



CONVENTION  
ON THE RIGHTS  
OF PERSONS  
WITH DISABILITIES



OMBUDSMAN OF THE REPUBLIC OF BULGARIA

## MONITORING COUNCIL REPORT 2020

### CONTENTS

THE COUNCIL .....	1
THE ACTIVITIES OF THE OMBUDSMAN OF THE REPUBLIC OF BULGARIA AND THE MONITORING COUNCIL REGARDING PERSONS WITH DISABILITIES.....	1

### 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.



CONVENTION  
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## **MONITORING COUNCIL REPORT 2020**

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. A significant number of complaints are submitted to the Ombudsman of the Republic of Bulgaria by persons with disabilities claiming that the social security services do not notify them of pending expiry of their needs assessments and subsequent suspension of due monthly allowances.

Most affected are elderly people with severe disabilities and with lifelong expert decisions, who, due to their deteriorating health condition fail to check the deadlines for filing the required documents, more so in the context of the current pandemic due to COVID-19.

With a view to resolving this problem and ensuring respect for citizens' rights, a recommendation has been made to the Minister of Labour and Social Affairs to identify and introduce mechanisms for due notification of persons with disabilities about expiring deadlines for assessment of their individual needs.

2. In relation to a draft amending the Regulation on medical expert assessment regulating the assessment of disabilities, the Ombudsman issued an opinion to the Minister of Health. The Ombudsman noted it was necessary to guarantee the rights of persons with multiple disabilities by taking into account in the process of assessment all their disabilities, regardless of their severity.

3. The Ombudsman sent her opinion to the chairperson of the Standing Parliamentary Committee on Labour, Social and Demographic Policy in relation to a bill amending the Social Insurance Code, which envisaged the introduction of a parallel procedure for appealing the decisions of the medical expert assessment bodies.

The Ombudsman noted that it was necessary to consider and take up effective action to improve the procedure for conducting medical expert assessments without trespassing on the rights of citizens who suffer from genuine illnesses and disabilities and who are in need of social support.

4. Further on, the Ombudsman expressed her opinion in relation to the bill amending and supplementing the Persons with Disabilities Act, which was published for public discussion. In her opinion the Ombudsman noted her concern in relation to the proposed limitation of the scope of the needs assessment and conditionality of the conducting the assessment only for the purpose of granting certain allowances.



CONVENTION  
ON THE RIGHTS  
OF PERSONS  
WITH DISABILITIES



OMBUDSMAN OF THE REPUBLIC OF BULGARIA

## MONITORING COUNCIL REPORT 2020

The Ombudsman noted that the monthly financial allowances in case of a lifelong expert decision should be granted and paid in the same way as the pensions under the Social Insurance Code were granted and paid in order to avoid additional difficulties for the beneficiaries.

5. The Ombudsman voices her opinion also in relation to the draft Bulgarian Sign Language Act:

The draft Bulgarian Sign Language Act has been long awaited by the persons with hearing impairment in Bulgaria since it is expected to ensure that these doubtlessly vulnerable citizens and their families exercise their right to freedom of opinion and expression, including the freedom to seek, obtain and share information and ideas, on an equal footing with everyone else, by using the preferred forms of communication.

Following discussions with non-governmental organisations of the persons with hearing impairment and the sign language interpreters, the Ombudsman brought to the attention of the Minister of Education and Science important issues that have not been appropriately regulated in the bill and which create preconditions for violation of interested citizens' rights of.

The Ombudsman recommends that the problems described above be considered and that the opinion of the persons with hearing impairment, the sign language interpreters and their organisations be taken into account.

6. In October 2020, **the Monitoring Council** held a meeting pursuant to the Act on Persons with Disabilities. The Council has the duty to monitor the enforcement of the UN Convention on the Rights of Persons with Disabilities in Bulgaria.

The meeting discussed a Bill Amending and Supplementing the Act on Persons with Disabilities and proposing that some of the financial support for the people with disabilities be withdrawn from the sphere of the individual needs assessment as per Art. 20 of the Act on Persons with Disabilities. The Council supported the Ombudsman's main findings that were stated in the opinion submitted to a Deputy Prime Minister. The meeting took a decision and, acting on this decision, another opinion was sent to the Minister of Labor and Social Policy, among others, to state the main conclusions concerning the problems of the Bill and to propose recommendations as to how to solve them.

