



CONVENTION
ON THE RIGHTS
OF PERSONS
WITH DISABILITIES



OMBUDSMAN OF THE REPUBLIC OF BULGARIA

MONITORING COUNCIL REPORT 2023

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THE COUNCIL

The international instruments to which Bulgaria is a party are not only an important source of law, but also an essential reference point for the measures that should be taken to ensure the rights and interests of citizens in the best possible way.

In the field of people with disabilities, the leading contribution is made by the UN Convention on the Rights of Persons with Disabilities (CRPD), ratified not only by the Bulgarian state, but also by the European Union. Given its role in the fight to overcome the challenges facing this vulnerable group of citizens and the existing prejudices against them and their capabilities, the CRPD becomes the first international legal instrument of this kind to which the Union is committed as a regional association of states.

In order to monitor whether the actions of the responsible authorities are in accordance with the requirements of the CRPD, the Ombudsman's monitoring of the implementation of the international instrument in Bulgaria, on the basis of 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 as part of the Monitoring Council.

The Monitoring Council was established in 2019 and until September 2023 is chaired by the Commission for Protection against Discrimination.

In accordance with the provision of Art. 12, para. 4 of the Law on Persons with Disabilities, from October 2023 the chairmanship of the Council for the next two years is assumed by the institution of the Ombudsman of the Republic of Bulgaria.

The Monitoring Council held three meetings in 2023, with the opportunity for participation in a hybrid format.



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

1. The Ombudsman of the Republic of Bulgaria sent an opinion to the Minister of Labor and Social Policy, in which she presented the most serious challenges for people with disabilities who need assistant support, from the point of view of complaints received in the institution.

The ombudsman noted that in 2023 people with permanent disabilities, who have a certain type and degree of disability/degree of permanently reduced working capacity, but without a granted right to aid, continue to be deprived of the assistance they need, because their cases are not regulated in either the Personal Assistance Act or the Social Services Act.

The public advocate emphasizes that in many cases it concerns elderly citizens with disabilities who live alone in small settlements and have no relatives and friends to help them. The health status of these citizens has significantly deteriorated since their previous appearance before the medical examination authorities, but due to the lack of support at the moment, they cannot go through the long procedure of medical examination, which includes the presentation of current medical documents certifying the new diseases.

The ombudsman pointed out that the number of complaints related to the limitations in the number of hours for the use of personal assistance under the Personal Assistance Act and assistant support under the Social Services Act, as well as the impossibility of receiving assistant care on weekends, is also significant.

The existing limit of no more than 8 hours of support per day, and only on working days, deprives people in a particularly difficult situation of the care they need. An additional obstacle turns out to be the requirement that those entitled to waive the supplement for additional support under Art. 103 of the Social Insurance Code and part of the monthly allowances under Art. 8e of the Law on family benefits for children when using personal assistance, since through these funds they could pay extra for the assistance provided to them outside the working hours of the assistant.

2. The Ombudsman also sent a new opinion to the Minister of Transport and Communications and to the Minister of Labor and Social Policy in relation to the provision of Art. 10c of the Law on Roads /ZP/, which introduced restrictive requirements for the exemption of disabled people and their families from paying vignette fees.

In the opinion, the categorical position of the institution is again reminded that the provision of Art. 10c of the Civil Code violates the rights of a significant number of needy people with disabilities and their families.



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The main problem remains the technical parameters that must be met by cars owned by citizens with disabilities or in the regime of a marital property community. Although declared discriminatory by the Anti-Discrimination Commission, the criteria continue to apply.

The provisions do not provide the necessary flexibility in cases where the car is not registered in the name of the person with disabilities, but in the name of one of the family members, and the person with disabilities is outside the scope of Art. 10c, para. 2 of ZP. In a similar situation are disabled people who have acquired cars in common ownership mode, in most cases by inheritance.

Normative regulations do not cover the cases in which lease contracts for cars are in execution.

3. The Ombudsman of the Republic of Bulgaria again brought to the attention of the National Assembly the problem related to the provisions of Art. 74 of the Social Security Code.

