



**ANNUAL REPORT OF THE OMBUDSMAN ACTING  
AS NATIONAL PREVENTIVE MECHANISM IN  
2022**

**SUMMARY**

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## KEY OUTCOMES

In 2022, the National Preventive Mechanism (NPM) at the Ombudsman Institution celebrated its 10<sup>th</sup> anniversary. The Ombudsman's functions as a National Preventive Mechanism are related to the implementation of the Optional Protocol to the UN Convention against Torture and the amendments to the Ombudsman Act of 2012.

Respect for human rights where they are violated is a mission. The Ombudsman, as a national preventive mechanism, fulfills This mission by conducting continuous and independent monitoring of places of detention, identifying potential risks of torture or other forms of cruel, inhuman or degrading treatment. This mission is also realized through the public announcement of cases in which there are violations of human rights.

Unfortunately, the military aggression of the Russian Federation in Ukraine at the beginning of 2022 put to the test both the peace and security of the continent and the readiness of a number of systems in democratic societies to face the challenges of providing protection and integration to hundreds of thousands of refugees from the conflict zones.

Using her powers as NPM, in 2022 the Ombudsman extended the scope of her inspections with a new field of monitoring – the rights of persons who have been granted temporary protection on the territory of the country.

The Ombudsman Institution of the Republic of Bulgaria was among the first to design a mechanism for providing information and support to refugees from Ukraine in the early hours of the conflict. Building on the experience gained as a national human rights institution in the context of the COVID-19 epidemic, the Ombudsman organised **direct 24-hour hotline for refugees to contact the institution's experts and provide timely and up-to-date information on the rights of Ukrainian citizens** regarding their stay in the Republic of Bulgaria and for obtaining temporary protection. A total of 215 civilians received assistance and support in the most difficult days since the start of the conflict.

*On 14 March 2022, assistance was provided to a Ukrainian citizen living in Bulgaria, whose mother was seriously ill and together with other members of her family managed to leave Ukraine via the only possible humanitarian corridor to Poland. In order to travel to the Republic of Bulgaria without problems, the elderly woman had to travel by plane due to her deteriorating health. When purchasing a ticket from the LOT Polish airlines, the woman was required to provide a written assurance from the Bulgarian border authorities that she would be allowed to enter the country. The reason for this request was the fact that the elderly woman did not have a Ukrainian passport with biometric data, but only an old passport. The Ombudsman assisted her in obtaining the necessary written answer from the Border Police authorities, not just an oral confirmation. The following day, 15 March, the Ukrainian citizen expressed gratitude to the Ombudsman Institution for the assistance received, because on the same day the elderly woman arrived in Bulgaria.*

The crisis with the Ukrainian refugees and the provision of adequate protection and support to displaced persons **exacerbated existing problems of which the Ombudsman had been alerting public institutions for a long time:**

- **Lack of a sustainable policy on providing adequate information to persons seeking protection in regard to their rights and conditions for residence in the Republic of Bulgaria;**
- **Lack of a sustainable strategy for the support and integration of displaced persons, which would permanently guarantee their rights to access social, health and educational services.**

The Ombudsman of the Republic of Bulgaria took the initiative at the end of March 2022 to organise a campaign for non-excise goods confiscated by the Bulgarian state worth over BGN 394,000 to be provided as aid to the refugees from Ukraine. To this end, the public defender promptly contacted the Ministry of Finance, the Customs Agency and the Bulgarian Red Cross. The Ombudsman made arrangements so that experts of the institution visited the warehouses and examined the confiscated essential goods. The goods were provided to help the people fleeing the war in Ukraine and seeking temporary protection in our country. The seized goods for the benefit of the State included baby, children's, women's and men's clothing, shoes, bedding, towels and other essentials.

As a result of the Ombudsman's coordination and cooperation with the institutions, the goods were allocated and made available to persons seeking temporary protection in our country. The aid was delivered to all those in need by the Bulgarian Red Cross teams working on the ground with persons seeking temporary protection in the country.

