



OMBUDSMAN OF THE REPUBLIC OF BULGARIA

MONITORING OF THE UN CONVENTION ON THE RIGHTS OF THE CHILD IN BULGARIA

SUMMARY OF REPORT 2021

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THE CONVENTION

The Convention is a legal document with clear obligations on how rights are to be respected and fulfilled, and many of its articles refer to the conditions, resources, protection and freedoms that a child needs to achieve his or her full developmental potential. The Convention does not offer children more rights than other human beings, but recognises that additional safeguards may be needed to make sure that children have access to the human rights that everyone has. It stands out among other international agreements in that it contains the full spectrum of human rights: civil, political, social, economic and cultural rights.

The Convention is based on three categories of rights – participation, protection, and provision – and is guided by four core principles: non-discrimination, the best interests of the child, the right to life, survival and development, and respect for the views of the child. The implementation of the Convention and the Optional Protocols is monitored by the Committee on the Rights of the Child (CRC), and every five years Bulgaria reports to the monitoring body on its progress in implementing the rights of the child. The CRC then makes recommendations on how to improve the protection of children's rights and often highlights where the government has done well or failed to fully realise children's rights. These recommendations are an effective mechanism for the Ombudsman institution in conducting monitoring, as well as for advocacy and campaigning to raise public attitudes towards children's rights.

According to the UN Convention, children are real actors in the transformation of our communities, and each one of them, with their abilities and talents, their faith and capacity, is part of the change. Every child has a unique potential and it can be developed in the right conditions, in a safe and secure environment, if they are loved and supported by their parents and the adults who care for them. He or she must have secure access to quality education, health care and an adequate social sector. Children's well-being is influenced by a range of factors, including their actions and relationships, the networks and resources of those who care for them, and public policies and the national context. Children need to feel that they are listened to, that the state supports their parents, and that it allocates the necessary resources for a happier childhood. It is



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important how national strategies consider children in different social, educational, financial and natural contexts.

The National Human Rights Institution (NHRI) is mandated to promote and protect the rights of children. This has been highlighted by the UN Committee on the Rights of the Child, which notes the key role that the NHRI has to play in its establishment, organization and activities to promote respect for the views of children on all issues that affect them. The existence of an independent mechanism dedicated to the protection of children's rights sends an important message to children: that they have rights and that there are means within their means to ensure that these rights are respected.

The defined objectives of the ombudsman are focused on monitoring the situation and protection of children's rights in Bulgaria, working on complaints alleging rights violations, drafting special reports, organizing initiatives and other events related to the topic, which is carried out for the benefit of Bulgarian society. Emphasis is placed on defending the rights of the most vulnerable groups of children, as well as working with children themselves and protecting their right to participation. The work of the Ombudsman is based on the provisions of the UN Convention on the Rights of the Child (the Convention), the ratified Optional Protocols, the EU Charter of Fundamental Rights and all international and European documents governing children's rights. The Ombudsman monitors the implementation of the standards of the instruments by sending special questionnaires to the protection authorities. Monitoring the implementation and enforcement of international treaties is an obligation that derives from the UN Statute A, which the Ombudsman institution received as an independent human rights organisation that complies with the Paris Principles relating to the status of NHRIs adopted by the UN General Assembly. The minimum standards for the work of human rights institutions established by these Principles commit the Ombudsman not only to propose the ratification of international human rights instruments, but also to monitor and promote their effective implementation by the competent national authorities

UN CRC IMPLEMENTATION IN BULGARIA 2021

For the purposes of monitoring the Ombudsman developed a system of impact assessment for the legislation and policies for children and families in Bulgaria together with a set of indicators to monitor the CRC. The matters are structured by topics following the rights of children set out in the CRC, the recommendations of the United Nations Children's Rights Committee and the questions posed to Bulgaria in 2021. Current questionnaires were prepared and sent out to the competent bodies, most of which are protection bodies under the Child Protection Act (CPA).

The monitoring uses data and information provided by the institutions themselves, and is expected to provide not only views on the progress in implementing the recommendations of the



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UN Committee on the Rights of the Child, but also the challenges they face in implementing public policies. The information provided by them was used as a basis for analysis of the degree of implementation of the CRC. The Ombudsman's annual report covers 2021 and, therefore, the figures refer to this year.

