



CONVENTION  
ON THE RIGHTS  
OF PERSONS  
WITH DISABILITIES



OMBUDSMAN OF THE REPUBLIC OF BULGARIA

## MONITORING COUNCIL REPORT 2022

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### THE COUNCIL

Monitoring and promoting the effective implementation of signed and ratified international human rights instruments is one of the leading functions of the Ombudsman of the Republic of Bulgaria.

Through its active activities, the institution makes a significant contribution to monitoring and assessing the development of the system in the country and its compliance with the requirements of ratified international human rights instruments.

The main emphasis in monitoring is on measures to implement the UN Convention on the Rights of Persons with Disabilities (CRPD).

The Ombudsman carries out monitoring on the basis of the powers granted in Art. 19, para. 1, item 12 of the Ombudsman Act and by virtue of Art. 11 et seq. of the Law on Persons with Disabilities, which regulate the participation of the Ombudsman in the activities of the Monitoring Council.

The Monitoring Council was established in 2019 in implementation of Art. 33, para. 2 and 3 of the CRPD and in 2022 is chaired entirely by the Commission for Protection against Discrimination.

The Monitoring Council held three meetings over the past year, and due to the COVID-19 situation, the meetings were in a hybrid format.

The meetings continue the practice introduced by the Ombudsman institution to discuss current issues related to the rights of people with disabilities and their families, as well as to actively cooperate with the responsible institutions on individual problems. As an independent human rights body, whose activities are subject to the Constitution, laws and international treaties to which the Republic of Bulgaria is a party, as well as in his capacity as the rotating chair of the Monitoring Council, the Ombudsman also monitors the implementation of the Convention on the Rights of Persons with Disabilities (CRPD).



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

In connection with the complaints received by the ombudsman institution from people with disabilities and their families and in order to guarantee the rights of affected citizens, the Public Defender sent opinions to the National Assembly when discussing the submitted drafts of the State Budget for 2022 Act., of the Budget of the State Social Insurance for 2022 Act and of the Budget of the National Health Insurance Fund for 2022 Act:

**1.** The Ombudsman has made a proposal to amend the draft Law on the State Social Insurance Budget for 2022 in connection with a potential damage that people with disabilities using personal assistance may suffer as they may lose the amount of pensions' compensation paid for January and February 2022.

People with severe disabilities receiving personal assistance suffer a damage because the personal assistance allowance is also taken into account together with other deductions when determining the amount to be compensated.

In connection with the problem, the Ombudsman institution sent a legislative proposal to amend the Bill on the Budget of the State Social Insurance for 2022, asking that the funds for the supplement for personal assistance under Art. 103 of the Social Security Code not to be taken into account when determining the amount of compensation.

**2.** A proposal has been made for an amendment to the draft Law on the State Budget of the Republic of Bulgaria for 2022, asking for concrete actions to solve the problem of unfair amounts of monthly financial support under the Law on People with Disabilities paid to disabled people as a result of military actions with the right to personal assistance and for people with disabilities with inherited pensions.

**3.** It is proposed in the draft Law on the State Budget of the Republic of Bulgaria for 2022 to amend Art. 18 of the Personal Income Tax Act, introducing a mechanism for updating tax relief for people with disabilities.

In the complaints received by the institution of the ombudsman, citizens with disabilities express their dissatisfaction that the determined BGN 7,920, which reduces the amount of the annual tax bases under Art. 17 of the Personal Income Tax Act for persons with 50 and over 50 per cent reduced working capacity have not been updated since 2008.



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At the time of the introduction of the tax exemption, the minimum wage was BGN 220, and over the years its amount has increased almost threefold until 2021. However, no update mechanism has been introduced for the amount of the tax exemption.

The Ombudsman stressed the fact that the support for working people with disabilities under Art. 18 of the Personal Income Tax Act is essential for them and their rights, as it provides them with additional opportunities and means to compensate for deficits caused by disabilities. Without adequate updating, this support mechanism loses its positive impact and becomes meaningless over time.