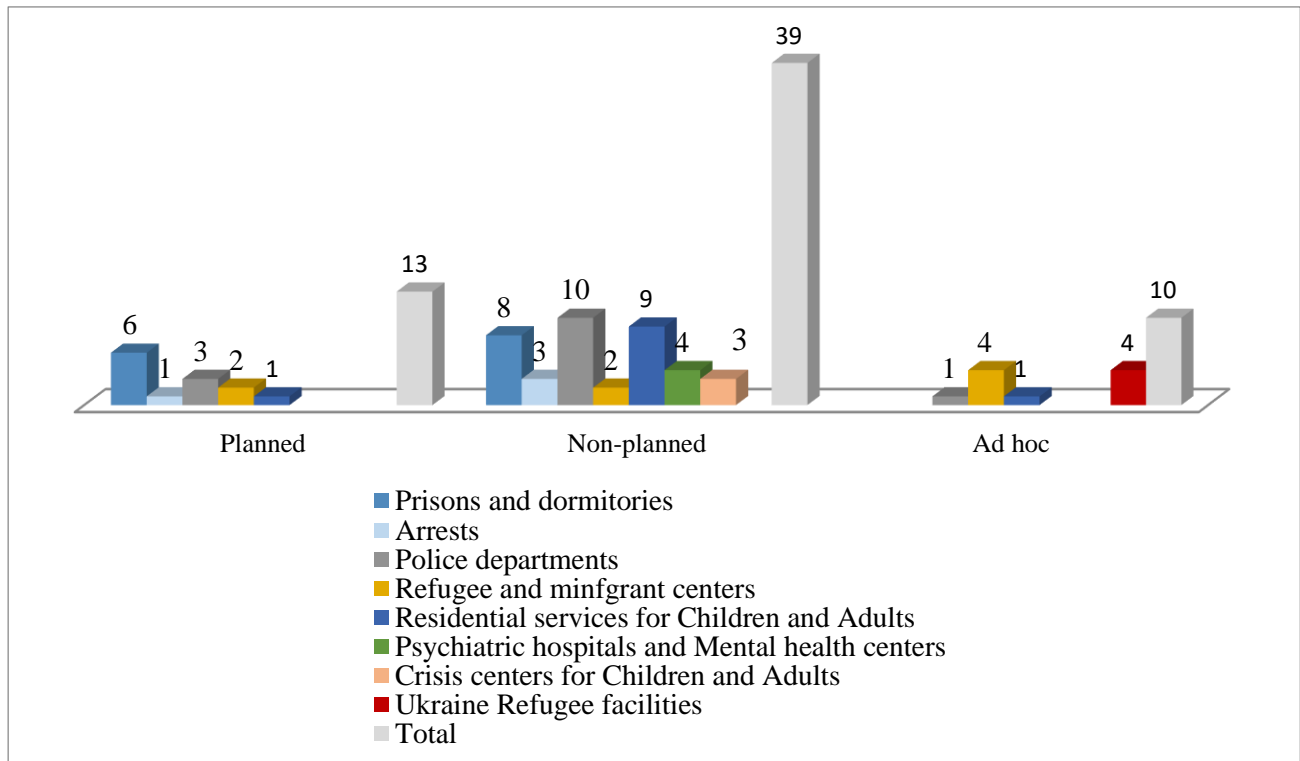


*Pictures: Ombudsman of the Republic of Bulgaria*

“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 June 1 and 2 in the two buffer centers for the distribution of Ukrainian citizens with temporary status shelter in Elhovo and Sarafovo. There, the team found that the preparations for accepting people started late, which puts pressure on the authorized institutions to organize the process of accommodation and, subsequently, transportation to the state bases designated for the reception of citizens with periods of protection

In 2022, the Ombudsman as NPM carried out 58 inspections in places of detention, state psychiatric hospitals and mental health centres, refugee and migrant accommodation centres, residential and family-type accommodation centers for children and adults, while an **additional and specific focus** was also placed on the conditions for supporting persons with temporary protection status from Ukraine, as well as on crisis centers for victims of domestic violence and victims of trafficking.

**Chart 1 – Number of inspections carried out by the NPM in 2022 by category of inspected body**



Source: Statistics of the Ombudsman of the Republic of Bulgaria

In 2022, the trend of increasing the number of inspections in the **places for serving sentences at the Ministry of Justice** continued – prisons (5), prison dormitories of open (7) and closed type (2). Four arrests were also checked. The general critical finding in this sector is still related to the lack of effective solution to several major problems: systemic deficits in the medical care of prisoners; persistent shortages

of depreciated, obsolete and unhygienically and unreliable bedding; unresolved problems with the elimination of cockroaches and bedbugs in detention facilities, 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.

*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.***

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 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.

