor games and free time;
6. To expand access to integrated health and social services for children with disabilities;
7. To improve the data collection process for children with disabilities;
8. To develop a comprehensive strategy for inclusion and realisation of children with disabilities in society and education, based on a systemic approach to disability;
9. Investments in human resources in the protection system and in social services, ongoing training and increasing their remuneration;
10. Measures to promote child participation, such as providing guidelines on the meaning and application of children's participation; practical guidelines on different approaches to children's participation; preparing good practice examples of how children can be engaged;
11. Adoption of the **National Strategic Framework for the Child**;
12. Update of the preliminary assessment, already carried out in 2017, on the impact of Bulgaria's accession to the **Third Optional Protocol**;
13. To update the outdated regulatory framework for health offices in kindergartens and schools and/or to adopt a new one;
14. To make maximum efforts to ensure accessible physical infrastructure of the public environment for children with disabilities;
15. To make efforts to improve the availability and accessibility of early childhood education and care, as well as pre-school education;
16. Addressing the problems related to uneven distribution of kindergartens and nurseries in large cities and facilitating access to kindergartens in remote areas;
17. Active measures to support children whose parents are abroad;
18. Target investments in inclusive education, aimed at professional development of teachers and increasing the sensitivity of the parent community to children;
19. Planning measures for students who left early before completing their secondary education, with special care for small and rural areas of the country;
20. Focusing the efforts of the Bulgarian education system on the results of the students;

21. Introduction of integrated measures for interaction among educational, social and health sectors;
22. Measures to overcome intergenerational transfer of educational level and poverty;
23. To increase efforts for higher applicability of vocational education and training on the labour market and of dual vocational education;
24. Conducting research on antigypsyism and social distance;
25. To adopt a **Child Psychiatry Standard**;
26. To take urgent measures to introduce and update the developed IT system for births, which contains real-time data on the scope of pregnant women and children with preventive checkups and with data on premature children;
27. To introduce an effective prevention system in the field of children's health, making health prevention a top priority;
28. Building a **National Children's Hospital**;
29. Active actions on **juvenile justice reform**;
30. **Creating a stable and reliable system** for monitoring and evaluating the implementation of child-related policies;
31. Optimising the process of data collection in Bulgaria related to children in individual thematic areas.

#### **IV. CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT**

The international community has consistently condemned the use of torture as an inhumane act, its prohibition first being introduced with the adoption of the Universal Declaration of Human Rights (UDHR) by the UN General Assembly in 1948. Since then, it has been generally agreed that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.

The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention) requires States Parties to it to incriminate torture as a form of crime in their national legislation. In addition, the Convention introduces an international mechanism to monitor the implementation of its provisions: the UN Committee against Torture.

One of the elements of the preventive system is the **establishment and maintenance of an independent National Preventive Mechanism (NPM)** to prevent torture and ill-treatment at the national level. With amendments and additions to the OA in 2012, the Ombudsman of the Republic of Bulgaria began to perform the functions of the NPM in accordance with the Optional Protocol to the Convention. In this role, the Ombudsman carries out annual monitoring of the places for serving the sentence of “imprisonment” at the Ministry of Justice, the places of detention of persons in the structures of the Ministry of Interior, the special homes for accommodation of foreigners at the Migration Directorate and the registration and reception centres of the State Agency for Refugees at the Council of Ministers, residential social services for children and adults and state psychiatric hospitals.

The main recommendations of the Committee against Torture to the Republic of Bulgaria issued within the VI<sup>th</sup> Periodic Report continued to be valid in 2022.

The Committee expresses its concern that, even to this day, **the Bulgarian legislation still does not contain a legal definition of “torture”**, in the meaning of Article 1 of the Convention. Next, the Committee draws attention to the problems with 24-hour detention. The Bulgarian State should ensure that all basic legal guarantees for detainees are provided in practice, not just in law.

In 2022, the Ombudsman carried out inspections in four detention premises and nine regional departments of the Ministry of Interior. On the basis of the inspections, it can be concluded that the permanent problems in the 24-hour detention system continue to be relevant to this day, specifically: poor material and living conditions, lack of ventilation and natural light.

The Committee also notes the problem of excessive use of force (in particular in prisons in Sofia and Burgas) and in police detention premises. The Committee stresses the problems of healthcare in prisons, in particular: **shortage of medical staff; difficult access to medicines; poor quality of medical examinations; limited access to psychiatric care; lack of special care regarding prisoners with physical and/or mental disabilities; lack of measures to address widespread drug use and related problems such as HIV and hepatitis.**

In 2022, the NPM team carried out inspections in 5 prisons (in Lovech, Pleven, Plovdiv, Belene, Vratsa). Based on the findings, it can be concluded that the lack of medical staff in prisons is a systemic problem.

Other key recommendations made by the Ombudsman in relation to systemic problems in prisons are:

- Targeted funds should be allocated for the repair of the sanitary units and the sleeping premises of the inmates;
- To remodel the cells in such a way as to provide access to natural daylight while ensuring the privacy of those serving sentences of “life imprisonment” and “life imprisonment without parole”;
- To improve access to legal aid;
- To improve the awareness of detained persons about their rights;
- To provide medical examinations of prisoners under conditions of confidentiality, especially when registering cases of physical force;
- To undertake efforts to solve the problem with cockroaches and bedbugs in places of deprivation of liberty;
- To review the New List of permitted personal belongings, items and food products that prisoners can receive, use and keep with them in the designated for that purpose places.