**4.** A significant number of non-governmental organizations, providers of social services to people in vulnerable situations seek assistance from the institution of the Ombudsman. The organizations note that after the drastic increase in electricity and gas prices, service providers are facing serious difficulties in meeting emerging costs. They point out that the approved Standards for the activities delegated by the state with natural and value indicators in 2021, as well as the implemented projects under the Operational Programs do not provide for such a significant increase in prices and the set funds are insufficient to allow normal functioning of social services

The organizations emphasize that an additional problem with the financing of the activities is the lack of funds to cover the costs of increasing the salaries of workers in the social sphere after the entry into force of the Ordinance on remuneration standards for employees performing activities of social services financed from the state budget, from January 1, 2022

It is noted that the situation will seriously affect users of social services over 18 years, for which fees for January 2022 will already be calculated based on the new prices of electricity and natural gas. This means that there will be an increase in fees of between 30% and 40%, which will be an unbearable burden for vulnerable people, such as people with disabilities and low-income older people.

The Ombudsman made several recommendations to all responsible authorities to resolve the issue.

- 5.** In connection with the complaints received by the institution regarding the charging of additional fees for connection to the Unified Telephone Number of the National Social Security Institute (0700 14 802), the Ombudsman sent an opinion to the manager of the National Social Security Institute.

The opinion emphasized that the Single Telephone Number is the main channel for citizens to receive information on issues related to social security.

It is recommended to the National Social Security Institute to consider the possibility of appropriate resolution of the issue, while guaranteeing the rights of citizens using the services of the NSSI.



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In connection with the recommendation made by the NSSI, its Board of Directors announce that they an additional hotline will be open, which is intended solely for individual consultations. In this way, the NSSI expects to reduce the load on the Single Telephone Number and to improve the service to citizens who need other information.

6. After repeated actions and a submitted bill prepared by the Ombudsman even before Easter, the National Assembly adopted amendments to the Measures and Actions during the State of Emergency and Addressing the Consequences Act (MASE Act) declared by virtue of Resolution of the National Assembly of 13 March 2020.

The new texts are effective from 1 July 2022 and retroactively extend the validity of expert decisions of medical examination bodies which expired in the period from 13 March 2020 to 30 June 2022. Based on the changes made, citizens are able now to receive the support they deserve as disabled people for the entire period until the new medical document comes into force, but no later than 31 December 2022.

It should be noted that as early as 19 April Prof. Kovacheva was first to raise the alarm about the problem with the expired TELK decisions and informed the National Assembly about numerous complaints and reports received by the Ombudsman about the difficulties faced by people with disabilities in exercising their rights after 1 April 2022, i.e. after the end of the emergency epidemic situation. Even then, the Ombudsman recommended to the Minister of Health and the Minister of Labour and Social Policy to consider mechanisms for providing the necessary support to citizens with disabilities whose expert decisions expired in the period 1 April 2022 – 30 June 2022, including them in the scope of the MASE Act. Even then, she pointed out that there should be an understanding of the need of these citizens to be able to receive the social support they need in a timely manner until a new expert decision is issued and it enters into force.

7. The Ombudsman also sent a new opinion to the Minister of Transport and Communications and to the Minister of Labour and Social Policy in relation to the provision of Article 10c of the Roads Act (RA) introducing restrictive requirements for exemption of disabled people and their families from paying vignette fees.

The opinion again recalled the definitive position of the institution that the provision of Article 10c of the Roads Act violates the rights of a significant number of needy people with disabilities and their families.

The main problem still are the technical parameters that must be met by passenger cars owned by citizens with disabilities or in the matrimonial property regime. Although declared as discriminatory in the Anti-Discrimination Commission, the criteria continue to apply.



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The provisions do not provide for the necessary flexibility in cases where the car is not registered in the name of the disabled person, but in the name of a family member, and the disabled person remains outside the scope of Article 10c, paragraph 2 of the Roads Act. In a similar situation are disabled people who have acquired cars in a simple co-ownership regime, in most cases by inheritance.

The legal framework does not cover cases of concluded lease contracts for cars.

**8.** The public defender also sent a recommendation to the Minister of Labour and Social Policy in connection with the lack of a mechanism for automatic update of the amount of monthly allowances for raising children under Article 8e, paragraph 2 of the Family Allowances for Children Act (FAC Act) over the years. In view of the provision of Article 8e, paragraph 2 of the Family Allowances for Children Act, which does not allow the amount of the allowance to be less than that in the previous year, the amounts of financial support for individual groups of beneficiaries have been left for 5 years without changes in the State Budget of the Republic of Bulgaria Act.