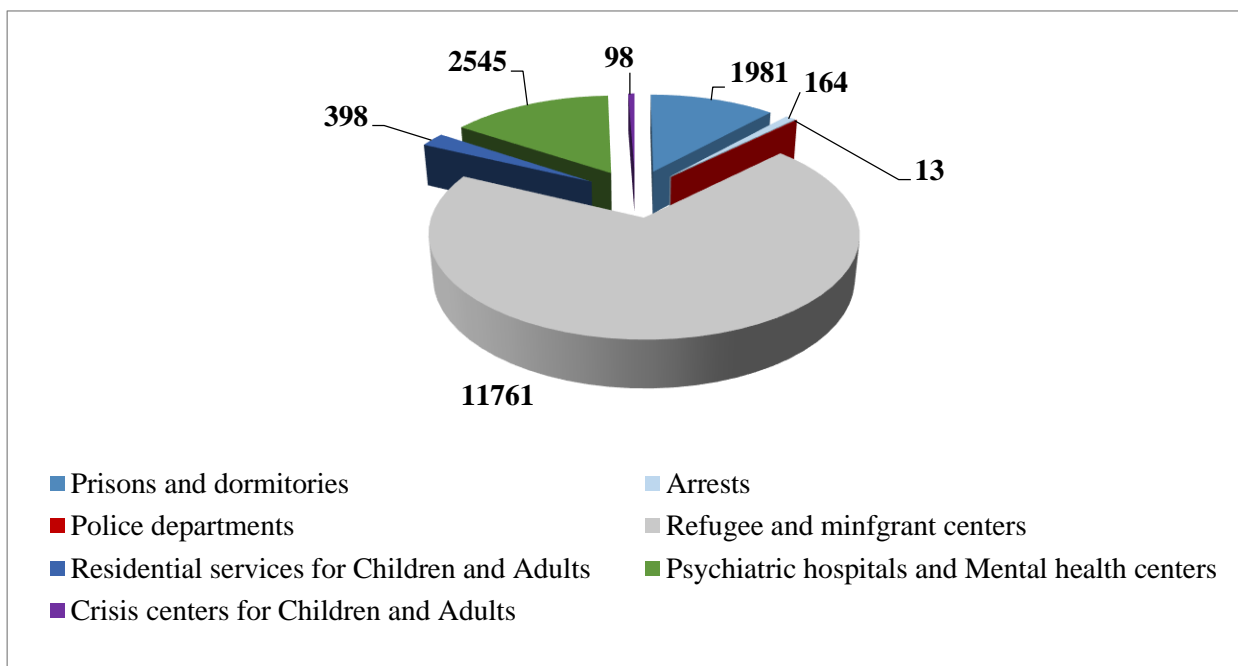
The recommendation that effective legislative action is needed **to transpose EU Directive 2016/800 on procedural safeguards for children who are suspected or accused in criminal proceedings in the Criminal Procedure Code** continues to be relevant.

In 2022, the upward trend in the **number of checks in refugee and migrant accommodation centers 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.

*Chart 2 – Number of persons covered by planned and extraordinary NPM inspections in 2022*



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

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>1</sup>. The contested provision permitted

<sup>1</sup> (Supplemented, State Gazette No. 110 of 2020, effective 30 June 2021)

participation of mentally ill and expert persons in proceedings for involuntary placement for treatment by videoconference.

*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 Constitutional Court 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.*

In their decision on constitutional case No 14 of 2022<sup>2</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 connection with Article 122 of the Constitution), as well as the right to personal freedom and inviolability (Article 30, paragraph 1 of the Constitution).

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 centers**<sup>3</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

<sup>2</sup> <https://www.constcourt.bg/bg/Acts/GetHtmlContent/f5ba49a4-651f-4028-b0cc-cfdb57c31849>

<sup>3</sup> <https://www.ombudsman.bg/>



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:

- 1) the right to free movement and contacts with the outside world;
- 2) the right to quality psychological and medical care;
- 3) the right to privacy and quality sanitary and living conditions;
- 4) 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. 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 centers and in some cases without relevant infrastructure, being redeveloped with minimal funds to create sheltered housing and family-type accommodation centers. 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 centers 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.

*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.***

### Facilities at state psychiatric hospitals, accommodation homes and crisis centres



*Pictures: Ombudsman of the Republic of Bulgaria*

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;
- ✓ **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.

