



OMBUDSMAN OF THE REPUBLIC OF BULGARIA

**OMBUDSMAN OF THE REPUBLIC OF BULGARIA WRITEN SUBMISSION**

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BULGARIA**

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### I. LEGAL COMPLAINT MECHANISM

1. The Institution of the Ombudsman was instituted in 2005 and following the assessment of compliance with the Paris Principles by the UN Subcommittee on Accreditation was accredited with “B” Status. In the Report of UN Subcommittee on Accreditation of 25-28 October 2011 the Committee made specific recommendations. In 2016 a number of amendments were drafted in the Ombudsman Act and proposed to the National Assembly by the Council of Ministers which explicitly stated that the Ombudsman is seen as the national human rights institution of Bulgaria. In 2018 the National Assembly passed the amendments to the Ombudsman Act (amended, SG, No. 7/19 January 2018, SG, No. 20/6 March 2018) and to the Rules of Procedure of the Ombudsman Institution (amended, SG, No. 53/26 June 2018). After the amendments the Ombudsman protects the rights and freedoms of citizens from the natural or legal persons subject to private law. At present all recommendations made by the UN Subcommittee on Accreditation have been met and in October 2018 the National Ombudsman applied for accreditation for “A” Status. The UN Subcommittee for Accreditation met in March 2019 and Bulgarian Ombudsman was accredited with the highest possible status “A” UN human rights body.

2. The ombudsman is an independent constitutional body who promotes and protects human rights and fundamental freedoms. The ombudsman has a mechanism to consider and hear complaints from citizens about their violated rights as well as to initiate checks and inspections with regard to the received complaints. The ombudsman has also the right to act upon its own motion and to investigate case of infringed human rights. The



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ombudsman extends recommendations and legal opinions in the context of violated rights and freedoms to the respective public and private bodies and their administrations. The ombudsman has the right to approach the Constitutional Court if it is deemed that interpretation of the Constitution or a decision on the compliance of the international treaties signed by the Republic of Bulgaria with the constitution before their ratification, or for compliance of the laws with the generally recognized norms of the international law and with the international treaties to which Bulgaria is contracting party is required; provides opinions to the Council of Ministers and the National Assembly on draft laws concerning the human rights protection; monitor and encourage the effective implementation of signed and ratified international human rights instruments.

### II. LEGAL FRAMEWORK FOR EQUALITY

3. The principle of equality is promoted in all international human rights instruments. Equality before the law and hidden from of discrimination against all persons, a universal right recognized by the Universal Declaration of Human Rights, the UN Convention on the Covering of All Forms of Discrimination against Women, the Convention on the Covering of All Forms of Racial Discrimination, the International Pacts of the United Nations for Civil and Political and Economic and Social and Cultural Rights, the Convention for the Protection of Human Rights and the Freedom of Citizens. **The level of gender equality in Bulgaria is still insufficient.** After longstanding efforts, in 2015 the National Assembly adopted the Law on Equality of Women and Men in order to align the Bulgarian legislation on this topic with the European one. The Ombudsman's institution organized a round table in regard of the draft legislation with the participation of the author of the bill, members of the parliament and non-governmental organizations. During the meeting the ombudsman stated the opinion that the bill is rather formal and not specific enough and that it affirms the pre-existing situation without proposing new arrangements that would respond to the level of development of the social relations and does not regulate the principle mechanisms of gender equality. Specific recommendations were made in order to be achieved equality between women and men. The Ombudsman was concerned that if the legislation does not change, gender equality will remain a mere wish and the Law will have the character of a simple declaration with no significant practical effect. None of the recommendations of the Ombudsman were taken into consideration. The Law entered into force and remained fully formal and in practice it has not achieved its goals.



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### **III. VIOLENCE AGAINST WOMEN**

4. Violence against women, which includes offences such as sexual abuse, rape and domestic violence, is a violation of women's fundamental rights as regards dignity, equality and access to justice. Unfortunately, the number of women victims in the country has been growing in recent years, which requires a critical approach by both the general public and the State towards this abuse. Despite of the lack of official statistics the mere screening of media publications indicates that in 2018 and 2019 at least two women per month have lost their lives in result of domestic violence. In 2018 the Constitutional Court ruled on the incompatibility of the Istanbul Convention with the Bulgarian Constitution which hinders its ratification. This triggered some amendments in the domestic legislation which should be assessed as a positive development. However the Ombudsman considers that more legislative amendments are needed to efficiently address the issues regarding the problems with physical, psychological and economic violence as well as to protect women's rights as victims in pretrial and trial procedures. The ombudsman recommended to repeal the term "in a systemic fashion" in Article 93, item 1 of the Additional Provisions of the Criminal Code to allow that domestic violence is qualified as a graver punishable offence, to provide an express definition of "psychological violence" and to criminalise all forms of psychological violence rather than only stalking as is the case at present.

