



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 2021

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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 2021

In 2021, the activities of the Ombudsman on monitoring the implementation of the CRPD were carried out in relation to complaints submitted by citizens to the Ombudsman as well as in view of the activities of the Monitoring Council set up in 2019 in execution of Article 33, paragraph 2 and paragraph 3 of the CRPD, managed by the Ombudsman until July 2021. The cooperation of the Ombudsman with the representatives of persons with disabilities within the work of the Monitoring Council is under the motto “Nothing About Us Without Us!” which was used by persons with disabilities and their representatives in the development of the Convention and which is enshrined in the text of Article 4, para 3 of the CRPD.



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

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

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

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

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

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

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

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

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

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

Monitoring Council activities in 2021



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The Monitoring Council continued to proactively perform its functions for promotion, protection and monitoring of the implementation of the CRPD in the past year.

The main focus of the work was the impact of the restrictive measures imposed in connection with the dissemination of COVID-19 on the rights and interests of people with disabilities and their families. Problems were identified in the application of Article 12, paragraph 8 of the Act on Measures and Actions During the State of Emergency Declared by a Decision of the National Assembly of 13 March 2020 and to overcome the consequences after 1 January 2021, while users of social services were forced to pay fees without any change in the epidemic situation.

Serious attention was paid to current issues that made it difficult for people with disabilities to lead independent lives and exercise their rights. Actions were taken to enable citizens with permanent disabilities who have a certain type and degree of disability/degree of permanently reduced working capacity, but are not entitled to external assistance, to receive assistance from 1 January 2021.

Recommendations were made regarding problems in the Information System for Control of the Medical Expertise, preventing citizens from using all its functions.

The members of the Council discussed the amendments to the Ordinance on Medical Expertise and made recommendations to the Minister of Health to resolve the problem with the inadequately determined percentage for the type and degree of disability/degree of permanently reduced working capacity of people with more than one disease.

New recommendations for regulating the determination of lifelong timeframe for persons with permanently reduced working capacity/type and degree of disability for all cases when the leading disability is definitive were discussed.

Subsequently, in response to the recommendations made, actions were taken to amend the Ordinance on the Medical Expertise, being an important step towards addressing the problems.

The Ombudsman brought to the attention of the minister the issue of the different application of the new provisions and the problem with the established short period within which the affected citizens can benefit from the more favourable conditions granted for appearing before the medical expertise bodies.

In regard to the recommendations, clarifications to the country's Regional Health Inspections were provided by the Ministry of Health on the implementation of the new legislation.

Under the chairmanship of the Ombudsman in the past year the Monitoring Committee successfully closed the issue of the approval of monitoring indicators under Article 9 of the CRPD.

Indicators are an important tool for monitoring the progress in the realization of the rights of people with disabilities. They may establish gaps in the implementation under Article 9 of the Convention on Accessible Environment.

On 8 July 2021, the last meeting of the Monitoring Council was held under the chairmanship of the Ombudsman institution of the Republic of Bulgaria. According to the requirements of the



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People with Disabilities Act, the activities of the Monitoring Council for the next two years will be administered by the Commission for Protection against Discrimination.

During the two years of its operation the Monitoring Council sent 14 specific recommendations to the directors of the responsible institutions and more 10 of them were fully implemented.

The Ombudsman prepared and published a detailed overview of the Council's activities under its administration.

Main recommendations:

1. Transform the Agency for Persons with Disabilities in State Agency for Persons with Disabilities within the term laid down in the Persons with Disabilities Act after discussions and consultations with organisations of and for persons with disabilities.
2. Carry out the transfer of the provision of auxiliary means and medicinal items laid down in the Persons with Disabilities Act from the Ministry of Labour and Social Policy to the Ministry of Health and the National Health Insurance Fund.
3. Take action to continue the reforms of medical expertise and examinations of the ability to work with the active involvement of representatives of persons with disabilities in broad public discussions and publicity.
4. Accelerate the procedure for ratification of the CRPD Optional Protocol.

THE OMBUDSMAN IN DEFENCE OF PERSONS WITH DISABILITIES

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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