## MAIN PROBLEMS AND RECOMMENDATIONS

### I. PROTECTION OF PERSONS SEEKING PROTECTION

#### 1. PROTECTION OF PERSONS WITH TEMPORARY PROTECTION STATUS

In her capacity as National Preventive Mechanism, the Ombudsman strictly monitors the respect of the rights of persons fleeing conflict zones and who have applied for or initiated a procedure

and who have received protection on the territory of the country. The Ombudsman's remit is to examine the impact of changes in legislation on the rights of the persons concerned and to monitor the actions of the competent public authorities, making binding recommendations to the public authorities if a risk of threat or infringement of fundamental rights and freedoms is identified. In fulfillment of these functions, the Ombudsman monitors the incorporation and implementation of international human rights acts in Bulgarian legislation and practice.

Over the last decade, Bulgaria has repeatedly been and is subject to strong refugee pressure, and significant efforts have been made to update and align the country's legislation in accordance with international treaties and standards in the field of asylum and refugees.

In view of the unprecedented refugee crisis that emerged since the outbreak of the armed conflict in Ukraine on 24 February 2022, a number of amendments to the Asylum and Refugees Act have been proposed. The Ombudsman sent comments to the National Assembly, indicating that there was a risk of creating ambiguity and confusion, both among

people seeking protection and among the bodies of the public administration and local self-government bodies.

Many times people fleeing from war and armed conflicts from different regions of the world, such as Syria, Iraq and Afghanistan, have entered Bulgaria in large numbers, but now for the first time the special status of "temporary protection" is applied.

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#### MAIN RECOMMENDATIONS

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- Establish a sustainable **policy on informing persons seeking protection** (international or temporary) about the conditions of residence in the Republic of Bulgaria;
- Develop a **long-term strategy for integration of displaced persons**, which should permanently ensure their access to social, health and educational services by means of:
  - *Determining the order of alignment of the immunisation calendar of the arriving children with the immunisation calendar in Bulgaria;*
  - *Adaptation of the existing forms of alternative education to include children who received international or temporary protection on the territory of the Republic of Bulgaria;*
  - *Establishing a procedure for providing psychological assistance to unaccompanied children and persons arriving from conflict and disaster zones who need it;*
  - *Establishing a procedure for the purchase of medicinal products by chronically ill patients on supportive therapy until they are granted temporary protection status.*

The war in Ukraine has sparked a wave of international response of empathy and support, including the EU invoking the Temporary Protection Directive (the Directive)<sup>4</sup>. This act provides that people who are subject to it will automatically be granted the rights of refugees, without the need to apply for and wait for such a status. Back in 2007, Bulgaria introduced into its legislation the requirements of the Directive with amendments and additions to the Asylum and Refugees Act.

In the process of a mass influx of Ukrainian citizens, the Ombudsman highly appreciated and supported efforts to improve and further develop the migrant protection system by adopting new measures and procedures to facilitate and speed up the reception and integration of Ukrainian refugees and their children, as they are all in a highly vulnerable situation.

### **Living conditions at displacement centers**



*Pictures: Ombudsman of the Republic of Bulgaria*

## **2. SAFEGUARDING PEOPLE SEEKING INTERNATIONAL PROTECTION**

In her capacity as National Preventive Mechanism (NPM), the Ombudsman carries out inspections each year of the temporary accommodation centres for foreigners at the Ministry of Interior and of the refugee accommodation centres of the State Agency for Refugees at the Council of Ministers. The main focus of each inspection is to assess the living conditions of unaccompanied minors and the forms of support provided.

### **MAIN RECOMMENDATIONS**

- *To develop a comprehensive long-term strategy for housing the permanently increasing number of unaccompanied minors and minors on the territory of the Republic of Bulgaria, taking into account the specific needs of the target group and the trends of increasing numbers of minors;*
- *To develop a consistent policy on the protection and integration of unaccompanied minors who have been granted refugee status;*
- *To build a secure area for unaccompanied minors in RRC-Harmanli.*

<sup>4</sup> COUNCIL Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof

Inspections in 2022 found an increasing number of unaccompanied minors. The following main issues were identified:

- RRC- Harmanli does not have a secure area for unaccompanied minors seeking international protection;
- There is no consistent policy on the protection and integration of unaccompanied minors – it is necessary to assess the possible measures to ensure protection and support of unaccompanied minors who have received status through integration into the community and in the event of stated unwillingness to be accommodated in residential social care.