5. Currently the ombudsman is part of the working group organized by Ministry of Justice tasked with the elaboration of amendments and supplements to the Protection against Domestic Violence Act. The amendments aim at expanding the scope of the act in the following way:

- provide for specialized services and programmes for the protection of victims of domestic violence;
- optimize the protection measures against domestic violence proceedings, namely as regards speed, effective enforcement and guarantees for the protection of victims interests, in particular of women and children;
- mandatory commitment on the part of the executive for the application of prevention and protection programmes for victims of violence;



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- specialized services and state responsibility for the coordination, monitoring and assessment of the implementation of policies and measures in the area of preventing and counteracting domestic violence.

In the draft amendments and supplements it is proposed to set up two bodies at deputy-ministerial level: a National Council for Preventing and Countering Domestic Violence, and a National Commission, which in the view of the Ombudsman duplicate each other and will not be operationally effective. The proposed amendment provides for the establishment of two bodies with similar functions and very high political level and noreal operation powers. In this regard, the Ombudsman recommends the establishment of one coordinating body for protection of domestic violence which should be set up in such a way as to be operational and efficient.

**6.** In November 2019 the Ombudsman addressed a recommendation to all regional governors across the country who have the right to open crisis centers in consider to increase the number of crisis centers for women, victims of domestic violence. Currently there are only 13 such centers in the country and they are always full. There is only one crisis center with 8 seats for the almost 2-million capital Sofia. The recommendation of the ombudsman is for establishment of sufficient number of centres for the accommodation of victims of violence, accessible and evenly distributed geographically throughout the country (at least one in every regional centre). According to the Minimum Standards of the Council of Europe, there should be at least one place for accommodation in a crisis centre per every 10,000 residents.

**7.** On the International Day for the Elimination of Violence against Women and Girls (25.11.2019), the Ombudsman, together with representatives of the non-governmental sector, organized a thematic reception for women victims of violence. The idea of the event was to increase public intolerance against attacks on the personality and dignity of women, girls and children being abused, including to give more publicity to the problem, which often remains hidden.

**8.** According to the Ombudsman it is necessary also to improve substantially the practical skills of professionals in institutions for working with victims of domestic violence and gender-based violence through serious, systematic and targeted training. In addition, a better coordination is needed among educational, healthcare and welfare institutions; a coordination mechanism should be in place in order to better achieve this goal. It is of crucial importance that medical establishments that admit victims of violence respond



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adequately and report cases to the law enforcement authorities. Social and healthcare workers as well as police officers need adequate training to better understand the problem and be more responsive to reports from victims of domestic violence. It is also important to ensure adequate accessible, timely and free rehabilitation programmes for victims of domestic violence.

9. Last but not least, the Protection against Domestic Violence Act currently can't be applied properly as the perpetrators of domestic violence are supposed to attend voluntarily the specialized programmes for rehabilitation and anger and aggression management when they are referred by the court to such. The court does not necessarily rule on a measure against the perpetrators. Directing perpetrators to programs for rehabilitation and anger and aggression management is just one of the possible measures the court may enact. The real problem is that, once directed to such programs, the perpetrator cannot be obliged to attend them, nor is there any provision for control of the implementation of the measure or sanction in case of non-compliance.

According to the Ombudsman a holistic approach is required in relation to tackling violence against women:

- Prevention – training from early childhood about the phenomenon of domestic violence to prevent normalization of violence as a behaviour and family model.
- Awareness – large-scale awareness campaigns about the phenomenon of domestic violence: where to seek support; encouraging signaling/reporting cases of domestic violence, including by different professionals such as medical professionals and teachers; creating zero tolerance for domestic violence.
- Training professionals to detect and report cases of domestic violence.
- Building an adequate capacity for response in cases of domestic violence; improving the interaction between stakeholders with a view to increasing citizens' trust in the responsible institutions (police, social workers etc.).
- Integrated data base of domestic violence cases to know the actual size of the problem and take adequate action. Currently there is no official statistics and every institution, in addition to the civil society organisations, collects individual data.
- Therapeutical programmes for victims of domestic violence (including children) and for perpetrators.

