



BEST PRACTICES OF EU CHARTER OF FUNDAMENTAL RIGHTS IMPLEMENTATION IN BULGARIA



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Introduction

The purpose of this report is to outline the variety of good practices in using the EU Charter of Fundamental Rights in Bulgaria.

The major scope of this paper is covering the work of the Ombudsman institution as the only A status NHRI in Bulgaria and explores its activity as regards protection of the rights of people with disabilities.

The study of the way this institution is using the EU Charter of Fundamental Rights is justified by the unique set of competencies the ombudsman enjoys as a constitutional body in Bulgaria.

The Ombudsman is independent in his or her activities and obeys only the Constitution, the laws, and the ratified international treaties to which the Republic of Bulgaria is a party and is guided by his or her personal conscience and morality. The Ombudsman enjoys the same immunity as a member of Parliament.

Several amendments to the Ombudsman Act (in 2018 and 2023 respectively) have further broadened its mandate – the institution is vested with the power to receive and deal with complaints and reports of violations of citizens' rights and freedoms, not only on the part of state and municipal authorities and their administrations, or by persons entrusted with the rendering of public services, but also by private entities. Furthermore, since

January 2023, the institution got the obligation to monitor the way the whistle-blowers protection is managed and delivered in Bulgaria. In exercising these powers, the Ombudsman can make proposals and recommendations for the promotion and protection of the endangered citizens' rights and freedoms from private entities.¹ The trend in recent years for an increased number of complaints is a result of the high confidence in the work of the institution, the assistance received by citizens and organisations and, last but not least, the consistent policy of actively opening the institution to the public through meetings with non-governmental organisations and professional associations, meetings with citizens united for the resolution of a particular problem, holding round tables on specific topics, more frequent visits to specialised institutions, increasing the time for personal visitations in the reception room and organising various types of open days in a number of towns.

The Ombudsman receives and considers complaints and reports regarding violations of citizens' rights and freedoms; makes proposals and recommendations for reinstatement of the violated rights and freedoms to the respective authorities and private entities; mediates between the administrative

¹ 74 328 citizens and representatives of organisations received assistance from the Ombudsman in 2023, and the number of completed checks on complaints and reports was 15 536. (2018 – 12 258).

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authorities and the persons concerned for overcoming the violations committed and reconcile their positions; protects children's rights. The Ombudsman may act on his or her own initiative, too, when he or she has established that the conditions necessary for protection of citizens' rights and freedoms have not been created.

Crucial to the effect of the Ombudsman's activity as a public defender is the degree of implementation of the recommendations as a result of checks made on complaints and reports from citizens – over the last five years the implemented and partially implemented recommendations of the Ombudsman account for 96% of overall recommendations.

The Ombudsman may approach the Constitutional Court with a petition to establish unconstitutionality of any law whereby any rights and freedoms of citizens are violated; submits a request for an interpretative decision or interpretative decree to the Supreme Court of Cassation and/or the Supreme Administrative Court.²

With regard to rulemaking, the Ombudsman makes proposals and recommendations for elimination of the reasons and conditions which create

² In 2019, the Ombudsman submitted five requests to the Constitutional Court to declare a law unconstitutional, approached the Supreme Court of Cassation with two requests for an interpretative decision to overcome contradictory jurisprudence, and the Supreme Administrative Court initiated two interpretative cases at the request of the Ombudsman.

prerequisites for violation of rights and freedoms, including proposals for regulatory amendments; submits opinions to the Council of Ministers and the National Assembly on bills relevant to human rights.³

The Ombudsman functions as a National Preventive Mechanism within the meaning of and in conformity with the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment adopted on 18 December 2002.

The public defender monitors and promotes effective implementation of signed and ratified international instruments in the field of human rights, and also makes proposals and recommendations to the Council of Ministers and the National Assembly concerning the signing and ratification of international acts in the field of human rights.⁴

The main focus of the monitoring is the implementation measures of the UN Convention on the Rights of Persons with Disabilities (CRPD).

³ In 2023, the total number of legislative proposals made and the opinions given in draft legislation were 23.