According to statistics of the SAR at the CoM, 3,172 applications for international protection of unaccompanied minors were submitted in 2021, of which 2,603 were from Afghanistan, and the second largest number of 463 submitted applications were unaccompanied persons from Syria. In the past 2022, although the total number of submitted applications was approximately the same – 3,121, the applications of unaccompanied minors from Syria increased significantly to 1,338, while those from Afghanistan decreased to 1,624. The **following alarming trends evolved**:

- **increased secondary migratory flow of people** who have previously resided in Turkey and are now crossing the country's territorial borders illegally in an attempt to reach Central and Western Europe.
- **increasingly, unaccompanied minors are found in migrant groups, who are used as the future core of family reunification** after applying for and receiving refugee or humanitarian status.

### Living and educational conditions at RRC- Harmanli



*Pictures: Ombudman of the Republic of Bulgaria*

### 3. RIGHTS OF PERSONS WITH REJECTED INTERNATIONAL PROTECTION

The Ombudsman of the Republic of Bulgaria is the only Bulgarian state institution that monitors the deportation of foreign citizens. In its capacity as National Preventive Mechanism, it has extensive experience in the field of protection of human rights and fundamental freedoms relating to the status of persons seeking protection and foreigners accommodated in special homes for temporary accommodation under the Ministry of Interior.

In accordance with the provisions of Article 39a of the Foreigners in the Republic of Bulgaria Act (FRBA), compulsory administrative measures are applied to foreigners illegally residing in the territory of Bulgaria. The implementation of the measures of “return to the country of origin, country of transit or third country” and “expulsion” is monitored by the Ombudsman of the Republic of Bulgaria or by authorised officials of its administration.

In 2022, the Ombudsman, in her capacity as NPM, monitored the implementation of **19 coercive administrative measures for return** to the country of origin, country of transit or third country and expulsion. Monitoring teams identified systemic problems when checking the foreigners’ personal files:

1. Incomplete completion of personal files of foreigners, including lack of attached documents related to the appeal of orders to impose coercive administrative measures;
2. Lack of evidence that foreign citizens were aware of the content of the orders issued to impose coercive administrative measures against them, as well as their right to appeal in accordance with the Administrative Procedure Code;
3. Lack of evidence that foreign nationals accommodated in special homes for temporary accommodation of foreigners (SHTAFs) were aware of their right to receive legal aid and that they had met with lawyers who consulted them and informed them of their rights and legal options;
4. No evidence was attached to proceedings brought before the State Agency for Refugees at the Council of Ministers for granting of international protection in order to prove that the relevant proceedings had been terminated or closed by effective decisions refusing protection.

In addition to the above circumstances, the monitoring teams found cases of impending implementation of coercive administrative measures under the Foreigners in the Republic of Bulgaria Act, for which no relevant notifications were sent to the Ombudsman within a reasonable time. For these reasons, it was virtually impossible to carry out the monitoring required by law.

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#### MAIN RECOMMENDATIONS

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- *To establish a uniform standard for orders for coercive administrative measures (CAM) under the FRBA, to be signed by the foreign national and by a sworn translator as proof that the person is familiar with his/her rights and the procedure for appealing the CAM in a language which he/she understands;*
- *To establish a mechanism for informing the persons placed in SHTAFs, on the day of their admission, of their right to access to legal aid;*
- *To set up a mechanism for systemic notification of the Ombudsman regarding upcoming enforcement of coercive administrative measures under the FRBA.*

## II. PROTECTING THE RIGHTS OF CHILDREN AND ADULTS ACCOMMODATED IN RESIDENTIAL SOCIAL SERVICES

### 1. CRISIS CENTRES FOR CHILDREN AND WOMEN

In 2022, the focus of the Ombudsman's inspections as NPM in children's institutions was on crisis centres for children and women, victims of trafficking and victims of violence. Three centers were visited. Violence in all forms is a serious social problem in Bulgaria. Children and women are most heavily affected. The data from a study carried out by the EU Agency for Fundamental Rights indicates that the situation in Bulgaria is twice as alarming compared to the average level in the EU. There is no official statistics, but NGOs report that the number of calls for help from victims of

domestic violence and other forms of violence has increased from 30% to almost twice. At the same time, there is no single information system for other forms of domestic violence: against elderly people, against children, against people with disabilities and based on gender.

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### MAIN RECOMMENDATIONS

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- *To open crisis centres for children and women victims of violence in all regional cities;*
  - *Not to accommodate children in crisis centres that do not meet the profile of the social service;*
  - *Children's stay in the crisis centres should not be longer than six months.*
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Victims of violence and trafficking are groups with specific and complex needs involving immediate protection, overcoming the emotional crisis, social stabilisation, rehabilitation of the trauma and reintegration, after overcoming serious incidents and related consequences. This

group needs quality and professionally provided social services not only to handle 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 for social services.