Another important topic reflected in the Committee’s report is related to **the problems of social institutions**. In 2022, the Ombudsman, in her capacity as NPM, carried out 7 inspections in residential social institutions (homes). The Ombudsman has repeatedly stated in her reports that the homes do not meet any criteria for providing a quality social service for people with disabilities. To date, the problem with **the right of free movement of the accommodated persons and contacts with the outside world** is still relevant. Another worrying finding from the Ombudsman’s inspections is the lack of external social services. The offered social services (occupational therapy, psychotherapy, kinesitherapy) are conducted within the territory of the home, which creates prerequisites for additional isolation of the accommodated persons and makes it difficult for their future re-socialisation in society. Among the main recommendations made by the Ombudsman over the years are:

- All homes for adults with mental retardation, mental disorders and dementia should be closed by 2027;
- Until they are closed, the living conditions of the users should be improved, and the accommodation of new users should be terminated;
- No new social services in the building stock of the existing old-style homes for adults should be opened.

In regard to the protection of persons suffering from mental illnesses, in 2022, the Ombudsman requested the Constitutional Court to declare unconstitutional the provision of Article 158, paragraph 5, third sentence of the Health Act (promulgated, SG No. 70 of 2004; last amended and supplemented, No. 62 of 2022). With her request to the CC, the Ombudsman substantiated the contradiction of this provision with the principle of the rule of law (Article 4, paragraph 1 of the Constitution), the constitutional right to protection of every citizen at all stages of the process (Article 56 in connection with Article 122 of the Constitution), as well as the right to personal freedom and inviolability (Article 30, paragraph 1 of the Constitution). The Ombudsman's arguments were accepted by the constitutional judges and the provision of Article 158, paragraph 5, third sentence of the Health Act was declared unconstitutional by Decision No. 14 of 17 November 2022 in constitutional case No. 14 of 2022.

Next, the Committee draws attention to the problems related to **the situation of persons seeking protection and migrants**. The Ombudsman strictly monitors the respect of the rights of migrants who have requested or initiated a procedure, as well as of those who have received protection on the territory of the Republic of Bulgaria. In fulfillment of these functions, the Ombudsman carries out an annual independent monitoring of the special homes for temporary accommodation of foreigners at the Migration Directorate of the Ministry of Interior and the registration and reception centres of the State Agency for Refugees under the Council of Ministers. In connection with the unprecedented refugee crisis that arose after the outbreak of the armed conflict in Ukraine on 24 February 2022, amendments and additions to a number of provisions in the Asylum and Refugees Act were proposed. In the opinions sent by the Ombudsman to the National Assembly, special attention was paid to persons from vulnerable groups – children under the age of 18, unaccompanied children, pregnant women, single parents with minor children, elderly people and people with disabilities, mental disorders and other forms of disabilities. The Ombudsman has repeatedly emphasised in her opinions the need to build effective inter-institutional cooperation between the Ministry of Interior and the Social Assistance Agency in order to stop the practice of placing unaccompanied refugee children in the special homes for temporary accommodation of foreigners at the Migration Directorate of the Ministry of Interior.

## **V. 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. By accepting the Convention, our country undertakes to include the principle of equality of men and women in the Constitution of the Republic of Bulgaria or other relevant legislation; adopt appropriate legislative and other measures prohibiting any discrimination against women; to establish legal protection of the rights of women on an equal footing with men and to ensure, with the help of the courts and other state authorities, the effective protection of women against any act of discrimination, etc.

In fulfillment of the international and European commitments undertaken, the principle of equality has been introduced in the Bulgarian legislation. Yet, differences still exist in women's and men's employment, in the amount of remuneration and pensions

received, in decision-making, in the distribution of household duties and in caring for dependent family members.

Since 2016, the Equality between Women and Men Act has been in force, on the basis of which a National Strategy for the Promotion of Equality between Women and Men has been developed with a time frame for 2021-2030.

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. It is rather declaratory in nature, with no significant practical effect.

A serious problem in the country is the 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.

It is still mostly women who are responsible for raising children, caring for the elderly and dependent family members, which directly reflects on the fact that women have less free time than men.

Serious targeted measures and actions are needed regarding the protection of women from multiple discrimination in various spheres, mainly in the administration of justice, but also in education, employment, health, housing policy and social services.

**The Ombudsman notes that the State is obliged to implement the policy of gender equality aimed at sustainable structural changes and that would lead to a sustainable improvement of women's rights and gender equality.**

Unfortunately, the principle of gender equality is also violated by public statements that are sexist, hateful, and lead most often to blocked actions in combatting gender-based violence and gender-based stereotypes.

#### **The Ombudsman in defence of victims of domestic violence**

The Ombudsman has repeatedly insisted on taking measures to fight domestic violence, including at legislative level.

Unfortunately, in recent years, in the context of the global COVID-19 pandemic, cases of domestic violence have increased, and therefore it is extremely imperative that more efforts be made to understand why and how violence occurs and to take the necessary measures to address it. Such measures are even more necessary now to counter the deepening problem. The efforts of the Ombudsman institution are aimed at changing the current legislation to create workable, effective mechanisms to protect victims of domestic violence.

On 24 November and 25 November 2022, two bills to amend and supplement the Protection against Domestic Violence Act were submitted to the National Assembly and the Ombudsman expressed her support and again recommended their consideration and adoption as a matter of urgency.

On the bill to amend and supplement the Protection against Domestic Violence Act No. 48-254-01-70 of 24 November 2022, the Ombudsman notes that the proposed amendments in the bill would resolve problems identified by the institution, namely:

- Extending the circle of persons who can seek protection from domestic violence.
- Ensuring more effective protection of persons who have suffered or are at risk of domestic violence by amending the Protection against Domestic Violence Act, whereby victims of domestic violence can report about domestic violence in an easy and accessible way.