⁴ The Ombudsman monitors the implementation of the following international legal acts in Bulgaria: The European Convention on Human Rights, the EU Charter of Fundamental Rights, the UN Convention on the Rights of Persons with Disabilities, the UN Convention on the Rights of the Child, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the UN Convention on the Elimination of All Forms of Discrimination against Women.

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The Ombudsman carries out monitoring based on the powers granted under Article 19, paragraph 1, item 12 of the Ombudsman Act and pursuant to Article 11 et seq. of the Persons with Disabilities Act (PDA), which regulate the participation of the Ombudsman in the activities of the Monitoring Council.

The Monitoring Council was established in 2019 pursuant to Article 33, paragraphs 2 and 3 of the CRPD and in it is shared following the principle of rotating presidency by the Ombudsman institution and the Commission for Protection against Discrimination.

In view of all of the above mentioned powers of the institution especially with regards of people with disabilities, it is crucial to study the way the Ombudsman has used the EU Charter of Fundamental rights and whether there could be established good practices of interconnection with other international regimes such as the UN CRPD. Such an approach is seen to be of particular importance having in mind the need to build specific expertise in the field with regards to the horizontal conditionality of the EU established for the 2021 - 2027 financial framework.

1. Opinions in relation to interpretative decisions of the Supreme Administrative Court

The institution of the ombudsman of the Republic of Bulgaria received an invitation for an opinion on Interpretation Case No. 4/2022 with the following question: "Do non-profit legal entities registered in the Register of Non-profit Legal Entities as organizations of and for people with disabilities within the meaning of § 1, item 12 of the Supplementary Provisions of the Law on Persons with Disabilities, in the legal and organizational form of foundations for carrying out activities for private benefit, have legal interest in contesting by-laws affecting persons with disabilities, which are not members of the same organizations and with whom the organizations do not have a contract for the "advocacy" of social services?"

From the data in the letter, it is evidenced that contradictory judicial practice of administrative courts has been established, including one of the Supreme Administrative Court on the issue of legal standing and the admissibility of the legal proceedings on the challenge by the "Greenberg" Foundation, Plovdiv, of by-laws issued by the municipal councils and relating to people with disabilities.

According to the information provided, the "Greenberg" Foundation in the city of Plovdiv was created to carry out activities as an organization of people with disabilities in the sense of paragraph 1 point 12 of the Additional Provisions of the Law on People with Disabilities. According to the Organization's statutes, it aims to provide legal aid to and for persons with disabilities and to undertake an advocacy role on their behalf in defense of their rights. Means for achieving the goals defined in this way include the monitoring of the current legislation relating to people with disabilities and the advocacy of their rights before all persons, administrative bodies and services, judicial challenge of illegal by-laws or individual norms in them relating to the disabled, issued by the municipal councils and the bodies of the executive power, formation and conduct of court cases in defense of legally recognized rights of disabled people.

In his position, the ombudsman emphasizes the vulnerability of people with disabilities in Bulgaria, who until now often find it difficult to lead an active and independent life and to independently and equally seek the legal protection they need. A significant proportion of them, or according to official Eurostat data published in 2021 – more than 50.7% of those aged 16 – are at risk of social exclusion and poverty. Nearly 7,000 have been placed under full or limited interdiction and, under the 1949 Act on Individuals and Families, cannot independently exercise their rights due to

limitations in their legal capacity. The number of people with disabilities who live in small settlements, without relatives and friends and without adequate access to information about the possibilities to protect their interests, is not small either. There is also a significant percentage of people with reduced mobility who, due to the unresolved problems with the lack of a suitable architectural environment, including in some of the court buildings, for which the ombudsman has repeatedly made recommendations, often cannot appear in cases and fight for their rights.

The Ombudsman presents as a leading argument the commitments that Bulgaria has under a number of international human rights acts, including the UN Convention on the Rights of Persons with Disabilities, the Charter of Fundamental Rights of the European Union, the European Convention for the Protection of Human Rights and Fundamental Freedoms, etc.