### 2. RESIDENT SOCIAL SERVICES FOR ADULTS

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 is necessary to point out the fact that the homes do not meet the criteria for providing a quality social service for people with disabilities. The treatment of the accommodated people and their stay there is not only bad and humiliating, but their basic human rights are infringed:

#### **Right to Free Movement and Contacts with the Outside World**

Of all the homes inspected in 2022, only one is located in a city, one is in a small village, and the rest are up to six kilometers away from small villages, located in forest and mountain areas. As an example, we can mention the home for adults with mental retardation in Kachulka settlement, Byala village, Sliven municipality. There is no public transport to these homes, the users' relatives cannot visit them. On the dates of the inspections, in no home could the users use external social services, i.e. all types of therapy (occupational therapy, psychotherapy, kinesitherapy, etc.) and work with people are carried out on the territory of the home. They see the same people almost all their lives: the



employees and the other users, and they rarely leave the home. **Long-term isolation of disabled people further deepens their illness.** This creates potential difficulties in relocating them to new social services and is an obstacle to their successful future inclusion in society. These findings of the Ombudsman are also contrary to the common European guidelines for the transition from institutional care to community care.<sup>5</sup>

### Right to quality psychological and medical care

Given the nature of user illnesses, they need constant medical and psychological care. These homes often lack specialised staff due to their remoteness from major cities. In small settlements there is a lack of quality staff, most of the staff are pensioners. As an example, the senior nurse at the Home for Mentally Retarded Adults in Banya has 52 years of experience, at the age of 76, the other nurses and occupational therapists of the home are also pensioners.

Another important finding of the Ombudsman over the years is the lack of social activities in the homes. During surprise inspections by teams of the Ombudsman in her capacity as NPM, it is found that users are either staying in their room without doing anything, or in warm weather they go outside in groups, again without doing any social activities.

## MAIN RECOMMENDATIONS

- *All homes for adults with mental retardation, mental disorders and dementia should be closed by 2027;*
- *Until they are closed, to improve the living conditions of the users, as well as to completely discontinue accommodation of new users;*
- *Not to open any new social services in the building stock of the old-type homes for adults.*

The Ombudsman has repeatedly stated that the main factor for the provision of quality social services is the human resources. Taking care of children and adults in institutions and community-based services is a difficult and responsible task, the fulfillment of which is entrusted to staff who should work with them on a daily basis.

### Right to privacy and quality sanitary and living conditions

The buildings housing the homes are outdated. **They are of the so-called "barracks" type, i.e. sleeping rooms, bathrooms, toilets are shared.** They were built in the middle of the last century and do not meet the requirements for people with disabilities. Renovation works are often required for the same premises, because after a while moisture and mold crashes again. Repairs are a temporary measure to improve living conditions.

The rooms rarely have separate bathrooms and toilets. Basically the rooms are for three, four and five users. As an example, we can mention the home for adults with mental retardation in Draganovo village, Gorna Oryahovitsa municipality. 24 people in that home have 1 shared bathroom and 3 toilets. The five-person rooms are 20 square meters, with a narrow walkway between them. There is a room without lockers for storing personal belongings due to limited space.

<sup>5</sup> [https://deinstitutionalisationdotcom.files.wordpress.com/2018/04/common-european-guidelines\\_bulgarian-version\\_final.pdf](https://deinstitutionalisationdotcom.files.wordpress.com/2018/04/common-european-guidelines_bulgarian-version_final.pdf)

In some places there is no accessible environment for people with disabilities. Lack of accessibility affects basic human rights and the dignity of people with disabilities. Maintaining an inaccessible architectural environment constitutes discrimination within the meaning of Article 5 of the Protection against Discrimination Act.

In all homes inspected by Ombudsman teams in 2022, there was a strong smell of urine and unchanged diapers. As an example, in the home for adults with mental retardation in the village of Draganovo, municipality of Gorna Oryahovitsa there was only one nurse on duty per 79 users in the night shift (almost all of them use diapers, and 25 of them are bedridden patients), which is grossly insufficient to maintain their personal hygiene.

