



CONVENTION  
ON THE RIGHTS  
OF PERSONS  
WITH DISABILITIES



OMBUDSMAN OF THE REPUBLIC OF BULGARIA

## MONITORING COUNCIL REPORT 2019

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### THE COUNCIL

From January 1, 2019, according to Art. 11, para. 1 of the Persons with Disabilities Act (PDA), a Monitoring Council is established to carry out the functions of promoting, protecting and monitoring the implementation of the Convention on the Rights of Persons with Disabilities, in compliance with Art. 33, para. 2 and 3 of the Convention on the Rights of Persons with Disabilities (CRPD).

The Monitoring Committee is composed of 9 members – two representatives appointed by the Ombudsman of the Republic of Bulgaria, two representatives appointed by the Chairperson of the Commission for Protection against Discrimination, four representatives of the organizations of the persons with disabilities appointed by and one representative of the academic community designated by the Bulgarian Academy of Sciences.

The activity of the Monitoring Council is administered through the administration of the Ombudsman of the Republic of Bulgaria and the Commission for Protection against Discrimination on a rotation basis for a period of two years.

According to § 1 of the Transitional and Final Provisions of the PDA for the first two years (July 2019 to July 2021), the Monitoring Council should be administered by the Administration of the Ombudsman of the Republic of Bulgaria.

The Monitoring Board:

1. prepares opinions, recommendations and suggestions to responsible institutions, to prevent and end violations of the rights of people with disabilities;
2. draws up annual reports on actions, taken to implement the Convention on the Rights of Persons with Disabilities;
3. performs periodic review and evaluation of the national legislation, practices and draft regulations for compliance with the provisions of the Convention on the Rights of Persons with Disabilities;
4. performs also other activities, related to promotion, protection and monitoring of the implementation of the Convention.



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The Chair of the Monitoring Council is a representative of the institution administering the activities of the Monitoring Council.

The Monitoring Board works on the basis of an annual program adopted by it and report annually to the National Assembly on its activities by 31<sup>st</sup> of May.

### **THE ACTIVITIES OF THE OMBUDSMAN OF THE REPUBLIC OF BULGARIA AND THE MONITORING COUNCIL REGARDING PERSONS WITH DISABILITIES**

1. On 08.07.2019, the first meeting of the Monitoring Council was held, chaired by the Ombudsman, who is also its first rotating chairman.

At its first meeting, the members discussed important issues related to the difficulties met by persons with disabilities when applying for personal assistance, as well as the lack of information or misinformation regarding the mechanism and the possibilities for using it.

The Ombudsman focused on to the assistance services for the elderly and people with disabilities, outside the scope of personal assistance, which end by August 31, 2019 and for which no extension had been planned at the time of the meeting:

Some people with severe disabilities rely on the personal assistance mechanism. However, there remains a large number of people with severe disabilities who, for one reason or another, do not meet the requirements of the Social Assistance Act and need other social services. As a result of the social policy reform that began in 2018, a new Social Services Act (SSA) was adopted in March 2019, which is expected to modernize the social services system and contribute to overcoming the existing problems in this area. However, the entry into force of this law has currently been postponed and the problems in the social services system remain.

The Ombudsman also presented the four groups of citizens who didn't receive the financial support under Art. 70 of the Disabled Persons Act they really need:

- The distribution of beneficiaries in the individual groups specified in Art. 70, items 3 - 5 of the Disabled Persons Act is not correct and fair. Disabled persons with over 90 percent degree of disability with certain external assistance, who receive a military disability pension, are omitted from the explicit listing in Art. 70, items 4 and 5. They are included in item 3 and receive 87 leva (the general group). This concerns 181 disabled military persons who receive a military disability pension close to the amount of the social disability pension and are deprived of more than 100 leva monthly (in total, these people will need about 300,000 leva per year).
- Disabled persons who have a social disability pension, but due to the death of a parent/parents receive a survivor's pension instead, are omitted from the explicit listing in Art. 70, items 4 and 5. The Social Security Act provides for the possibility of choosing the more favorable pension option, which people with disabilities have



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done and have chosen a hereditary pension instead of a social disability pension (their increase is about 5.70 leva per month). However, the Social Security Act does not provide for the possibility of refusing the more favorable pension and returning to the old pension. For this reason, people with disabilities fall into the general group of people with disabilities with over 90 percent degree of disability and receive financial support in a lower amount (Art. 70, item 3).

- In Art. 70, item 3 of the Social Security Act does not take into account the different needs of people with disabilities who are entitled to external assistance and who receive a pension for insurance experience and old age. These people are placed in the same group as people with disabilities with a certain 90 and over 90 percent degree of disability, but without external assistance.
- People with disabilities with a certain 71 to 90 percent degree of disability are affected, who simultaneously received monthly social integration supplements under the repealed Law on the Integration of People with Disabilities (ZIHU) and the so-called "quarter" social disability pension. The specified monthly financial support in the amount of 15 percent of the poverty line does not lead to an increase in the support granted to them until December 31, 2018.