After discussion of the issue and the received opinions with Interpretive Decision No. 2/25.07.2023 according to interpretation No. 4/2022 of the Supreme Administrative Court, it was decided that non-profit legal entities registered in the Register of Non-profit Legal Entities as organizations of and for people with disabilities within the meaning of § 1, item 12 of the Additional Provisions of the Law for people with disabilities, in the legal and organizational form of a foundation for carrying out activities for private benefit,

do not have a legal interest in contesting by-laws affecting people with disabilities who are not members of the same organizations and with whom the organizations do not have a contract for the social advocacy service.

2. Opinions on draft legislation

The Ombudsman sends an opinion to the Ministry of Health in connection with the lack of public information regarding the development of the process and the proposals that have been approved for inclusion in the draft Decree of the Council of Ministers to amend and supplement the Ordinance on medical expertise, published for public discussion on 11.11. 2022

In this opinion, the ombudsman emphasizes that the draft proposal largely corresponds to the ombudsman's recommendations and the expectations of people with disabilities and is undoubtedly a positive step to guarantee the rights of citizens in their medical examination, a result of the constructive dialogue of the Ministry of Health with the organizations of Disabled.

Emphasis is placed on the need to take steps for the timely adoption of the texts, while at the same time thoroughly considering and taking into account the opinions and proposals received during the public consultations.

In the capacity of public defender, attention is paid to the need to ensure publicity and transparency of the decision-making process, in accordance with the right of citizens with disabilities to active participation, guaranteed by the UN Convention on the Rights of Persons with Disabilities, and to a good administration under the Charter of Fundamental Rights of the European Union.

As a result of the recommendation, the draft Ordinance was adopted.

The ombudsman is also involved in the discussions of a draft Ordinance No. 16 of 30 July 2014 on the terms and conditions for the registration of rare diseases and on the expert centres and reference networks for rare diseases, proposed by patient organizations and sent to the institution and the Council for monitoring under the Law on People with Disabilities, which includes the Ombudsman of the Republic of Bulgaria.

In his opinion, the ombudsman emphasizes that the discussion and adoption of changes in Ordinance No. 16 of July 30, 2014 on the conditions and procedures for registering rare diseases and on expert centres and reference networks for rare diseases (the Ordinance) is an important and necessary step for guaranteeing the rights of people with rare diseases, improving their access to early diagnosis and modern treatment, in accordance with good European practices and innovations, to achieve which, in addition to optimizing and supplementing

the regulatory framework, it is necessary to regulate and ensure sufficient financing.

The ombudsman stressed that the proposed changes should be thoroughly discussed by the Ministry of Health and all interested parties, and an understanding of the need to bring the activities in the field of rare diseases into line with European requirements and good practices, guaranteeing the rights of patients, including under the UN Convention on the Rights of Persons with Disabilities and the Charter of Fundamental Rights of the EU, and their access to diagnosis and treatment, subject to the principles of timeliness, sufficiency and quality.

3. Opinions in connection with incorrect application of legislation regulating the rights of people with disabilities

The ombudsman's institution receives numerous complaints regarding the improper implementation of the provisions of § 6 of the Transitional and Final Provisions to the Law on Amendments and Supplements to the Law on Persons with Disabilities (promulgated SG No. 8, dated 25.01.2023), according to which are resumed ex officio after receiving information from the Regional Health Inspections, the rights and support of the persons with an expired expert decision, submitted an application-

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declaration for re-certification until the amendments enter into force, when there is a delay in the sense of § 1, item 48 from the additional provisions of the Health Act. According to § 6, the Regional Health Inspections should send information to the competent authorities under Art. 101b, para. 3 of the Health Act within 14 days from the entry into force of the amendments to the act.

In their complaints, the citizens note that they do not find understanding and support from the Regional Health Inspections (RHI) and the Territorial Divisions of the National Insurance Institute (NII) in the country regarding the development of the procedure regulated by the amendments to the Law on Persons with Disabilities and the Law for health. They share their concern that they are constantly being referred from one structure to another, without being given an explanation as to whether the RZI has fulfilled its obligations to send the required information to the TA of the NII and when the transfers of the due pensions are to be made.

Within the scope of the powers, the ombudsman sends opinions to the Minister of Health and to the manager of the National Social Security Institute, in which he emphasizes that in the application of the provisions of § 6 of the Transitional and Final Provisions to the Law on Amendments and Supplements to the Law on Persons with Disabilities, those affected have expectations for the most

recent settlement of the issues with the resumption of their rights, as every day's delay for them means gross non-compliance with the current legislation and is tantamount to arbitrariness.