### Right to individual care

**For the Ombudsman as NPM, this is a fundamental right of children and people with disabilities.** Individual care for a child and adult with disabilities preserves their dignity. Unfortunately, these old-type residential social institutions (homes) completely violate personal dignity of people, because they have no personal space, no personal clothes, no personal sanitary facilities and bathrooms. Moreover, dozens of users live in one place. Even the care plans drawn up by social workers are often the same for all users, regardless of the fact that disabled people have different needs and personality characteristics, and an individual approach must be applied to each of them.

The common European guidelines on the transition from institutional to community-based care state that: “.....Plans for the future use of the building should be made as part of the process of closure. ... **it is also important to ensure that no part of the building is used to provide institutional care, for any group of people,**” (p. 129).

Following the report of 2 December 2020 of the Committee for the Prevention of Torture (CPT) to the Council of Europe on the extremely poor living conditions for people housed in the Home for Adults with Mental Retardation (HAMR) in Kudelin village, Bregovo municipality, the Home for Adults with Mental Retardation in Samuil village, Samuil municipality and the Home for Adults with Mental Disorders (HAMD) in Govejda village, Georgi Damyanovo municipality, the **Minister of Labour and Social Policy has committed to closing the three homes by the end of 2021.** This commitment has not been fulfilled yet.



*Pictures: Ombudsman of the Republic of Bulgaria*

### III. PROTECTION OF PERSONS WITH MENTAL DISEASES

The main problems identified by the Ombudsman as NPM in the provision of inpatient psychiatric care in 2022 are the same as those in 2021: insufficient funding and understaffing, mainly in the SPH's Maintenance funds. The budget is a key tool for managing psychiatric hospital activities in order to respect patients' rights. As a result of the chronic underfunding, a low cost per day of food is reported, which leads to a low quality of the food products, a low cost per day of medicines, which leads to treatment with generics, unfulfilled imperative repair works in hospitals. Chronic shortages of medical and non-medical specialists in hospitals, low pay, overwork and burnout of staff have been unresolved problems for years and they all reflect on the quality of patient care.

The quality of health care provided to people with mental illness remains permanently unsatisfactory. One of the main problems are the old facilities and equipment of the hospitals, as well as the remoteness of most of SPHs from settlements. In some medical institutions, living conditions are extremely poor in hospital rooms, and they are overcrowded. Such a situation is considered by the NPM as humiliating and inhuman treatment of people with mental illnesses.

The Ombudsman requested information on which of the planned activities for 2021 and 2022 in the Financial Plan for the Mental Health Strategy have been implemented. At this time, no response has been received from the Ministry of Health.

The opinion of the ombudsman as NPM is that the Strategy for Mental Health of the Citizens of the Republic of Bulgaria 2021-2030 should not be an optional document, but a mandatory one. The purpose of the Strategy is to improve the quality of life of children and adults with mental illnesses and respect their rights, and all responsible institutions must take a direct part in its implementation.

#### Residential facilities at the Center for Mental Health – Sofia city



*Pictures: Ombudsman of the Republic of Bulgaria*

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#### MAIN RECOMMENDATIONS

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- *To start actual implementation of the National Strategy for Mental Health of the Citizens of the Republic of Bulgaria 2021 - 2030*
  - *To increase the Maintenance fund of all state-owned psychiatric hospitals (SPHs) for 2023 and the following budgetary periods;*
  - *To revise the Regulations on the structure and activity of the medical establishments for inpatient psychiatric care in the part of the number of staff in order to overcome the existing imbalance in the staffing and guarantee equal health care for all mentally ill in the SPHs.*
  - *Regional health inspectorates should exercise consistent control for compliance with the requirements of Ordinance No 49 of 18 October 2010 on the required 6.5 square meters per hospital bed.*
  - *To carry out the required repair works in all SPHs.*
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#### IV. PROTECTION OF PRISONERS IN PLACES OF SERVICE OF PENALTIES TO THE MINISTRY OF JUSTICE

In 2022, the Ombudsman in her capacity as NPM carried out inspections in five prisons, one correctional home for minors (city of Vratsa), eight prison dormitories of open and closed type, four detention centers and nine regional facilities at the Ministry of Interior.