Further, the meeting discussed the performance of the special Workgroup, established by Bulgarian authorities to draft an Action Plan for the implementation of the final recommendations to the Republic of Bulgaria as made by the UN Committee on the Rights of Persons with Disabilities (2021-2026). The meeting discussed the need to coopt for the Workgroup a wide range representation of the persons with disabilities and to enable and give sufficient time to debate the measures planned in the public domain as well as to set policies and measures that correspond, to the maximum extent, to the rights and interests of the persons with disabilities. Concern was expressed over the proposal made in the draft plan to postpone again the ratification of the Optional Protocol to the Convention – to 2026.



CONVENTION  
ON THE RIGHTS  
OF PERSONS  
WITH DISABILITIES



OMBUDSMAN OF THE REPUBLIC OF BULGARIA

## MONITORING COUNCIL REPORT 2020

Given the above stated observations, a decision was taken and an opinion was communicated to the Deputy Minister of Labor and Social Policy who chairs the Workgroup in charge of the plan.

7. The Ombudsman sent a recommendation to the Minister of Labor and Social Policy and to the Chair of the Parliamentary Committee on Labor and Social and Demographic Policy where she advocated for a fair solution in the 2021 State Budget concerning the amount of the monthly allowances granted to raise a child with a permanent disability below 18 years of age and prior to finishing secondary school and their withdrawal when such a child is 20 years old or older – Art. 8e, para 2 of the Family Allowances Act.

In this opinion the Ombudsman urged the authorities to eliminate the existing discriminatory practice in relation to children with 90 and over 90 percent disability to entitle to monthly allowances in the amount of BGN 930 when such children are raised in their biological families, and to only BGN 490 monthly allowance amounts when they are raised in foster families or in families of relatives.

8. **On the occasion of the International Day of Persons with Disabilities, 3 December, the Ombudsman addressed the public and brought the public attention to the serious obstacles and challenges that daily confront the people with disabilities, their parents and their relatives.** The Ombudsman noted that the institution receives a significant number of grievances from persons with disabilities who seek urgent support for subsistence, medicines, access to hospitals and affordability of social services and from relatives who plead for hope. Questions were asked about the shutdown of social services for persons with disabilities, which is a challenge, especially for children who are accustomed to daily routine occupations; for the children who have special educational needs and their right to adequate online education.

9. The right to education is a fundamental human right of crucial significance for the development of the people's abilities and for dealing with poverty and social exclusion. Actually, the pandemic threatened millions of children across the world with the prospect to drop out of school and Bulgaria is not an exception.

Given the aforementioned and **within the framework of the World Human Rights Day, 10 December, the Ombudsman organized an online meeting with the Minister of Education and Science, its heading being "Problems of Distance Learning" during the epidemic situation with a main focus on the issues that affect children with special educational needs and children with disabilities** who are most in need of support in these difficult circumstances.

For an hour and a half, the Minister responded to grievances, answered questions and commented on problems that had been communicated to the Ombudsman by parents, schoolteachers, headmasters and civil society organizations.

10. The Ombudsman addressed a recommendation to the Minister of Health and to the Governor of the National Health Insurance Fund to request that persons with disabilities be urgently informed about the procedure they should follow in order to be provided with medical devices, aids and equipment from 1 January 2021 onwards.



CONVENTION  
ON THE RIGHTS  
OF PERSONS  
WITH DISABILITIES



OMBUDSMAN OF THE REPUBLIC OF BULGARIA

## MONITORING COUNCIL REPORT 2020

The opinion noted that in view of the amendments to the Act on Persons with Disabilities and the Regulation on the Terms and Procedure for the Compilation of the List of Medical Devices under Art. 30a of the Medical Devices Act to estimate the ceiling of payment, it is expected that the National Health Insurance Fund would start applying the procedure right from the beginning of 2021. However, the Ombudsman warned that as of end October 2020 there was no regulation in place to provide concretely for the mechanism of the supply of medical devices and this put at risk persons with disabilities in need and their legitimate guardians.

11.