In connection with the above, and emphasizing the right to publicity and transparency of the decision-making process, in accordance with the right of citizens with disabilities to active participation, guaranteed by the United Nations Convention on the Rights of Persons with Disabilities, and to good administration by The Charter of Fundamental Rights of the European Union, recommendations were made to provide information to the affected citizens, including by publishing and promoting it in an appropriate manner, regarding the proceedings under § 6 of the Transitional and Final Provisions to the Law on Amendments and Supplements to the Law on Persons with Disabilities.

Recommendation is taken into account.

4. Opinion regarding the access of people with disabilities to elections

The Ombudsman sends opinions to the Prime Minister and the Chairman of the Central Election Commission in connection with the organization of the general elections on April 2, 2023, as well

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as the elections for municipal councillors and mayors on October 29, 2023.

The opinion noted that the electoral rules again do not provide adequate access to 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.

Emphasis is placed on the provisions of Art. 21 (Prohibition of discrimination), Art. 26 (Integration of people with disabilities) and Art. 40 (Right to vote in local elections) of the Charter of Fundamental Rights of the EU, which are mandatory for the Bulgarian state and its bodies.

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 be provided with 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 problems identified by the ombudsman are:

- The requirement in Art. 90, para. 1 of the Election Code for the appointment of at least one mobile sectional election commission in the presence of no less than 10 voters who submitted applications under Art. 37 - for entry into a voting list with a mobile ballot box. The provision limits the possibility of disabled people in need 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 who have applied to exercise their voting rights in this way .

- Non-provided sign translation for the hearing impaired in the sections in case of problems with the technical devices for machine voting;

- Lack of actions to adapt the devices for giving a light signal when printing the control receipt for the reflected vote, which creates prerequisites for blocking the machines and not counting their vote. No measures have been

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envisaged to create an appropriate organization to assist the hearing impaired by the members of the sectional 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 candidate lists and parties, coalitions and initiative committees. At the moment, as a result of Decision No. 2545-MI of September 29, 2023 of the CEC, this is provided to the municipal administrations, agreed with the municipal election commissions, only as an option and by their decision, and is not a mandatory requirement.

- The secrecy of the vote for blind citizens cannot yet be fully protected, as no action has been taken to adapt the machine software to the needs of visually impaired people.

Considering all the above, it is proposed:

1. Actions should be taken to place an audio player and a Braille template with a list of the candidates and parties appearing on the ballot in every polling station.

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 create a suitable organization for voting for people with hearing impairment, as they receive information from the members of the sectional election commissions about the sound signal when issuing the control receipt for successful voting.

4. To introduce a free phone number where information about the voting process can be obtained.

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.

From the information received, it was found that it is a serious difficulty for the municipal election commissions in the country as a whole to provide an audio player and a Braille template with a list of the candidates and parties appearing in the ballot, due to insufficient financial resources.

The updated National Recovery and Resilience Plan (NRRP) of the Republic of Bulgaria was approved by Decision of the Council of Ministers No. 203 of 7 April 2022. Part of the commitments of the MLSP under the NRRP is the project "Provision of aids for persons with permanent disabilities". The project envisages the

provision of high-quality and high-tech aids to people with permanent disabilities to create an accessible environment related to their mobility and free movement, as well as providing training for their use.

5. Opinions regarding the accessibility of the environment for people with disabilities

The problems with the lack of an accessible environment for people with disabilities are brought to the attention of the ombudsman.

The definite position of the Ombudsman, expressed more than once, is that failure to provide conditions for equal access of disabled people to the physical living environment is also in contradiction with the goals set in the UN Convention on the Rights of Persons with Disabilities and the Charter of Fundamental Rights of the EU for a full and effective participation of people with disabilities and inclusion in society.