Alternative report of the Ombudsman to the UN Committee on the Rights of the Child (the Committee)

2021 is a key year in the development of the Ombudsman institution in the field of children's rights, because for the first time the Ombudsman prepared and sent to the Committee her alternative report as part of the reporting process by Bulgaria. The Ombudsman's report, sent to Geneva in February 2021, is mainly based on information derived from complaints to the Ombudsman filed by parents, organisations (associations, professionals working with children), as well as children. The report summarizes the main findings and observations of the Ombudsman's activities in relation to visits to residential services and institutions for children, official statements on existing national legislation or identified obstacles to its implementation, and recommendations addressed at government level.

Based on the Ombudsman's findings and recommendations in the field of children's rights and taking into account the 2016 recommendations of the Committee on the Rights of the Child in Bulgaria, the Ombudsman's Alternative Report identified and developed four key problem areas of children's rights and drew attention to the measures that should be taken:

- juvenile justice;
- family environment and protection measures;
- violence against children;
- rights of children with disabilities.

Independent monitoring of the implementation of the UN Convention on the Rights of the Child

Pursuant to Article 19, paragraph 1, item 12 of the OA, the Ombudsman has the responsibility to monitor and promote the effective implementation of signed and ratified international acts in the field of human rights to which the Republic of Bulgaria is a party, including the UN CRC, including in its Annual Activity Report a separate section assessing the extent to which legislation and practices have been brought into line with its provisions.

Some challenges in Bulgaria in implementing the recommendations of the UN Committee on the Rights of the Child

- A serious challenge for Bulgaria is the unfulfilled recommendation to adopt the National Strategy for the Child so that it is as comprehensive as possible and cover all areas included in the Convention for all children, and to ensure that the Strategy is supported by all the



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appropriate elements for its implementation, including sufficient human, technical and financial resources. At the moment, the Strategy has been “withdrawn”, the reason for this is to mention the “high societal tensions” being discussed.

- The reform of juvenile justice, launched ten years ago, to ensure respect for the rights of children in conflict with the law and that have access to child-friendly justice. The reform is not on the agenda and there is no political will to adopt the new legislation.
- Regarding the recommendation to Bulgaria to amend the Family Code in order to remove all exceptions that allow marriages under 18 years of age, it is established that the practices of forced marriage at an early age continue to be tolerated and the Social Assistance directorates report to the prosecutor’s office cases of early cohabitation with persons under the age of 16, but too often receive refusals to issue a penal order.
- On the Committee’s recommendation to adopt a human rights-based approach to disabilities in Bulgaria, as well as to develop a comprehensive strategy for inclusion and realisation of children with disabilities in society and education, it should be noted that there are a number of problems that limit the rights of children with disabilities.
- There is no systematic approach to the care of children with disabilities, which is not implemented due to missing units, coordination mechanisms and staff.
- In connection with the right of the child to enjoy the highest attainable standard of health, expert analyses show that the Bulgarian health system has not implemented all the opportunities to improve reproductive maternal and child healthcare, which are highly dependent on the impact and interaction of a number of adverse factors, as well as on the availability, quality and scope of medical care received before, during and after birth.
- No disaggregated data is collected and provided.

Main recommendations:

1. Develop a special mechanism to monitor the implementation of the Convention and indicators for its application;
2. Introduce a mandatory procedure for assessing the impact on the rights of the child of any proposed policy, legislative, regulatory, budgetary, international cooperation or other administrative decision affecting children’s rights.
3. Integrate the children’s rights-based approach to the planning, implementation and monitoring of measures to achieve the sustainable development goals, including the participation of children and data collection, to promote the realization of children’s rights, in accordance with the CPA and the Optional Protocols.