The Ombudsman emphasized that the monthly allowances are the only support for families with children with disabilities, which is granted in the form of monthly cash allowances. They support the income of carers and constitute major assistance in the efforts to ensure a dignified life for children with disabilities in a home and family environment, taking into account their best interests.

The opinion pointed out the problem with the amount of monthly allowances under Article 8e, paragraph 8 of the Family Allowances for Children Act. It is noted that upon initial certification, even upon full compliance with all established requirements and terms of Article 8e, paragraph 8, the monthly allowances payable for the period before the submission of the application-declaration until the date of disability stated in the expert decision of TELK/NELK (not more than one year ago) are paid only at 50 per cent of the amount of the assistance determined in accordance with Article 8e, paragraph 3 for the respective year.

It was also noted that the payment of the monthly allowances is terminated when children with disabilities reach the age of 18 and until they complete secondary education, but no later than the age of 20. The provision does not take into account the fact that it is possible for children to have reached the age of 20 but to not have completed their secondary education for medical reasons.

**9.** During the period of public discussions, the Ombudsman sent an opinion regarding the normative acts governing the procedure for granting and providing medical devices, aids and facilities to disabled persons after their transfer to the realm of the Ministry of Health.

The opinion emphasized the importance of ensuring appropriate opportunities for citizens to easily submit applications for the provision of medical devices. The envisaged





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application procedure through the information database under Article 108a, paragraph 1 of the Health Act does not ensure that everybody in need will receive the necessary assistance from the competent authorities under the procedure for issuing a medical document under Article 73, paragraph 1 of the Persons with Disabilities Act. In order to maximize the interests of all citizens, it is essential to explicitly include an obligation on medical examination authorities to provide support.

The Ombudsman also insisted on the creation of a mechanism to protect the rights of citizens with disabilities in the event of a refusal by a Regional Health Insurance Fund or the National Health Insurance Fund (NHIF) to provide the medical devices determined by the medical examination authorities.

The public defender also noted the unjustified increase of the period for fulfillment of the obligations by the responsible persons and for providing the specified aids, devices, equipment and medical devices from 3 months, as it was before the entry into force of the new regulations, to 6 months. It should be pointed out that the proposed deadline does not meet the needs of citizens for adequate and timely support. People with disabilities, especially children and citizens in need of an anti-decubitus mattress or a wheelchair, need their designated medical device at the time of issuing the medical document under Article 73, paragraph 1 of the Persons with Disabilities Act.

Last but not least, the opinion recalled the position expressed by the Ombudsman that through all stages of the process of determining the lists and specifications of medical devices and aids and the limits up to which the NHIF will pay for them, as well as their update, it is mandatory to include a certain number of representatives of disabled people and their organizations in the responsible bodies.

**10.** The Ombudsman of the Republic of Bulgaria brought to the attention of the acting Minister of Health the problems in the examination/re-examination of disabled people by the medical examination authorities. The opinion sent noted that the main problem remains the inappropriate organization of the work of the commissions and their overload, which leads to the scheduling of dates for consideration of the documents of individual citizens long after their expert decisions have already expired

The Ombudsman has stressed once again that the lack of adequate actions to solve this serious problem puts a significant number of citizens in a crisis situation, without income and without the opportunity to meet the emerging costs of food, medicine and consumables for the homes in which they live.

It has been emphasized that in the last few months there has been an increase in complaints in connection with the serious delays in scheduling dates for people with disabilities whose expert decisions have expired after June 30, 2022.

In the opinion, it is reminded that even when considering the draft law in the National Assembly, the ombudsman drew attention to the fact that without the inclusion of citizens



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whose expert decisions have expired after June 30, 2022 within the scope of the provision, there is a risk that they will be in an unequal position compared to those expressly covered by the regulation.

In view of the importance of the issue of the rights of a large number of citizens with disabilities and their families, it is recommended that all necessary efforts be made to guarantee the interests of those concerned.

**11.** The Ombudsman also sent an opinion to the Acting Prime Minister, the Minister of Health and the Chairman of the Central Electoral Commission to ensure the possibility of citizens in a vulnerable position to exercise their voting rights in the early parliamentary elections scheduled for October 2, 2022.