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- The state of play of psychiatric care in the country is a grave problem. This is the last unreformed part of the healthcare system. If there was a working system for psychiatric care, murders committed by people suffering insanity could have been prevented. Murders committed by such persons demonstrate the lack of capacity of the social and healthcare services to take proper action.
- The educational system also fails to address the problem by introducing special training programmes. This would lead to slow yet substantial change of the general public attitudes. This may not be achieved through awareness campaigns alone; instead, consistent and targeted efforts are required. Aggression in schools leads to aggression at home.
- Targeted action is required as regards Roma girls to prevent their dropping out from school and enhance their social inclusion and integration.

**10.** It is also of particular importance to regulate the exact order and mechanisms of action of the competent national authorities and institutions, as well as the requirements for their administrative, professional and qualification capacity, so that they can act in a coordinated and adequate manner for each situation that arises and capable of initially performing the proper qualification of the act, whether it is an act of domestic scandal or a manifestation of domestic violence.

### **IV. ROMA WOMEN**

**11.** One of the main problems is to ensure equal opportunities for the Roma woman and to promote her increasingly active role in social and political life. Measures should be applied in order to support this process, and to empower the women in the Roma community, to make them active members of the community and better inform them about their human rights.

**12.** The ombudsman has identified significant problems with the human rights of Roma women, including but not limited to: low level of education and early drop-out from schools, early marriages, poverty and unemployment as well as high level of domestic violence due to a big number of prejudices and stereotypes. In order to successfully address these issues interdisciplinary measures should be adopted in order to achieve better education, social environment improvement, improved healthcare access, poverty reduction, increased participation in public life and better chances for personal development for roma women.





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**13.** The Ombudsman systematically questions the problems with the poor housing conditions in which Roma women live and raise their children, lack of employment, low education and social prejudice, health insurance. Unfortunately, there have been almost no targeted measures for Roma women by state institutions. The employment rate of Roma women is twice lower than that of men.

**14.** With a view to preventing early school leaving, particularly for Roma girls, the Ombudsman launched a national campaign "No Charges in Kindergartens", with the understanding that dropping financial barriers, especially for vulnerable groups, is an important factor in retaining girls in school. Some municipalities have already undertaken steps to abolish taxes in kindergartens and to abolish additional payments in the obligatory pre-school education for 6-year olds. The obligatory pre-school education is a good measure against early drop-out from schools, especially for roma children. Although the pre-school education is free of charge, the parents still have to pay additional money for food for their children with the motive that these are not charges related to the educational process. According to ombudsman these payments should also be covered by the state because they constitute a burden for poor families.

**15.** In these initiatives, the Ombudsman is actively working with a number of Roma organizations and Roma leaders, especially in the areas of child protection, Roma women's rights and education. The Ombudsman thus encourages the active involvement of Roma women, demanding that their voices be heard and taken into account.

**16.** The Ombudsman recommends integrated and decentralized approach to address the specific problems of the Roma, especially the Roma girl and woman, which will have a sustainable impact on the lives of young Roma women, contribute to their social inclusion and inclusion to equal opportunities and access to universal rights.

The efforts of the Ombudsman institution are aimed at protecting the rights of citizens who are victims of discrimination, as well as resolving inequalities. Unequal treatment leads to a violation of citizens' rights, with the finding that measures to prevent discrimination and the adverse effects of its implementation are not effective enough. This is particularly clear in cases of multiple and cross-sectoral discrimination, in the absence of environmental accessibility and discrimination in the workplace.

**17.** The Ombudsman, within the limits of his powers, uses the mechanisms provided for in the Ombudsman Act to protect the right of every citizen to equal treatment. Through





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recommendations, proposals or mediation, the institution seeks opportunities to address the problems of inaccessibility of the environment, the discrimination faced by people with disabilities in the search for work and in the work environment, and to ensure protection of citizens in other cases of unequal treatment.

**18.** In June 2018 the Ombudsman hosted a forum, part of the launch of the JUSTROM project, which aims to provide access to justice for Roma women and girls from traveling communities in Bulgaria, Greece, Ireland, Italy and Romania. Such a project is extremely important in view of the need for awareness of this vulnerable group about their rights and access to justice to protect them.