In view of the complaints received by the institution, the issue of changes in the procedure for conducting a medical examination has also been raised for discussion. The Ombudsman expressed his concerns arising from changes in the Regulation on Medical Expertise, and in particular from the one-month period provided for re-examination, provided by paragraph 3 of Decree No. 139 of June 6, 2019, published in the State Gazette, issue 46 of June 11, 2019, in force from June 11, 2019, on amendments and supplements to the Regulation on Medical Expertise.

The Council decided to prepare and send recommendations to the responsible institutions:

- to conduct a more targeted information campaign on personal assistance;
- to extend the term for assistance services for elderly people unable to self-care who do not comply with the Personal Assistance Act;
- to resolve the problems with the amount of monthly financial support and the distribution of those entitled under Art. 70 of the Act on Persons with Disabilities.

The recommendations to extend the term for assistance services for elderly people unable to self-care and people with disabilities who do not fall within the scope of the Personal Assistance Act, and to conduct a more targeted information campaign on personal assistance have been implemented.

2. The second meeting of the Council was held on 21 October.

The Rules of Procedure and Organization of Work of the Monitoring Council and the Annual Program for the period October 2019 - December 2020 were adopted.



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It was decided to hold a meeting with representatives of the European Union Agency for Fundamental Rights (FRA) to review existing good practices in monitoring under the CRPD and the opportunities for exchanging useful experience and information with independent monitoring bodies.

3. The Ombudsman's institution receives numerous complaints from families with children with disabilities, in which problems are raised with the payment of monthly allowances for raising a child with a permanent disability up to the age of 18 and until the completion of secondary education, but no later than the age of 20, under Art. 8e of the Family Allowances for Children Act (FAAC).

Citizens say that they are not clear at what point they can rely on the funds under Art. 8e, which is why they cannot plan their expenses related to medicines, transport or food. The lack of specifically established dates or at least a clearly defined period within the month, with a starting and ending day, as is the case with pensions, in which there is certainty that the money has been transferred, condemns citizens and their families to uncertainty, leads to tension and repeated checks on their part at post offices or ATMs, thus violating their dignity.

The specified term in the provision of Art. 9, para. 1 of the ZPD does not provide sufficient clarity and security to the families of children with disabilities. Moreover, in gross disregard of the significant needs of the families of children with disabilities, it is incorrectly provided that the funds are paid in the month following the month for which they are due.

Monthly benefits for raising a child with a permanent disability up to the age of 18 and until the completion of secondary education, but no later than the age of 20, could not fulfill their purpose if the families do not know exactly when they will be able to receive and use them. I should emphasize that these benefits are granted in order to support families in meeting the basic and specific needs of children with permanent disabilities due to the disability and to provide care and support in a home and family environment.

With great concern for the rights of children with disabilities and their families, I note that families who have chosen to receive the benefits by mail are particularly affected. In case the beneficiaries do not claim their money within the established short period, regardless of the reasons, they are returned to the Social Assistance Agency. Families are left without the funds they are entitled to for the current month, and their right to claim is also seriously threatened by the three-month statute of limitations provided for in Art. 12, para. 3 of the Social Assistance Act.

On the other hand, those who choose to receive the funds by bank transfer often become victims of the banks' policies of charging commissions and fees for servicing bank accounts and for withdrawing from debit cards. This violates the provisions of Art. 13 of the Social Assistance Act, according to which monthly benefits are exempt from taxes, fees and deductions.

The lack of clear deadlines for the payment of monthly benefits violates the UN Convention on the Rights of the Child and the CRPD and the goals set therein for protecting the rights of



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children with disabilities. The possibilities for overcoming the deep social isolation of people with disabilities and ensuring equal opportunities for their participation in public life are also limited.

A recommendation has been sent to the Minister of Labor and Social Policy. The response received indicates that the Ministry of Social Affairs is aware of the problem. No action has been taken at this time.

4. Citizens complain in their complaints that the state does not provide adequate support to parents with disabilities. An example is given that the children of these parents are deprived of the opportunity to receive family benefits for children under Art. 2, para. 3, item 2 of the Family Benefits for Children Act since the disability pension of the parents is considered income. (§ 1, item 2 of the Supplementary Provisions of the Family Benefits for Children Act).

The parents note that given their health condition, the disability pensions they receive in most cases are their only income and are used primarily to meet their needs for treatment, rehabilitation and the provision of appropriate medical devices and assistive devices. These funds are not sufficient to guarantee the right of their children to a standard of living that is consistent with the needs of their physical, mental, spiritual, moral and social development.

The Bulgarian state should provide appropriate assistance to people with disabilities in exercising their responsibilities for raising children. This obligation is imposed on the responsible authorities by virtue of the provisions of the UN Convention on the Rights of the Child and the UN Convention on the Rights of Persons with Disabilities (CRPD), and in particular Article 24 of the CRPD.

Recommendations have been sent to the Minister of Labor and Social Policy to introduce mechanisms for adequate support for citizens with disabilities who are parents of minor children. It is also recommended that measures be taken for regulatory changes, through which disabled parents will be provided with the opportunity to receive monthly benefits under Article 2, Paragraph 3, Item 2 of the ZSPD for raising their children, with disability pensions being included in the exceptions of §1, Item 2 of the Additional Provisions of the Family Benefits for Children Act.