In the opinion the Ombudsman stresses that the election rules still fail to provide adequate access for a significant part of people with disabilities to the electoral process. Appropriate conditions have not been created for these vulnerable citizens and the requirements of a number of international acts have not been fully met to ensure universal, equal and secret voting or through an equivalent procedure ensuring freedom of voting.

In this regard, the recommendations of the Committee on the Rights of Persons with Disabilities under the UN Convention on the Rights of Persons with Disabilities in connection with Bulgaria's initial report on the implementation of the international act of September 21, 2018 are recalled. The Committee recommends that Bulgaria's authorities provide the opportunity for all adults with disabilities to exercise their right to vote in elections and be elected. It is also recommended that the State Party prepare election information in accessible formats, including Easy Read, and allocate financial and technical resources to improve the physical accessibility of polling stations.

These findings and recommendations are also reflected in the report of the European Economic and Social Committee (EESC) in relation to the access of citizens with disabilities in the European Union to the European Parliament elections. The report was published on 6 March and adopted by the EESC session on 20 March 2019.

The other significant issues raised in complaints to the Ombudsman are:

- Lack of sign translation for the hearing impaired in the electoral poll offices in case of problems with the technical devices for machine voting;
- Unsecured possibility to give a light signal from the devices when printing the control receipt for the reflected vote, which makes it difficult for people with hearing impairment to exercise their right to vote and creates prerequisites for blocking the machines and not counting their vote. So far no action has been taken either to adapt the devices or to set up a suitable organization to assist the hearing impaired by the members of the Sectional Election Committees by hand signaling the sound signal.



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- It is not intended that official information about the voting process will be available in the Braille sections and appropriate audio formats;

- The secrecy of the vote for blind citizens cannot yet be fully preserved, as no action was taken to adapt the machine software to the needs of the visually impaired for more than 8 months.

Considering all the above, the Ombudsman has stressed the need to:

1. The National Electoral Commission to take actions to prepare the space in front of the polling station, explicitly including the requirement to place an audio player and a Braille template with a list of candidates in front of the designated voting station for voters with impaired vision or with mobility difficulties and the parties appearing on the ballot.

2. To provide access to the hearing-impaired people to the services of a sign interpreter online (in cases where the hearing-impaired person needs an explanation and cannot understand the members of the election commission - possibly one or at most two sign interpreters will be enough for the whole of Bulgaria for election day).

3. To introduce a toll-free telephone number where information about the voting process can be obtained, not only to make inquiries about inclusion in the voter lists and not only on the day of voting.

**12.** The Ombudsman also expressed her concern to the Acting Minister of Health that the State provides adequate rehabilitation only for people with cerebral palsy. Similar opportunities are not provided for the rest of the citizens, who also have a need for appropriate and systematic rehabilitation in order to achieve an improvement in the functional state and to create an opportunity to lead an active and dignified life. An indisputable example in this direction are the people after poliomyelitis in Bulgaria. The injury requires active rehabilitation, which is currently not covered by the National Health Insurance Fund.

In the opinion sent to the Minister of Health, it is emphasized that, as a country that has signed and ratified the UN Convention on the Rights of Persons with Disabilities, Bulgaria has the obligation to take appropriate measures to ensure the access of all people with disabilities to disability-friendly their health services, including medical rehabilitation.

It is recommended to seek and use all possible mechanisms to include in the clinical pathways explicit opportunities for state financing of rehabilitation procedures tailored to individual needs, covering all those in need.





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### **13. Legislative amendments, initiated by the Ombudsman of Bulgaria, reaffirm that people with disabilities have full access to their rights**

At the end of November 2022, the Ombudsman of the Republic of Bulgaria submitted to the National Assembly a set of legislative amendments in the Law on People with Disabilities (PWD) and the Law on Health, which aim to overcome the most serious problems people with disabilities face – namely the delay in their re-examination by the medical examination authorities.

The proposal was accepted by the MPs and after a process of discussion, it was accepted by the National Assembly.

The Ombudsman insisted that legal provisions shall make it possible for people with disabilities to have full access to their rights and the social support they need even after the expiry of their medical documents and in the event of a delay by the medical examination authorities until the issuance of the new expert opinion. The newly adopted legal provisions expressly stipulate that people with disabilities will not be held responsible for the delay of the competent authorities and will not return the funds received even if the type and degree of disability subsequently changes.