The ombudsman sends opinions on building the accessibility of the environment to:

- the mayor of the Municipality of Varna in connection with the lack of a guaranteed opportunity for people with reduced mobility to park in front of the

building of the "Local Taxes and Fees" Directorate;

- the executive director of the "Palace of Culture and Sports" EAD - Varna regarding the accessibility of the building and the lack of appropriate information on the website of the Palace regarding reasonable facilities for people with disabilities to reach the ticket offices and halls, as well as the possibilities of obtaining assistance by the employees of the complex when visiting by people with reduced mobility. There is also a lack of appropriate information on the Palace's website about reasonable facilities for people with disabilities to reach the exhibits, as well as about the possibilities of obtaining assistance from the staff of the complex when visiting people with reduced mobility. The recommendations have been implemented, as the website of the "Palace of Culture and Sports" EAD - Varna has published information about the possibilities of access for people with reduced mobility and the construction of a toilet for people with disabilities is planned.

- the director of the City Art Gallery - Varna regarding the lack of suitable conditions for reaching the exhibitions, many of which are on the second floor, as well as toilets that meet accessibility requirements.

- the mayor of the Municipality of Krivodol regarding "performance of construction activities in a property, public municipal property, representing UPI VII-

2011, quarter 128 according to the plan of the town of Krivodol, intended for a square and landscaping and started SMR in connection with an investment project for repair and reconstruction of municipal roads and sites in the municipality of Krivodol".

- the mayor of the Municipality of Sredets in connection with the condition of the street on which the house of a citizen with severe health impairment is located. The findings are that the street is in an extremely bad condition, which makes it difficult for the specialized transport to carry out the necessary hemodialysis, as well as for the ambulances in cases of urgent need.

- the executive director of the Social Assistance Agency in connection with the accessibility of the "Social Assistance" Directorate - Youth.

- the guidelines of the courier companies "Speedy" and "Ekont" regarding the lack of accessibility for people with reduced mobility in some of their offices.

6. Opinions in relation to the delay of the medical examination bodies and the provision of socio-economic protection of the disabled

The ombudsman sends opinions to the heads of the Regional Health

Inspections and to the Territorial Divisions of the National Insurance Institute to speed up the procedures for re-certification of the citizens concerned and for the resumption of disability pensions of disabled citizens in cases where delays have been allowed by the medical examination authorities at the re-certification.

The findings are that, with few exceptions, the regulated deadlines for scheduling dates by Territorial Examination Commissions (TELK) and the National Examination Commission (NELK) are not respected. In a significant number of cases, the delays are drastic, reaching up to a year from the submission of the documents. Failure to comply with the deadlines for scheduling dates leads to a serious violation of the current regulations, including of the UN Convention on the Rights of Persons with Disabilities.

The delay in the certification/re-certification of citizens with disabilities has an adverse impact on their opportunities to exercise their rights during the period during which they do not have valid expert decisions. People with disabilities practically remain without any means and without the possibility to satisfy their needs, which creates real conditions for even more serious deterioration of their health and subsequent additional costs for the health care system. In some cases, there is also a significant risk to the lives of those affected, who are left without the necessary treatment and medicines due to the lack of

a valid expert decision and the suspension of their health insurance.

In the opinions, the ombudsman emphasizes the requirements of the UN Convention on the Rights of Persons with Disabilities and the Charter of Fundamental Rights of the EU.

Most of the recommendations have been implemented.

7. Opinions in relation to the provision of assistance to needy citizens with disabilities

Citizens who are difficult to move, with a certain type and degree of disability, but without the right to foreign assistance, pose the problem of lack of access to adequate assistant assistance.

In the statements to individual mayors of municipalities, the ombudsman emphasizes that the lack of appropriate assistant support seriously reflects on the opportunities of people with disabilities to lead a dignified and independent life, to join society and to exercise their rights, clearly regulated in the UN Convention on Rights of people with disabilities, the Convention for the Protection of Human Rights and Fundamental Freedoms and Art. 26 of the Charter of Fundamental Rights of the European Union.

It is recommended to apply an individual approach and provide the necessary assistance to those in need.

Most of the recommendations have been implemented, and the citizens have been referred to other social services tailored to their situation.

Apart from that, an opinion was sent to the Minister of Labor and Social Policy, in which the problems with the use by those in need of the assistance they need are described.