- Introducing an obligation for state and municipal bodies, medical facilities, legal entities that carry out activities in the field of prevention and protection from domestic violence to forward, at the request of the injured person, the request for initiation of proceedings in a very short period of time up to 24 hours for issuing a protection order to the court.
- Changing the one-month deadline for submitting an application for a protection order from the act of domestic violence.
- Extending the scope of the measures under the Protection against Domestic Violence Act to protect victims, such as the possibility for initiating proceedings also at the request of the prosecutor, as an additional safeguard for the protection of persons who have been abused.
- Regulating the possibility of providing free legal aid to injured persons, strengthening the official principle of the court, as well as introducing the requirement for the court to perform a risk assessment.
- Providing for programmes for prevention and protection and specialised services for protection, support and assistance to address these problems.

A significant gap that the Ombudsman notes is the absence of a national body in Bulgaria that is responsible for the formulation, implementation and evaluation of policies and the coordination of actions of the bodies for the prevention and counteraction of domestic violence. The bill proposes establishment of such a body and clearly lists its composition, the bodies and persons who will be able to participate in its meetings and its functions.

An information system and as part of it a national register is to be created.

The Ombudsman regrets that the prepared legislative amendments did not take into account the proposals to eliminate persistence as a condition for qualifying an act committed in the conditions of domestic violence, a recommendation that was also given by a number of authoritative international organisations working in the field of human rights and related to the problems of domestic violence.

A major problem for victims of domestic violence is the lack of sufficient services to support them in coping with the extremely difficult situation.

The lack of official statistics hampers the development of effective policies to fight domestic violence.

In regard to the submitted bill to amend and supplement the Protection against Domestic Violence Act No. 48-254-01-72 of 25 November 2022, the Ombudsman, in principle, supports the purpose of the bill to ensure more effective protection of victims of domestic violence, as the bill emphasizes one of the protection measures, namely the accommodation of the victims in crisis centres.

The Ombudsman reiterates the need to work actively to change public attitudes and norms.

## CHAPTER FOUR – INTERNATIONAL ACTIVITIES

### Actions of the Ombudsman to protect the rights and interests of Bulgarian citizens before international institutions



**5 April** – Meeting with the Executive Director and a delegation from the Counter-Terrorism Committee of the UN Security Council.

**12 April** – Participation of Prof. Kovacheva in an online meeting of ombudsmen organised by the Global Alliance of National Human Rights Institutions to discuss the refugee crisis caused by the war in Ukraine.



**28 April** – Ombudsman Diana Kovacheva participated in a two-day meeting of European ombudsmen in Strasbourg, dedicated to the effect of digitalisation of the administration on people's rights.

In her speeches, Prof. Kovacheva stresses that digitisation is important because services will become faster, cheaper and more convenient for people. At the same time, she warns that the State must always have a plan B in order to avoid the collapses that are happening in Bulgaria and which directly affect thousands of pensioners.



**16 September** – Meeting with the OSCE delegation in Bulgaria in relation to the upcoming elections for the 47<sup>th</sup> National Assembly. The main problems referred to the Ombudsman by Bulgarian citizens and the recommendations sent to the CEC were presented.

**13 October** – At the invitation of the European Ombudsman, Emily O'Reilly, Prof. Diana Kovacheva participated in a conference in Brussels, where the double food standard for Eastern European countries was discussed. The focus of the discussion was the supply in different points of the European food market of goods of the same trademark and the same brand, in which different ingredients of lower quality are used.



**24-25 October** – Ombudsman Diana Kovacheva hosted a two-day meeting of the European Network of National Human Rights Institutions (ENNHRI).



**12 December** – Working meeting with the Commissioner for Refugees.

## Cross-border cooperation

**10 May** – Meeting with Norwegian researchers who study access to justice for Roma women and children in our country.



**21 June** – Meeting with the Icelandic Ombudsman for Children, Salvor Nordal, who is in Bulgaria at the invitation of the National Network for Children.



**27-28 October** – GANHRI – Bureau meeting, Marrakesh, 30 Anniversary of the Paris Principles.

## Bilateral cooperation



**9 May** – Deputy Ombudsman hosted a meeting with Prof. Dr. Muharrem Kiliç, Chairman of the Human Rights and Equality Institute of the Republic of Turkey, and Mrs. Ezgi Okay, Head of International Projects and Relations Department, also attended by Dr. Ana Jumaliyeva, Chair of the CPD, and representatives of the Embassy of Turkey.



**18 July** – Meeting with a member of the Bundestag to discuss the Roma problems in our country.

**14 October** – Meeting with the Criminal Justice Advisor of the British Embassy – Kim Holden.



## CHAPTER FIVE – RESOURCES

### EXPENSES IN 2022

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**.

The State Budget Act provides for the amount of BGN 3,678,900 as expenses of the Ombudsman of the Republic of Bulgaria in 2022. Two adjustments of expenses were made in 2022, increasing them by BGN 50,688 and the final plan amounts to BGN 3,729,588.

Income reported for 2022 by line items – BGN 3,246.

Expenses reported for 2022 by line items – BGN 3,540,361.

The team of highly qualified professionals is the main resource of the Ombudsman institution of the Republic of Bulgaria. The remuneration and social security payments for the team are the most essential part of the expense budget of the institution.

Maintenance expenses are intended to provide for the institution's activities with telephone and internet services, hardware and specialised software maintenance, translation, prepress and printing processing, current repairs, security, business trips, insurance, anti-epidemic consumables and materials, etc. To a significant extent, these costs are related to contractual commitments and obligations with corresponding regular payments. The largest relative share (41.3%) of Maintenance 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 entails 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.