In the Opinion sent in connection with the Draft Law on the State Public Insurance Budget for 2023, the Ombudsman emphasizes that the text of Art. 74 requires disabled people with a certain 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 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 CSR, 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 CSR 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 disease



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has subsequently occurred that has become leading according to the medical examination authorities, this deprivation may be for life.

4. The Ombudsman also made recommendations to the Minister of Transport and Communications and the Minister of Regional Development and Public Works in relation to the text of Art. 99a of the Road Traffic Act.

The provision specifies that cards issued in accordance with the requirements of a standardized Community model from the Annex to Council Recommendation 98/376/EC of 4 June 1998 on the parking card for people with permanent disabilities are valid on the territory of the whole country, being recognized in the other member states of the European Union.

In view of the established broad scope of the right, the introduction of different, and in many cases, restrictive criteria by individual municipal councils seriously prevents citizens with permanent disabilities, with address registration on the territory of the relevant municipality, from using cards for preferential parking not only in their inhabited place, but also in the other municipalities in the country and in the other member states. These citizens are placed in a less favorable position than other citizens with disabilities, with address registration in a different municipality, in which the municipal council has adopted a policy for the direct application of Art. 99a of the ZDVP or has voted an ordinance according to which cards for preferential parking are also issued to all people with permanent disabilities, with a degree of reduced working ability or type and degree of disability 50 and over 50 percent. (§ 1, Item 2 of the Additional Provisions of the Act on the Integration of People with Disabilities).

In her capacity as a public advocate for the rights of citizens, the ombudsman expressed the opinion that the introduction of additional criteria by individual municipal councils, on the one hand, creates conditions for unequal treatment, and on the other hand, creates difficulties for the exercise of an internationally recognized right of citizens with disabilities and the rights, established by the EU Charter of Fundamental Rights, address registered in the respective municipalities.

She emphasized that in a country governed by the rule of law, such as the Republic of Bulgaria, it should not be allowed that the address registration of citizens with disabilities in the given settlement is a kind of punishment for them and an insurmountable obstacle in their attempts to lead a dignified life and successfully integrate in society.

5. Complaints were received at the institution of the Ombudsman of the Republic of Bulgaria concerning the opportunities for participation of representatives of civil organisations for people with disabilities and rare diseases in the interdepartmental working groups formed after a discussion on the topic “Ensuring integrated care for people with disabilities and rare diseases – challenges and possible solutions”, which was held on 28 September 2023.



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The letters express disagreement with the method of determining participants in the working groups after the discussion held at the National Assembly. Of note is the fact that non-governmental organisations which are active and strongly committed to the advocacy of the rights of persons with disabilities, and in particular of persons with rare diseases, were not invited to participate in the working groups.

The Ombudsman sent an opinion to the heads of responsible bodies, drawing attention to the requirement of Article 4, paragraph 3 of the UN Convention on the Rights of Persons with Disabilities, i.e. in the development and implementation of the necessary legislation and policies to implement the international instrument, as well as in any other decision-making processes concerning issues relating to persons with disabilities, whereby all responsible bodies are to consult closely with and actively involve persons, including children with disabilities, through their representative organisations.

The Ombudsman emphasizes that people with rare diseases account for approximately 450,000 Bulgarian citizens who have the indisputable right and need to be represented in the discussions and development of acts and policies relating to them and directly affecting their interests.

Leaving the representatives of these citizens out of the discussions in the working groups would not only be contrary to the Convention on the Rights of Persons with Disabilities, but would also create conditions for deepening the accumulated problems in the field.

In connection with the above, a recommendation was made to include the representatives of people with rare diseases.

The recommendation was implemented.

6. The Ombudsman sent an opinion to the Prime Minister and the Chairperson of the Central Election Commission on ensuring opportunities for citizens in a vulnerable position to exercise their electoral rights in the elections for municipal councillors and mayors scheduled for 29 October 2023.