The opinion states that leaving the limit of no more than 8 hours of support per day, and only on working days, deprives people in a particularly difficult situation of vital care. An additional obstacle turns out to be the requirement that those entitled to waive the supplement for foreign aid 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. The withdrawal of funds from people with disabilities who live alone, without relatives and friends and rely only on a disability pension is particularly difficult. For many of them, it is too much to allocate BGN 207.48 from their monthly income, which is why they often choose not to use personal assistance in order to be able to cover at least part of their remaining life needs.

Citizens insist that in such cases not the entire supplement be taken away, but only a part of it, or that they be completely exempted from this obligation. They also propose to introduce a mechanism that would allow people with disabilities to waive the funds proportionally, depending on the number of hours of use of assistant support.

Last but not least, the complaints of citizens with disabilities related to the difficulties of some of those entitled to find a suitable and trained assistant, especially in small settlements, as well as a substitute assistant for the time when the holder is on leave or in hospital.

In the opinion, the requirements of Art. 19 of the UN Convention on the Rights of Persons with Disabilities and Art. 26 of the Charter of Fundamental Rights of the EU and it is recommended to examine the problems raised and to take adequate measures for their appropriate resolution, while guaranteeing the rights of the affected citizens and their families.

8. Opinions in relation to introduced restrictive requirements for exempting disabled people and their families from paying vignette fees

The Ombudsman sent an opinion to the Minister of Transport and

Communications and to the Minister of Labor and Social Policy in connection with the provision of Art. 10c of the Roads Act (RA), 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.

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.

In the opinion, the ombudsman emphasized the requirements of the UN Convention on the Rights of Persons with

Disabilities and the Charter of Fundamental Rights of the EU, on the basis of my legal powers and in order to guarantee the rights of persons with disabilities and their families, I turn to you with a recommendation for considering the problems raised and taking adequate actions to resolve them.

It also recommends that measures be considered and taken to ensure flexible mechanisms for exempting needy citizens with disabilities and their families from paying a vignette fee, including with the right being tied not to a specific car, but to the person with disabilities and that he can use it for any car he moves with.

9. Opinion regarding lack of information on the actions taken by the administration

In connection with the complaints of citizens with disabilities that the Center for Urban Mobility in Sofia does not inform citizens with disabilities where their vehicles are located during the forced relocation of cars, an opinion was sent to the executive director of the company.

In the opinion, it is noted that every citizen has the right to have his issues addressed by the responsible authorities impartially, fairly and within a reasonable time.

It is emphasized that the lack of action violates the requirements of the UN Convention on the Rights of Persons with Disabilities and the Charter of Fundamental Rights of the EU, taking away opportunities for people in vulnerable situations to receive the support they need to lead dignified and independent lives .

10. Opinions regarding the lack of update of the amount of monthly benefits for raising a child with a permanent disability

In opinions related to the State Budget Bills for 2023 and 2024, the ombudsman emphasizes that the monthly benefits for raising a child with a permanent disability until the age of 18 and until the completion of secondary education, but no later than 20 -age, regulated in art. 8e of the Law on Family Benefits for Children, have not been updated since the end of 2016, and a mechanism for their automatic updating over the years is still not foreseen. In view of the provision of Art. 8e, para. 2 of the ZSPD, which does not allow the amount of aid to be less than the previous year, the amounts of financial support for individual groups of beneficiaries have been left for 7 years without being changed

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in the Laws on the State Budget of the Republic of Bulgaria.

Within its legal powers, the institution of the ombudsman has repeatedly brought the problem to the attention of the heads of the responsible bodies, and no action has been taken to resolve it.

It is necessary to pay attention to the fact that support for families with children with permanent disabilities has been significantly reduced in the last year. The reason for this is the serious inflation in the country, which reflects on the possibilities of meeting the needs of children.

In these conditions, 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 Art. 69 of the Law on Persons with Disabilities, as well as the amounts of various social benefits after the last positive actions for amendments to the Law on Social Assistance, promulgated State Gazette, no. 102 of 2022, in force from 01.06.2023. All these social payments are tied to the poverty line, which is a dynamic indicator.

Difficulties faced by the families of children with permanent disabilities and leaving only this vulnerable group without the opportunity to receive an adequate and annually updated amount of support from the state creates conditions for increasing social tension and dissatisfaction, as evidenced by the hundreds of complaints

received by the institution regarding the problem from concerned citizens over the past few days.