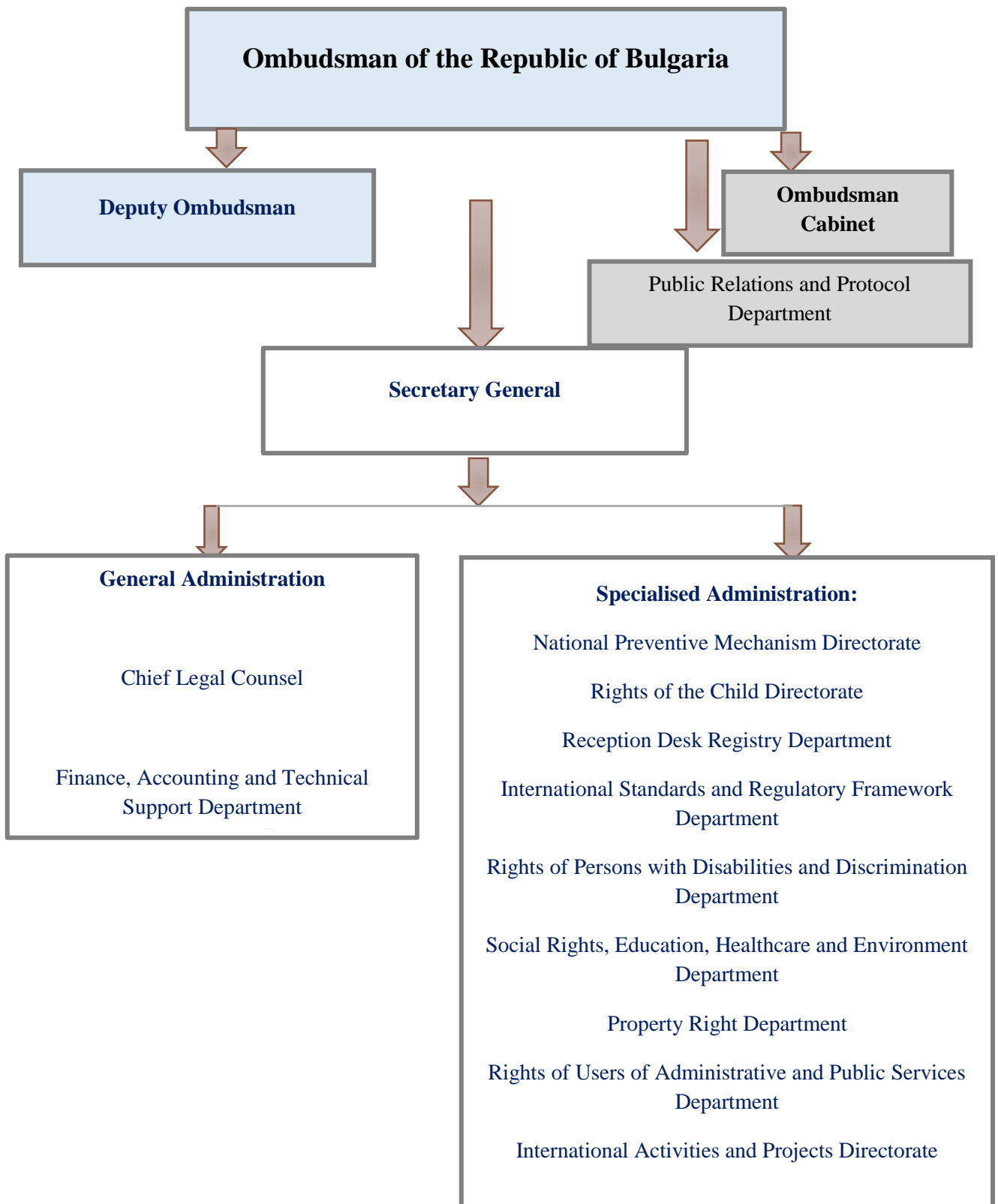
The capital expenses of the institution amount to BGN 70,889. Computers and hardware were acquired for the amount of BGN 60,881, and other equipment, machines and facilities of BGN 10,008.

The Ombudsman institution completed 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 direct financial grant. The project was implemented and the costs were incurred by 30 September 2022.

In 2022, expenses in the amount of BGN 323,369 were reported on the project. In August, an advance of BGN 82,214 was received from the managing authority. At the beginning of October 2022, expenses incurred were verified, both for the period January – August 2022 and for past periods in the amount of BGN 281,667. The verification is done in full. In the near future, a final verification of costs incurred in August and September 2022 and a final Project Completion Report are due.

## TEAM

### Structure of the Institution of the National Ombudsman



## PRIORITIES FOR 2023

A **lead priority** for the Ombudsman institution in 2023 is **the effective protection of citizens' rights in the conditions of newly emerging crises** with a special 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;
- ✓ Ensuring equal access to education for children with SEN.

### Specific priorities by categories of rights in 2023

- Advocacy for the rights of vulnerable groups regarding access to quality social services and social support;
- Ensuring the rights of patients, providing equal access to healthcare for all citizens in compliance with the principles of timeliness, sufficiency and quality;
- Effective protection of the pension and social security rights of the Bulgarian citizens;
- Ensuring the right of persons with disabilities to medical expert examination and provision/renewal of appropriate support without delay;
- Support to young people leaving residential and foster care;
- Support for children whose parents live or work outside Bulgaria and children at risk;
- Assistance to workers or employees in protecting their employment and social insurance rights;
- 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.



## COOPERATION WITH CIVIL SOCIETY AND THE ACADEMIC COMMUNITY

The Ombudsman sees the established continuous and constructive dialogue with citizens, with organisations and with the academic community as a guarantee for greater transparency in her work, for publicity and openness in her actions, as well as an opportunity to promote human rights and their protection and make them a national culture.

The promotion of human rights is also carried out through active participation of the human rights institution in public discussions and debates, including in the media. This approach not only makes it possible to publicly highlight specific aspects of concrete rights, but also to support better understanding and respect among citizens and institutions. A stable partner in these initiatives are civil sector organisations.

With her active actions in 2022, the Ombudsman proves that the institution is open to cooperation with representatives of the civil society, by jointly organising various initiatives, discussing legislative proposals and/or problems related to the regulatory framework and the practice resulting from its implementation.

