



CONVENTION
ON THE RIGHTS
OF PERSONS
WITH DISABILITIES



OMBUDSMAN OF THE REPUBLIC OF BULGARIA

MONITORING OF THE UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES IN BULGARIA

SUMMARY OF REPORT 2019

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THE CONVENTION

The Convention on the Rights of Persons with Disabilities (CRPD) is an international human rights treaty of the United Nations (UN) aimed to protect the rights and dignity of persons with disabilities. The Convention does not proclaim new human rights the main motive of the UN for adopting CRPD is the continued discrimination and isolation of people with disabilities, despite the existence of previously adopted international legal instruments.

The text was adopted by the United Nations General Assembly on 13 December 2006 and opened for signature on 30 March 2007.

On 23 December 2010, the Convention was also ratified by the European Union and on 26 January 2012 the National Assembly of the Republic of Bulgaria ratified the CRPD.

According to Article 33, para 2 and para 3 of the CRPD States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, including Civil society, in particular persons with disabilities and their representative organizations, to promote, protect and monitor implementation of the CRPD.

UN CRPD IMPLEMENTATION IN BULGARIA 2019

In 2019, two new laws providing for the rights of persons with disabilities entered into force – Persons with Disabilities Act and Personal Assistance Act. One of the main driving forces in the development and adoption of the two laws was the alignment of the Bulgarian legislation to the principles enshrined in the UN Convention on the Rights of Persons with Disabilities (CRPD).

The entry into force of the two laws in 2019 made it necessary to develop and adopt the secondary legislation ensuring the application of the laws in practice.

The Ombudsman took an active part in this process in order to guarantee the principle of consulting and effective inclusion of persons with disabilities and their representatives in the development of policies concerning their rights.



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An important step was taken in 2019 with respect to building the institutional framework for the application of the CRPD – a Monitoring Council was created. The Monitoring Council, set up in line with the requirements of Article 33, para 2 and 3 CRPD, is an authority monitoring the application of the Convention. The structure, powers, main activities and procedure for election of the Council members are laid down in the PDA and its Implementing Regulations while the rules for its work are adopted by the Council itself. A procedure to elect members – representatives of organisations of persons with disabilities was carried out in 2019 and the first Council meeting was held in 8 July 2019 presided over by the Ombudsman who is its first rotational chairperson.

At its first meeting, the Monitoring Council took the following decisions:

- By its next regular meeting to prepare the texts for regulations for the organisation and work and an annual program for the activities of the monitoring council.
- To prepare opinions and send them to the responsible institutions in relation to the application of the Personal Assistance Act and the programs for assistant support, amendments to Article 70 PDA and the procedure to obtain financial support, removal of the term for re-certification set out under § 3 of Council of Ministers Decree No. 139 of 6 June 2019.

The Ombudsman is executing the decisions and sending letters with recommendations to the Minister of Labour and Social Policy and to the Speaker of the National Assembly.

The recommendation to extend the term of assistance services for elderly people who are unable to care for themselves and persons with disabilities who fall outside the scope of the Personal Assistance Act was implemented; Decree No. 180 was issued on 18 July 2019 and the services were provided until 31 December 2019.

The recommendation for more targeted information campaign about personal assistance was also implemented; the process involved all responsible institutions, including municipalities as suppliers of personal assistance and other social services.

The second meeting of the Monitoring Council was held on 21 October 2019; Regulations for the Activities and Work Organisation of the Monitoring Council and an Annual Program for the Work of the Monitoring Council in the period October 2019 – December 2020 were adopted. The Council also decided to hold a meeting with representatives of the EU Agency for Fundamental Rights (FRA) to discuss the existing best practices with respect to monitoring under the CRPD and the possibilities for exchange of useful experience and information with independent monitoring authorities.

Main recommendations:

- Ensure adequate resources to implement the functions of the Monitoring Council and the Annual Program



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- The transformation of the Agency for Persons with Disabilities into a State Agency for Persons with Disabilities should take place within the term set out in the PDA following discussions and consultations with organisations of and for persons with disabilities
- Carry out the transfer of the provision of aids and medicinal products set out in the PDA from the Ministry of Labour and Social Policy to the Ministry of Health and the National Health Insurance Fund
- Introduce sign language as quickly as possible
- Comply with the term to ratify the Optional Protocol to the CRPD

THE OMBUDSMAN IN DEFENCE OF PERSONS WITH DISABILITIES

The new Persons with Disabilities Act (PDA) entered into force on 1 January 2019. The implementation of the PDA determines to a large extent the changes in the policies for persons with disabilities which are important to the citizens.

In implementation of the PDA provisions and pursuant to the requirements of Article 33, para 2 of the UN Convention on the Rights of Persons with Disabilities (CRPD), a Monitoring Council was set up in 2019.