The opinion notes that the electoral rules still do not provide adequate access to a significant part of people with disabilities to the election process. No adequate conditions have been created for vulnerable citizens and the requirements of a number of international acts have not been fully complied with to ensure universal, equal and secret voting or the freedom of voting through an equivalent procedure.

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 are recalled in connection with the initial report of Bulgaria on the implementation of the international act of 21 September 2018:



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The Committee recommends that Bulgaria ensure that all adults with disabilities have the opportunity to exercise their right to vote 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 access of disabled citizens in the European Union to the European Parliament elections. The report was published on 6 March and adopted at the EESC session on 20 March 2019.

The other significant problems identified by the Ombudsman are:

- The requirement in Article 90, paragraph 1 of the Election Code for the appointment of at least one mobile section election commission provided that there are at least 10 voters who have submitted applications under Article 37 for entry into a voting list with a mobile ballot box. The provision limits the possibility of disabled people to vote with a mobile ballot box, if the condition is not met in the settlement where they live – for at least 10 citizens with disabilities to have applied to exercise their voting rights in this way.
- Failure to provide sign interpretation for people with impaired hearing in the sections in case of problems with technical devices for machine voting;
- Lack of action to adapt devices so that a light signal is given when printing the control receipt for the vote, which creates conditions for blocking the machines and not counting the vote. No measures have been envisaged to create a suitable organisation for assisting the people with impaired hearing by the members of the section election commissions by giving a hand signal for the end of the voting process.
- There is no obligation to place an audio player and Braille template with a list of candidates and parties, coalitions and initiative committees. Currently, after CEC Decision No. 2545-MI of 29 September 2023 was adopted, such devices have been provided to municipal administrations, upon agreement with the municipal election commissions, but only as an option and at their discretion, without being a mandatory requirement.
- The secrecy of the vote of blind citizens cannot be fully safeguarded yet, as no action has been taken to adapt the machine software to the needs of visually impaired people.

In consideration of all of the above, the following was proposed:

1. Actions should be taken to place an audio player and a Braille template with a list of candidates and parties appearing on the ballot in every polling station.
2. Access should be provided to people with impaired hearing to the services of a sign interpreter online (in cases where the person with impaired hearing needs an



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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. A suitable voting organisation should be created for people with hearing impairment, and they should receive information from the members of the section election commissions about the sound signal when the control receipt for successful voting is issued.

4. A free telephone number should be set up to provide information on the voting process.

As a result of the recommendations made by the Ombudsman to the heads of the responsible bodies, the CEC requested opinions from regional governors and municipal election commissions regarding the provision of suitable conditions for voters with disabilities.

Based on the information received, it was found that municipal election commissions in the country as a whole encounter serious difficulties in providing an audio player and a Braille template with a list of candidates and parties appearing on the ballot due to insufficient financial resources.

A positive solution was found in the Municipality of Burgas, based on the idea of a blind employee of the municipality, together with IT specialists.

7. The Ombudsman also sent an opinion to the Minister of Labour and Social Policy and to the Minister of Finance, raising the issue of the lack of adequate solution regarding the amount of the monthly allowance for raising a child with a permanent disability until the age of 18 and until graduation of secondary education, but no later than the age of 20, set out in Article 8e of the Family Allowances for Children Act.

It should be noted that the monthly allowances have not been updated since the end of 2016, and a mechanism for their automatic updating over the years has not been adopted yet. In view of the provision of Article 8e, paragraph 2 of the Family Allowances for Children Act, which does not allow for the amount of the aid to be less than the amount in the previous year, the amounts of financial support for individual groups of beneficiaries have not been changed for 7 years in the State Budget of the Republic of Bulgaria Act.

Within the framework of its statutory powers, the institution of the Ombudsman has repeatedly brought the issue to the attention of the heads of responsible bodies, including by expressing a firm opinion when deliberating the 2023 State Budget of the Republic of Bulgaria Act (State Gazette, No. 66/1 August 2023). However, no action has been taken yet to address it.