In her work, the Ombudsman maintains contact and is referred annually by more than 300 civil organisations operating in various fields of human rights protection. The institution's partnership with civil society structures is enshrined in Article 11 of the EU Treaty and the International Covenant on Civil and Political Rights. In this European context, the Ombudsman actively conducts an open, transparent and active dialogue with representative organisations and the civil society. The institution is regularly sought by civil organisations as a mediator or the main forum for civil participation on a number of pressing public issues. The Ombudsman regularly participates with her positions and expert opinions in forums and initiatives of civil organisations. On issues raised by non-governmental organisations, the Ombudsman prepares reasoned requests, referring them to the Constitutional Court to declare legal texts unconstitutional.

For the national Ombudsman, civil society structures in Bulgaria are always a generator of social change and have an important role in promoting, protecting and defending human rights. Through their work and research, they create opportunities for different groups in society to express their opinions on issues that concern them. Particularly important is their merit in their work with vulnerable groups whose communication with state authorities is difficult, often formal and unproductive due to the bureaucratic approach on the part of the latter. In many cases, these people rely on civil organisations to improve their situation, including through assistance before the relevant competent authorities. The Ombudsman notes the quick and adequate response of the non-governmental sector to changing social realities and implementation of causes aimed at improving the lives of vulnerable groups. In many cases the public defender supports members of non-governmental organisations that assist citizens in various administrative and judicial procedures in order to protect their rights, as well as as volunteer formations in emergency situations in the conditions of crises or disasters.

The Ombudsman also supports the process of expanding the role of representatives of the civil sector in their participation in the preparation and discussion of legislation, which she finds key to the quality of laws. In the context of this understanding, the Ombudsman conducted a number of joint events and initiatives with the participation of non-governmental organisations in 2022.

### ✓ A brief overview of the Ombudsman's involvement in NGO initiatives

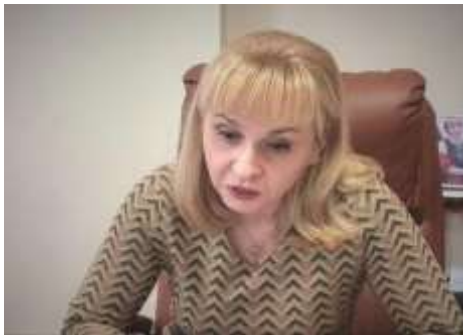
On 27 January, the Ombudsman referred the Deputy Prime Minister and Minister of Finance, the Minister of Social Policy and the chairman of the line parliamentary committee on labour, social and demographic policy. In her letter, the Ombudsman notes that more than 24 non-governmental organisations providing social services turned to the institution seeking

assistance as they could not cover their costs for electricity, natural gas and activities. Thus, in practice, the normal functioning of this type of services was threatened, with a real risk of deteriorating support for thousands of children and people in vulnerable situations.

At the beginning of February, the Ombudsman submitted to the National Assembly a legislative change to the Measures and Actions during State of Emergency Act, proposing a deferred payment of electricity and heating bills for non-governmental organisations providing social services.

Ombudsman Prof. Dr. Diana Kovacheva participated online in the **Discussion Forum “Policies for equality, inclusion and participation of the Roma: an investment in the better future of Bulgaria”**, organised by the Amalipe Center for Interethnic Dialogue and Tolerance.

At the end of February, Ombudsman Diana Kovacheva and Deputy Ombudsman Elena Cherneva-Markova participated in the final conference of the Justrom programme in several consecutive days. The programme is a joint project of the Council of Europe and the European Commission, which aims to improve access to justice for Roma women. The project is implemented in 4 European countries: Bulgaria, Romania, Italy and Greece.



The leadership of the National Union of Labour Cooperatives addressed the Ombudsman with a special invitation to participate in the 10<sup>th</sup> jubilee edition of the European Forum of the subjects of social and solidarity economy, which takes place during the International Fair in Plovdiv.



It has become a tradition for the Bulgarian Ombudsman to participate in the opening of the annual international exhibition BULPEK'2022.



On 12 December 2022, the Ombudsman participated in the “Forum on policies and actions to combat violence against women”, organised by the Bulgarian Fund for Women and the Council of Europe. In response to Prof. Dr. Kovacheva’s participation, a letter was received stating:

*“Thank you for your strong words and your strong stance on tackling violence against women in Bulgaria! We are confident that the forum provided an opportunity to consider different views of representatives of organisations and institutions concerned with the subject. We hope that the holding of this event has brought us one step closer to the adoption of the long-awaited amendments to the Protection against Domestic Violence Act.*

*We believe that you will continue to use your authority and unquestioned expertise to bring this process to a successful end!”*



*The values that today’s “Inspiring Achievement for Diversity, Equity and Inclusion” initiative represents in practice are not really new values. The topic of equality appears even with the list of fundamental rights with the Universal Declaration of Human Rights in 1948, the United Nations in its Charter talks about equality, the European Union, the Council of Europe, and even today in the presentation we saw that as if the perception of successful women is somewhat lagging behind.”* This is what the Ombudsman said on 14 November at the first joint awards of the Council of Women in Business in Bulgaria and the European Investment Bank.

Prof. Kovacheva was part of the jury that evaluated the initiatives. They competed in five categories. The jury also included Lidiya Shuleva, journalists Georgi Toshev and Ventsislav Savov, as well as the writer Georgi Burdarov.

Deputy Ombudsman Elena Cherneva-Markova participated on 21 December in the “**Volunteer Initiative 2022**” awards ceremony, organised under the patronage of Ombudsman Diana Kovacheva from the “Lale” Foundation and the National Alliance for Work with Volunteers.



### ✓ Partnership for the protection of children's rights

The Ombudsman's engagements and established partnerships with civil structures in the field of children's rights are particularly active. For non-governmental organisations, the Ombudsman is not only an undisputed authority, but also a like-minded person, an important partner in public initiatives.