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4. Extensive public discussion and adoption of the National Strategy for the Child and the Plan for its implementation.
5. Reform children's and family policies by adopting a comprehensive, integrated and long-term strategy for developing and implementing 21st century-appropriate policies to support children and their families.
6. Fully incorporate the provisions of the Convention in the national law, including through the adoption of the bill amending the Family Code (2016) and the bill on deviation from criminal proceedings and the imposition of corrective measures on minors (2018).
7. Bulgaria should ratify or accede to the Optional Protocol to the Convention on the Complaints Procedure (Third Optional Protocol).
8. Legislative change to enable disaggregated data collection for children, which is crucial for the planning of policies and budgets related to children, as well as for monitoring their implementation.
9. Taking national measures to promote child involvement as follows:
 - providing guidance on the importance and application of the child involvement
 - giving practical guidelines on various approaches to child involvement;
 - preparing examples of good practice on how children can be involved;
 - providing a framework for monitoring the government's compliance with Article 12.

THE OMBUDSMAN IN DEFENCE OF CHILD RIGHTS IN BULGARIA

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



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

The complaints of citizens were most commonly associated with:

- The economic stability of the families, which were severely shaken by the sharp decline in incomes, the suspension or restructuring of jobs in various areas of employment, the closure of retail food outlets.
- The closure of crèches, kindergartens and schools without prior preparation and plan to address the risks for families with young children led to serious difficulties for thousands of families.
- The impact of long-term online learning on children and students, with parents sharing that they were stressed, demotivated, irritable, aggressive and/or depressed. Post-traumatic fears of parents were transmitted to their children, they developed a depressive syndrome, which is not typical for their age.
- The children themselves are particularly sensitive to the prohibitions of sports activities and the closure of dance schools. The closure of children's entertainment and educational centers triggered a wave of discontent.
- A number of complaints related to changes in the functioning of social services in the community, the closure of which put many families to the test, and this had a particularly negative impact on children with disabilities.
- The ban on leaving residential institutions and services, the ban on access for outsiders, including parents, the ban on visiting parks and playgrounds.

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

- the need to provide financial and social support for parents raising their children alone, who were left without income;
- provision of adequate child medical treatment;
- assistance for opening day centres for children with disabilities and special education support centres;
- protection of the child rights in parental conflicts;
- support of young people leaving public care;
- complaints about the quality of foster care and lack of support for foster families;
- mental problems of children as a result of long online learning;



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- problems of children with disabilities and with special education needs;
- lack of supervision in socio-pedagogical boarding schools;
- support of children raised by parents with addictions, including drug addiction, mental disorders, whose condition had worsened as a result of the pandemic;
- request to extend support measures for children with disabilities;
- against actions of protection system employees and complaints about the lack of adequate measures;
- protection of child victims of violence;
- proposals for legislative changes in the field of children's rights.

THE CHILDREN AND THE OMBUDSMAN

Complaints filed by children raised various issues and questions:

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

“Young Advisers” project

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

The institution of the Ombudsman of Bulgaria participates in the initiative with a group of 30 youths. The participants are students aged 13 to 18 years from Sofia, Varna, Stara Zagora and



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Silistra: from William Gladstone 18th High School, from Thomas Jefferson Second English Language High School, from the National School for Ancient Languages and Cultures “Saint Constantine-Cyril the Philosopher”, from Peyo Yavorov Language High School of Silistra, young people from Agapedia Foundation and the Megafon band to the National Network for Children, from the group of young advocates at Lumos Bulgaria Foundation.

THE CHILDREN AND COVID-19

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

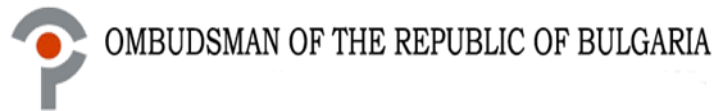
Many of the children from vulnerable groups, who took part in the Ombudsman's consultation, saw the restrictive measures as more or less dramatic, as being unfair, all too often comparing them to punishment. The main reason for this is the feeling that these measures have been imposed more severely than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

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

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

Blue Summer National Campaign to support child mental health

On the Day of the Child, 1 June, Ombudsman Diana Kovacheva launched the Blue Summer National Campaign in support of child mental health targeted at students and teenagers. **The purpose of the initiative is to help children and their parents to overcome the consequences**



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of the isolation brought about by COVID-19. It is implemented in 12 cities in partnership with the local Ombudspersons, non-governmental organisations, the Bulgarian Red Cross. School psychologists provide advice to children and parents free of charge.



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

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