Although a certain progress can be noted as a result of the reforms undertaken with respect to the rights of persons with disabilities, the complaints submitted to the Ombudsman institution in 2019 show that there are still issues which need to be resolved.

In 2019, the Ombudsman worked to resolve problems in the following areas:

Social and economic protection

In 2019, the citizens had serious difficulties in applying the PDA texts regarding the transfer of monthly benefits for social integration and the benefit for social invalidity pension to the monthly financial support provided under the law. The amount of the monthly financial support and the distribution of the entitled persons in Article 70, item 3-5 PDA also give rise to a sense of unfairness for some groups of citizens with disabilities.

Social services and personal mobility

In 2019, there was a lack of opportunities to provide the help of an assistance under the existing programs and projects. The entry into force and the implementation of the Personal Assistance Act overcame significant deficiencies in the system for providing the help of an assistance until then. Still, the complaints outline serious difficulties for those in need with the requirement for the persons with disabilities to waive the benefit for additional help paid out with



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the pensions by the National Social Security Institute if they wish to use the mechanism of personal assistance. There are still problems for single citizens in small places to find a personal assistant to provide care for them as well as with the procedure to determine the number of hours for personal assistance.

Auxiliary appliances and medical products

No change was found in the problems with the current procedure for funding and providing auxiliary appliances, devices, gear and medical products: the procedure to provide the auxiliary appliances, devices, gear and medical products; their quality; their term of use; the amount of the grants provided by the State to buy/manufacture the medical products for children and adults.

There are significant expectations for amendments to the texts of Article 73 PDA introducing the requirement for provision of medical products meeting certain quality standards.

Accessible environment

In opinions and recommendations, the Ombudsman has repeatedly reminded the heads of the responsible authorities that the prevailing part of the decisions to overcome the architectural obstacles for people with disabilities do not require significant resources but only the introduction of reasonable facilities and reorganization of the access for citizens and the admission of their documents. There are still serious problems with the accessibility of the environment which need to be overcome.

Healthcare and rehabilitation

A significant number of citizens complain against the amendments to the Ordinance on Medical Expert Examinations in force as of 3 August 2018 which change the starting points and the evaluation methodology, indicating fixed percentages for each illness/condition and restrictions in determining the overall percentage in the event of more than disability.

Another problem is the implementation of the provision of Article 112, para 9, proposition 1 of the Health Act by the social assistance authorities.

Employment

Bulgaria has introduced the so called “quota principle” for the first time (through Article 38 PDA). However, despite the obligatory nature of the provision, employers are still reluctant to hire persons with disabilities and some of them are even more likely to pay compensation contributions than to support a person with a disability.

Main recommendations:

- The reform started in the area of policies for persons with disabilities in Bulgaria needs to continue and to be implemented in partnership with the persons with disabilities themselves and their organisations



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- There should be no more delay in transferring the provision of auxiliary appliances and medical products laid down in the PDA from the Ministry of Labour and Social Policy to the Ministry of Health and the National Health Insurance Fund
- Apply an individual approach in providing monthly and targeted funds and in providing social services
- Create conditions for employment of persons with disabilities by financing, promoting and developing the national program for employment of persons with disabilities laid down in the PDA which entered into force in 2019
- Create appropriate social services in the family environment and in the community to support independent lives
- Guarantee the quality and accessible healthcare for persons with disabilities, including appropriate rehabilitation
- Reduce the administrative burden when social services are used and social benefits provided
- Introduce, at government institutions, integrated electronic services for persons with disabilities and create an effective register integrated between the responsible institutions which will contain the up-to-date information necessary to observe the rights of persons with disabilities, as provided for in the PDA
- Pursue an adequate reform of medical expert examinations and the expert examinations of the fitness for work with the active participation of persons with disabilities and their representatives
- Provide for mechanisms for actual performance of the commitment of the Ministry of Labour and Social Policy for an accurate implementation of Article 112, para 9, proposition 1 of the Health Act by the structures of the social assistance system
- Guarantee the receipt of support in the form of social services for the period of appeal against the expert decisions of the a Territorial/National Expert Medical Commission



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On 3 December 2019, on the occasion of the International Day of Persons with Disabilities, the Ombudsman organised a forum for the protection of young people with intellectual disabilities “We Can Too!”

The event was held in partnership with the Civil Formation Parents in Action together with representatives of the Monitoring Council – a monitoring authority under the Convention for the Rights of Persons with Disabilities, Lumos Bulgaria Foundation and Maria’s World Foundation. The Ombudsman issued a special recommendation to the largest employer organisations to support the rights to labour of people with disabilities.