A representative of the institution was elected deputy chairman of the Public Council of the Bulgarian Red Cross for support of Ukraine. The purpose of the formed council is to guarantee publicity when receiving and processing donations, as well as to support Ukrainian citizens who came to Bulgaria.

The year 2022 was marked by active actions of the human rights body and NGOs, united in common causes – for mental health at schools, building a national children's hospital, supporting children and refugees from Ukraine, for the rights of adolescents whose parents live and work abroad.

Dozens of citizens and organisations appealed to the Ombudsman demanding that action be taken to ensure a safe public environment and specifically to ban the use and sale of nitrous oxide (laughing gas) to children. The national Ombudsman launched a wide-ranging campaign to ban its sale and use, and drafted special legislative proposals, which were supported by a group of MPs. The National Assembly urgently adopted the legislative changes. These actions show that measures can only be effective if they combine the efforts of civil and institutional resources.

Together with the Network of School Psychologists, the "Animus Association" Foundation and a number of civil organisations, a public discussion "**Mental health at school** – possible and necessary measures" was held. The topic of children's mental health is one of the Ombudsman's top priorities in the field of children's rights. Through this initiative, the Ombudsman has brought the topic of school mental health in a definitive way to the attention of institutions, schools, parents and the public. The purpose of the public forum is to open new spaces for mental health in school, to build an environment for the prevention and intervention of violence, aggression, bullying and cyberbullying, and through its introduction to form lifelong skills in children and young people. The discussion focused on finding an answer to the question of how the Bulgarian school can be transformed in a way as to engage all resources in teaching children to successfully cope with the demands of modern times by communicating without harming themselves or others.

The Ombudsman actively supported the campaign of an insurance company for the safety of children on the internet entitled "Keep the child safe on the internet".



Ombudsman Diana Kovacheva referred the caretaker Deputy Prime Minister for Public Order and Minister of Interior Ivan Demerdzhiev, the caretaker ministers of Justice Krum Zarkov, of Electronic Government Georgi Todorov, of Youth and Sports Vesela Lecheva, as well as the Chairman of the State Agency for Child Protection Eleonora Lilova, about the danger of terminating the work of the **National Safer Internet Center and closing the SafeNet Hotline** to it.

Civil organisations and parents alerted Prof. Kovacheva that the only organisation in Bulgaria which deals with the safety of children on the Internet and fights against any harmful content on the web was to stop working.

The problem is that the National Safer Internet Center operates entirely on project funding. The European Commission provides 50% of the necessary funds through the European programmes “Safer Internet”, and from 2014 “Better Internet for Kids”, but there is a condition for national co-financing of the activities.

*“It is important to constantly talk about problems in the field of children’s rights, which remain unresolved for a long time and continue to be painful for the whole society.”* With these words, the Ombudsman **opened on 14 July the forum “With care from 0 to 3”, organised by the public defender, jointly with the “Trust for a Social Alternative” Foundation**. Maternal and child health issues were at the focus of the discussion, with a clear emphasis on vulnerable groups and every child’s right to development support. Because early childhood is a period of remarkable change, a period in which investment matters enormously and can prevent the inheritance of poverty and vulnerability.

The partnership with the foundation in the field of early childhood development is yielding positive results, such as the campaign to drop fees for kindergartens, providing more screenings for uninsured pregnant women, free medicines for children.

During the year, the Ombudsman developed sustainable partnerships with non-governmental organisations, as well as created new ones. In partnership with the programme of the European Commission and the Council of Europe ROMACT, a public forum **“The child between labour migration, institutional standards and extended family”** was held on 12 December 2022. Participants in the discussion outlined the main issues and made common messages and recommendations for taking the necessary steps at policy level and their implementation.

*“Every fourth child in Bulgaria is abandoned by their parents, or somewhere around 20%-25% of the children in our country are practically without one or both of their parents who work abroad. In the Roma community, the percentage reaches 40%. These are children who are left in the care of their grandparents, their extended family. And when I say that every fourth child is a Viber child – a child who only communicates with their parents through Viber, I am actually quoting an old statistic, because the truth is that today we do not know how many children are actually victims of this problem.”* This was stated by the Ombudsman at the opening of the public discussion.



A partnership with the United Nations Children’s Fund **UNICEF** has developed over the years and fully implemented in 2022. The areas in which the two organisations cooperate are:

- developing and strengthening the capacity of the Ombudsman institution to carry out independent monitoring of the implementation of children’s rights in Bulgaria;
- raising awareness and sensitivity of the Bulgarian society for knowledge, respect and observance of children’s rights;
- working towards access to rights and services of children in conflict with law;
- developing and strengthening the capacity of the Ombudsman institution to consider individual complaints and alerts, including those submitted on behalf of or directly by children, and to carry out inspections;
- advocacy for and promotion of the participation of non-governmental organisations working in the field of children’s rights, including organisations composed of children, in the development of national legislation and international instruments on issues affecting children.

#### ✓ **Partnership with the organisations of and for people with disabilities**

In 2022, the institution of the Ombudsman continued its fruitful cooperation with the organisations of and for people with disabilities.

In fulfillment of the requirements of the UN Convention on the Rights of Persons with Disabilities, the institution maintains continuous dialogue with the representatives of persons with disabilities and insists to the responsible authorities on their active inclusion in the processes of determination and decision-making concerning the rights of these vulnerable persons.

Proof of the good partnership between the institution and civil society are the proposals made by the Ombudsman for legislative amendments to the People with Disabilities Act and the Health Act at the end of the year, which ensure opportunities for people with disabilities to exercise their rights in case of delays with REMC decisions. The proposals were agreed with the representative organisations of and for people with disabilities, which are members of the National Council for People with Disabilities under the Council of Ministers, and were subsequently supported by them with opinions in the National Assembly.