With the adoption of the law amendments, expert decisions will have legal consequences in the process of their appeal and people will have the opportunity to enjoy their rights without interruption, as well as that they will not recover the received in more funds in case of a possible change in the type and degree of their disability.

It is essential that the new provisions also apply to proceedings initiated and not concluded before the entry into force of the amendments, as well as those initiated and not concluded up to four months after their entry into force, where there are delays.

The Ombudsman of Bulgaria is pleased to note that her legislative proposal has been approved by MPs, thus providing an opportunity to solve serious problems that affect more than 660,000 vulnerable citizens in Bulgaria. The final text was promulgated by SG No. #8 January 25, 2023

At the same time, it is an important success to implement the recommendations of the institution, when determining the type and degree of disability, to evaluate the general condition of people with disabilities, taking into account accompanying diseases. This becomes a fact with the adoption of the Draft Amendment and Supplement to the Ordinance on Medical Expertise dated 25.01.2023.



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### **14. The Ombudsman of Bulgaria advocates for the rights of people with disability to have access to the disability pension due to a general illness**

The Ombudsman of the Republic of Bulgaria brought to the attention of the Acting Deputy Prime Minister for Social Policies and Minister of Labor and Social Policy a serious problem related to the provisions of Art. 74 of the Social Security Code (SSC).

In her opinion, the public defender emphasizes that the text of Art. 74 requires disabled people with 50 and over 50 percent type and degree of disability/degree of permanently reduced working capacity to have acquired insurance experience until the specified date of disability in order to be able to receive a disability pension due to a general illness.

From the numerous complaints received from citizens with disabilities, it has been established that a significant part of young people with disabilities, up to the age of 25, cannot acquire the required insurance experience.

On the one hand, due to the nature of their illnesses, part of disabled citizens are significantly prevented from working and acquiring the prescribed insurance period until their disability, which in turn puts them outside the group of persons entitled to grant a disability pension due to a general illness.

On the other hand, until reaching the age of 18, children with disabilities cannot work due to age restrictions and due to the disease itself. After reaching the age of 18, now as adults, they again face difficulties in finding work and acquiring the required experience, given the lack of suitable employment and the still existing stigma about the capabilities and needs of these vulnerable citizens.

The opinion drew attention to the other serious problem with the provision of Art. 74 of the SSC, namely – that the insurance experience has been accumulated until the date of disability. In many cases, the disability occurred before the required length of service for a disability pension due to a general illness was acquired, and the citizens then continued to work. Regardless of the work they put in and additional – in the case of some citizens significant – insurance contributions, it turns out that the provision of Art. 74 of the SSC deprives those in need of the opportunity to receive a disability pension due to general illness. In the event that there is no change in the date of the disability or no other illness has subsequently occurred, which has become leading according to the medical examination authorities, this deprivation may be for life.

In her statement to the Minister of Labor and Social Policy, the Ombudsman emphasized that the condition and needs of disabled citizens require full assistance from the state as soon as the disability occurs and is established, and recommended that the



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problem be examined and the necessary actions be taken for its positive development that adequately guarantees the rights of people with disabilities.

### **15. The Ombudsman of Bulgaria stands for the rights of people with reduced mobility to have access to intercity transport services**

The Ombudsman of Bulgaria sent a recommendation to the Minister for Transport and Communications in relation to the difficulties faced by people with reduced mobility when using intercity bus services.

In the opinion, the ombudsman noted that a significant number of buses are inaccessible to disabled people who use wheelchairs. She emphasized that due to the lack of suitable conditions, people are prevented from traveling to their desired destination.

In the opinion, the ombudsman emphasizes that the railway network, although seriously developed, does not cover all settlements in the country. Especially in remote and smaller areas, bus transport and bus services are often the only option for getting around by public transport. Failure to provide adapted buses in practice means that people with reduced mobility are left with no alternative and no support from the responsible authorities to exercise their rights when it is necessary to travel outside the settlement. What's more - the lack of suitable transport creates real conditions for depriving the affected citizens of access to the treatment they need and the opportunity to use social services.

In order to guarantee the rights of people with disabilities, a recommendation has been made to take adequate actions to solve the problems, ensuring the interests of people with reduced mobility.