##### MAIN RECOMMENDATIONS

- *Efforts should be made to address the problem of cockroaches and bedbugs in penitentiary facilities;*
- *To review the new list of permitted personal belongings, objects and foodstuffs that prisoners may receive, use and keep for themselves or in designated places;*
- *Imposed garnishments of cash proceeds from relatives and friends received in the account of the debtor in prison should be in accordance with the Ordinance on setting standards for annual budget support of prisoners;*
- *To carry out a thorough analysis of the reasons for the lack of medical staff in penitentiary facilities;*
- *The medical specialists of the prisons to comply with the requirements of Ordinance № 2 of 22 March 2010 and should examine the chronically ill prisoners.*

The quality of health care in penitentiary facilities remains unsatisfactory for yet another year. In the past 2022, the Ombudsman in her capacity as National Preventive Mechanism found **deterioration in the medical care provided**. The medical care of prisoners in the inspected facilities does not meet the legally established requirements and there are prerequisites for violating the rights of prisoners as patients and health insured persons. In some penitentiary facilities there is no medical specialist for months on end (e.g. the prison in the 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 constraints on their activities (e.g. the prison in Vratsa).

The lack of medical professionals in almost all prisons is a systemic problem, but other problems are also identified, such as the neglect of prisoners' complaints, untimely referral of prisoners to external specialists for

diagnosis and treatment, rough treatment of prisoners by medical professionals etc.

Sanitary and hygiene conditions in prisons remain unsatisfactory. The long-standing problem with cockroaches and bedbugs in detention facilities continues and was found in all sites inspected. The Ombudsman as NPM has repeatedly identified this as a gross violation of Article 3 of the Execution of Sentences and Detention Act and has made numerous recommendations in this regard in her previous reports in order to address the problem.

The focus of the inspections carried out in 2022 was partly related to the execution proceedings initiated against prisoners. The administration of the Ombudsman of the Republic of Bulgaria, in the capacity as National Preventive Mechanism, received numerous complaints from persons serving an imprisonment sentence for imposed garnishments of money transfers from the account of the debtor in the prison, received from relatives and friends.

## V. PROTECTION OF PERSONS DETAINED IN THE PLACES OF ACCOMMODATION AT THE MINISTRY OF INTERIOR

In 2022, the NPM inspected nine facilities for detainees within the structures of the Ministry of Interior. The Ombudsman in the capacity as NPM found recurring weaknesses in the system for 24-hour detention of persons: lack of service facilities, lack of access to ventilation and natural light and obsolete facilities.

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### MAIN RECOMMENDATIONS

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- *Operational staff in the places for 24-hour detention must inform a parent or a guardian and the head of the school where the detained minor studies in a timely manner and should not give the detained minor such opportunity;*
- *The provision of legal aid upon detention of minors should be laid down in a legislative act;*
- *Upon detention of a minor, the provisions of Article 2 of the Child Protection Act should be strictly followed;*
- *When applying Instruction No 81213-78, no declaration of waiver of the right to protection should be completed by the minor;*
- *Employees at RPDs of the Ministry of Interior working with children should be subject to mandatory training targeted at interacting with children.*

In 2022, the inspections show that the recommendation made in 2021 for uniform application of Article 21, paragraph 1 of Instruction No 1821h-78 of 2015 on the procedure for detention, equipment of the premises of detainees and the order in them in the Ministry of Interior was fulfilled and is being applied consistently across all inspected RPDs.

At the same time, in February 2022 the Ombudsman, in her capacity as NPM, reported on the occasion of detention of three minors in the First Regional Police Department. The Ombudsman's inspection found significant negative practices directly violating the rights of minors: **detaining a minor in the MI facility for 24 hours is an excessive measure** which is inconsistent with the spirit of the law and the decisions of the ECtHR;<sup>6</sup> the detained minor was given a declaration to sign, indicating his waiver of the right to legal protection; the parents or guardians were not informed about the detention of two other minors in the RPD building, and they were not provided legal protection.

The Ombudsman believes that the competent authorities should take action to align the legislative framework with the current international standards in order to guarantee children effective access to justice.

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<sup>6</sup> Judgments of the ECtHR in the cases *Hanjijski v. Bulgaria* – Judgment of 6 April 2021, and *Genov and Serbinska* – Judgment of 30 November 2021, convicting the Republic of Bulgaria of infringement of the freedom of expression for unfounded conviction and fine for spray painting on a monument

## CONTACTS



**22 George Washington Str.**

**Sofia 1000**

**Bulgaria**

*Tel.: 02/81-06-955;*

*02/980-95-10;*

*fax: 02/81-06-963*

*e-mail: [priemna@ombudsman.bg](mailto:priemna@ombudsman.bg)*

*[www.ombudsman.bg](http://www.ombudsman.bg)*