The public defender participated actively in the initiatives organised and carried out by organisations of and for people with disabilities regarding access to justice for people with mental and intellectual disabilities. As the Ombudsman has emphasised more than once in her opinions, a large number of these citizens find it difficult to exercise their rights freely, equally and above all, independently, as required by a number of international human rights

acts. With the clear position, the institution shows that it is an active and stable partner of the responsible authorities in search of adequate solutions to the problems.

The considerable confidence in the institution is reflected in the significant number of complaints from NGOs providing social services to vulnerable people following the sharp rise in electricity and natural gas prices. The serious difficulties faced by the organisations in covering the costs and the real risk of harm to the users of the services prompted the Ombudsman to take active steps to find an appropriate solution. Joint efforts ensured the continuation of the supply of electricity and natural gas to service providers and thus to consumers, without interruption, until a final decision on the matter is found.

The Ombudsman also supported the initiatives of the representatives of the civil sector in the Monitoring Council, which monitors the implementation of the CRPD in Bulgaria although the institution did not chair the network in the past year.

### ✓ Initiatives related to the academic community

In March, Ombudsman Diana Kovacheva recommended to the Minister of Education and Science Academician Nikolay Denkov that the subject of the transformation of state higher education institutions should be subject to an in-depth analysis and broad public discussion, by making an in-depth assessment of the university network, to take into account the objective data on the current state of tertiary education and assess the positive and negative consequences of such a decision.

*“I want to express my conviction that the positions of the academic community will be taken into account, because only with broad public support can changes be implemented that actually improve the quality of tertiary education in the country”,* pointed out Prof. Diana Kovacheva.

The reason for the recommendation were two positions from the Student Councils of the Higher School of Telecommunications and Posts in the city of Sofia and the University of Mining and Geology “St. Ivan Rilski” of Sofia, received by the institution within a few days, which were against the idea of the Ministry of Education for the unification and restructuring of state higher education institutions.

With her active actions, the Ombudsman supported the development of the university network, and on 11 April 2022 attended the opening of the newly established Institute for Computer Science, Artificial Intelligence and Technologies – INSAIT.



In May, public defender Diana Kovacheva participated in a scientific conference “Law and Society in the (post) pandemic world”, organised by the Faculty of Law and History of the Southwestern University “Neofit Rilski” on the occasion of the 30<sup>th</sup> anniversary of its

founding. The Ombudsman delivered a report on the topic: **“Challenges for National Human Rights Institutions in Pandemic Conditions”**.



The national Ombudsman opened the 2022/2023 academic year at the Higher School of Insurance and Finance of Sofia.



On the occasion of the 85<sup>th</sup> anniversary of the founding of the Chamber of Architects in Bulgaria, Ombudsman Prof. Dr. Diana Kovechva was awarded the badge of honour of the architects.





On 19 October, Ombudsman Diana Kovacheva presented the special award to “Doctor of the Year 2022”, which the Bulgarian Medical Union traditionally organises for the Day of the Bulgarian Doctor, 19 October. The Ombudsman presented the special award “For high professionalism and bravery” to Dr. Anton Elkin – a vascular surgeon from Trakia Hospital in Stara Zagora. The award was presented for his selflessness in the summer when he helped and prevented victims in an accident on Trakia highway with a Serbian bus full of children.



## LIST OF ABBREVIATIONS

APC	Administrative Procedure Code
SAA	Social Assistance Agency
APD	Agency for People with Disabilities
BFSА	Bulgarian Food Safety Agency
HHWS	Household Hot Water Supply
BID	Bulgarian Identity Documents
BHC	Bulgarian Helsinki Committee
SAC	Supreme Administrative Court
SCPO	Supreme Cassation Prosecutor's Office
SCC	Supreme Court of Cassation
CEI-BS	Correctional Educational Institution – Boarding School
GDBP	General Directorate Border Police
GDEP	General Directorate Execution of Punishments
GDP	General Directorate Protection
GMI	Guaranteed minimum income
CPC	Civil Procedure Code
BPD	Border Police Department
CRAS	Civil Registration and Administrative Services
SAR	State Agency for Refugees
SACP	State Agency for Child Protection
SANS	State Agency for National Security
SG	State Gazette
HEPD	Home for elderly people with dementia
HEPMD	Home for elderly people with mental disorders
HMREP	Home for mentally retarded elderly people
DDD	Disinfection, Disinfestation and Deratisation
HCDPC	Home for Children Deprived of Parental Care
HMSCC	Home for Medical and Social Care for Children
NCSA	National Construction Supervision Directorate
TSIPC	Tax and Social Insurance Procedure Code
SPH	State Psychiatric Hospital
JPPD	Juvenile Pedagogic Police Department Room
CFESE	Closed File Fund State Enterprise
SAD	Social Assistance Directorate
ASF	Agriculture State Fund
EAD	Single-Owner Joint Stock Company
SITSMEB	Single IT system of Medical Expertise in Bulgaria
EC	European Commission
ENOC	European Network of Ombudspersons for Children
EA	Environmental Assessment
EPK	Framework Shuttering
EED	Expert Examination Decision
EU	European Union
ECtHR	European Court of Human Rights
EXLSG	European Charter of Local Self-Government