The opinion draws attention to the fact that support for families with children with permanent disabilities has been significantly reduced in 2023. This due to the serious inflation in the country, which reflects on the possibilities of meeting the needs of children.



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In these circumstances, of note are the mechanisms for determining the amounts of monthly financial support and targeted financial support for people with permanent disabilities over the age of 18 under Article 69 of the People with Disabilities Act, as well as the amounts of various social benefits following the recent positive actions for amendments to the Social Assistance Act (State Gazette, No. 102/2022, effective 01.06.2023). All these social payments are tied to the poverty line, which is a dynamic indicator.

Monthly allowances are the only support for families with disabled children that is allocated in the form of monthly cash allowances. They support the income of carers and provide an important aid in the efforts to ensure dignified life for children with disabilities at home and in family environment, taking into account their best interests.

Therefore, their amount should be adequate, reflecting inflationary trends in the country, the minimum wage level and different types of pensions under the Social Insurance Code.

It should be noted that the failure to provide a possibility of periodically updating such funds not only reduces the efficiency of the support provided, but also creates conditions for violation of the rights and interests of families with disabled children.

It should be emphasized that the lack of adequate financial support from the state and its inability to provide adequate care and conditions for their development forces many families to abandon their children in specialised institutions, which has disastrous consequences on their lives.

In the light of the foregoing and considering the fact that the support for children with disabilities should reflect their needs and their best interests and the international instruments to which the country is a party, such as the UN Convention on the Rights of the Child, the UN Convention on the Rights of Persons with Disabilities and the EU Charter of Fundamental Rights, a recommendation was made to address the issue by including measures in the 2024 Draft State Budget of the Republic of Bulgaria Act to update the monthly allowances under Article 8e of the Family Allowances for Children Act.

The recommendation was implemented and the amount of the allowances was updated.

8. The Ombudsman also sent an opinion on the 2024 Draft State Budget of the Republic of Bulgaria Act, on the Budget of the National Health Insurance Fund and on the Budget of the State Social Security.

The opinion pays special attention to the support of people with disabilities, which is critical for their opportunities to lead dignified and independent lives.

The following issues were raised, for which adequate measures are needed:



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- **The method of determining the amount of tax relief in Article 18 of the Personal Income Tax Act (PITA)**

A serious problem that is not addressed in the 2024 Draft State Budget of the Republic of Bulgaria Act is the amount of the tax relief under Article 18 of the Personal Income Tax Act.

It should be noted that the amount of BGN 7,920, by which the annual taxable amount is reduced under Article 17 of the Personal Income Tax Act for persons with 50 and over 50 per cent reduced working capacity, has not been updated since 2008.

It should be emphasized that at the time of the introduction of the relief, the minimum wage was BGN 220, and over the years its amount has increased more than three times until 2023. However, no update mechanism has been envisaged for the amount of the tax relief.

The support of working people with disabilities under Article 18 of the Personal Income Tax Act is essential for them and for their rights, as it provides them with an additional opportunity and means to compensate for the deficits caused by their disabilities.

In the conditions of significant inflation in 2023 and without adequate update, this support mechanism loses its positive impact and is becoming meaningless over time.

In light of the above, it is essential to discuss the problems raised and to take measures for their proper solution.

- **Keeping the guaranteed minimum income as the basis for determining the amount of targeted aid under Article 18 of the War Disabled and War Injured Act**

The complaints received at the institution and the inspections carried out showed that when making the amendments to the Social Assistance Act (SG, No. 102/2022, effective 01.06.2023) aimed at tying the amount of social assistance under the normative act to the poverty line for the country, the need to amend the wording of Article 18 of the War Disabled and War Injured Act in the same way was not taken into account. Thus, the monthly allowance of 1,946 for war invalids with 50 and more than 50 per cent disability for telephone services continues to be determined in accordance with the guaranteed minimum income.

The failure to amend the normative act in this part creates the perception of unequal treatment and neglect of the needs and rights of a vulnerable group which is among the poorest in our society.