ROFLFFA	Restoration of Ownership of Forests and Lands from the Forest Fund Act
CRA	Civil Registration Act
RTA	Road Traffic Act
PITA	Personal Income Tax Act
SPA	State Property Act
PSA	Public Servant Act
EA	Energy Act
ECA	Electronic Communications Act
HA	Health Act
CASBMA	Combating Anti-Social Behaviour of Minors Act
OCA	Obligations and Contracts Act
CPA	Child Protection Act
PCA	Protection of Consumers Act
PTA	Protected Territories Act
EPDCA	Execution of Punishments and Detention in Custody Act
IPDA	Integration of People with Disabilities Act
MEA	Medical Establishments Act
FACA	Family Allowances for Children Act
LTFA	Local Taxes and Fees Act
MIA	Ministry of Interior Act
3HA	Regulatory Acts Act
OA	Ombudsman Act
PD	Prison Dormitory
CTPD	Close-type Prison Dormitory
OTPD	Open-type Prison Dormitory
PDSA	Planned Development of Settlements Act
PSPSA	Payment Services and Payment Systems Act
PSSEA	Pre-School and School Education Act
RTA	Radio and Television Act
WSRA	Water and Sewerage Regulatory Act
PA	Property Act
JA	Judiciary Act
SAA	Social Assistance Act
ALOUA	Agricultural Land Ownership and Use Act
TSDA	Territorial and Settlements Development Act
SRCMYHSDA	Settling the Rights of Citizens with Multi-Year Housing Savings Deposits Act
PEAA	Private Enforcement Agents Act
SDA	Spatial Development Act
EARTA	Executive Agency Road Transport Administration
TEA	Transplantation Executive Agency
ROM	Restored Ownership Map
EWRC	Energy and Water Regulatory Commission
CPHRFF	Convention for the Protection of Human Rights and Fundamental Freedoms
CPD	Commission for Protection against Discrimination
CCP	Commission for Consumer Protection
CEID	Chamber of Engineers in Investment Design

CM	Committee of Ministers
CRB	Constitution of the Republic of Bulgaria
CPT	Committee for the Prevention of Torture
CRC	UN Convention on the Rights of the Child
CRPD	UN Convention on the Rights of Persons with Disabilities
CRC	Communications Regulation Commission
CC	Constitutional Court
SIC	Social Insurance Code
DL	Deprived from liberty
ME	Medical establishment
MAC	Medical Advisory Committee
MI	Ministry of Interior
ME	Ministry of Energy
MH	Ministry of Health
MA	Ministry of Agriculture
PI	Places of imprisonment
MES	Ministry of Education and Science
MEW	Ministry of Environment and Water
MJ	Ministry of Justice
MV	Motor vehicle
MRDPW	Ministry of Regional Development and Public Works
CM	Council of Ministers
MC to TU	Medical Commissions to NSSI Territorial Units
MTC	Ministry of Transport and Communications
MLSP	Ministry of Labour and Social Policy
MC	Medical Centre
NRA	National Revenue Agency
NPC	National Palace of Culture
NEMC	National Expert Medical Commission
NHIF	National Health Insurance Fund
CC	Criminal Code
NSSI	National Social Security Institute
NPAPD	National programme “Assistants for Persons with Disabilities“
NRRP	National Recovery and Resilience Plan
CPC	Criminal Procedure Code
NPM	National Preventive Mechanism
OPSSAIL	Ordinance on the provision of the social services “Assistants for Independent Living”
OTCTPUT	Ordinance on the terms and conditions for travelling by public urban transport
NA	National Assembly
NSI	National Statistical Institute
NCIPD	National Council for Integration of Persons with Disabilities
NAMRB	National Association of Municipalities in the Republic of Bulgaria
OHS	Ordinance 16-334 of 6 April 2007 on heat supply

Ordinance No.4	Ordinance No. 4 of 14 September 2004 on the terms and conditions for the connection of users and for the use of water supply and sewerage systems
ORQWSS	Ordinance on the regulation of the quality of water supply and sewerage
ORPWSS	Ordinance on the regulation of the prices of water supply and sewerage
EIA	Environmental Impact Assessment
RDMI	Regional Directorate of the Ministry of Interior
CPD	Child Protection Department
MECTP	Municipal Expert Council on Territorial Planning
PS	Primary School
OSCE	Organisation for Security and Co-operation in Europe
GDP	General Development Plan
PTSI	Premises for temporary stay and isolation
RMAE	Rules for measuring the amount of electricity
CMD	Council of Ministers Decree
IREPDCA	Implementing Regulation on the Execution of Punishments and Detention in Custody Act
IRIPDA	Implementing Regulation on the Integration of People with Disabilities Act
IRALOUA	Implementing Regulation on the Agricultural Land Ownership and Use Act
TFP	Transitional and Final Provisions
PPP	Plant protection products
DWTP	Drinking water treatment plant
DDP	Detailed development plan
RDNCS	Regional Directorate for National Construction Supervision
RHI	Regional Health Inspectorate
RHIF	Regional Health Insurance Fund
RIE	Regional Inspectorate on Education
RIEW	Regional Inspectorate for Environment and Water
CMD	Council of Ministers Decision
RRC	Registration and Reception Centre
RC	Regional Court
RC	Registration Centre
PRD	Police Regional Department
SHATP	Specialised Hospital for Active Treatment of Prisoners
SHTAF	Specialised home for temporary accommodation of foreigners
SAEW	Social activities and educational work (prisons)
SMDI	Sofia Metropolitan Directorate of Interior
CB	Condominium building
SPBS	Social and Pedagogical Boarding School
SGM	Sofia Grand Municipality
SEN	Special educational needs
SMC	Sofia Municipal Council
HS	High School
REMC	Regional Expert Medical Commission
CA	Commerce Act
CF	Cooperative Farm

TREMC	Transport Regional Expert Medical Commission
NSSI TU	Territorial Unit of the National Social Security Institute
TU	Technical University Sofia
TSES	Technical School for Electronic Systems
TC	Transit Centre
CTFC	Children's Treatment Fund Centre
CERP	Conditional Early Release (Parole)
HSDC	Heat Share Distribution Company
OPCT	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UMC	Urban Mobility Centre
CEC	Central Election Commission
FTAC FTACCYD	Family-Type Accommodation Centre Family-type Accommodation Centre for Children and Youths with Disabilities
MHC	Mental Health Centre
CCD	Centre for Work with Children with Disabilities
EMC	Emergency Medical Centre
dB	decibel



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