In connection with the above and as it is emphasized that the support of children with disabilities should be tailored to their needs, their best interest and the international acts to which our country is a party - such as the UN Convention on the Rights of the Child, the Convention on UN on the rights of people with disabilities and the Charter of Fundamental Rights of the EU, the ombudsman makes recommendations to the heads of the responsible bodies to address the problem by taking measures to update the monthly allowances under Art. 8d from the ZSPD.

The recommendations have been partially implemented, as with the Law on the Budget of the Republic of Bulgaria for 2024, the monthly allowances have been updated, but no mechanism for their automatic updating has been introduced.

11. Opinion in connection with the refusal of the "Social Assistance" Directorate to accept an application-declaration signed with an electronic signature for obtaining a free annual electronic vignette for a car

The institution of the ombudsman of the Republic of Bulgaria received a complaint from a citizen with a disability regarding the refusal of the responsible Directorate "Social Assistance" to accept an application-declaration signed by her with an electronic signature for obtaining a free annual electronic vignette for a car.

In the complaint, it is noted that regardless of the function of the electronic signature and the possibilities for submitting the application-declaration in Ordinance No. persons with 50 and more than 50 percent reduced working capacity or type and degree of disability and persons or families raising children with permanent disabilities up to the age of 18 and until the completion of secondary education, but no later than the age of 20, the citizen she was obliged to print out the document, sign it by hand and only after scanning it - send it to the social service.

It is shared that as a person with disabilities, the citizen has encountered significant difficulties in fulfilling the

requirements and is requesting to be given the opportunity to submit the necessary documents for social support without hindrance, after signing them with an electronic signature.

In a statement to the executive director of the Social Assistance Agency, the vulnerable position of people with disabilities and the commitments made by the state for the maximum introduction of e-government and e-services, in view of the principles of the UN Convention on the Rights of Persons with Disabilities and the Charter for fundamental rights of the EU. It is recommended to ensure the rights and interests of the interested citizens by simplifying the procedure for submitting the required documents, including and signed with an electronic signature.

The recommendation has been implemented, and the committed violation has been remedied. The Agency assures that the specific case is isolated and there is no problem with citizens submitting electronic applications.

12. Opinion in relation to the various criteria introduced by individual municipalities for issuing a preferential parking card for people with disabilities under Art. 99a of the Road Traffic Act

The Ombudsman made recommendations to the Minister of Transport and Communications and the Minister of Regional Development and Public Works in connection with the text of Art. 99a of the Road Traffic Act (RTA).

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 his capacity as a legal 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, address registered in the respective municipalities.

He 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.

In view of the fact that the matter concerns the exercise of recognized rights on the territory of the entire country, as well as in the other member states of the European Union, and not legal relations of only local significance, on the basis of Art. 19, para. 1, item 6 of the Law on the Ombudsman, it is recommended to examine the problem and take the necessary actions to solve it.

It is also recommended to discuss and take measures to unify

the requirements under Art. 99a of the RTA, delegating the settlement of the matter to the Council of Ministers or to the competent ministers, with all actions being consistent with the principles established in the UN Convention on the Rights of Persons with Disabilities and the Charter of Fundamental Rights of the EU.

CONCLUSION

According to the European Union (the “EU”) Strategy to strengthen the application of the Charter of Fundamental Rights in the EU (the “EU Charter Strategy”), strong and effective NHRIs play crucial role in protecting and promoting the Charter, as they focus on ‘protection gap’ between the rights of individuals and the responsibilities of the state.

NHRIs role includes monitoring the application, implementing and promoting the Charter, providing information and support to victims of fundamental rights violations and cooperating with the national institutions to improve the use and awareness of the Charter.⁵

⁵ European Commission, Strategy to strengthen the application of the Charter of Fundamental Rights in the EU, p.11, available at: <https://eur-lex.europa.eu/legal->

BEST PRACTICES OF EU CHARTER OF FUNDAMENTAL RIGHTS USE IN BULGARIA

This report presents findings and recommendations of the Ombudsman on the implementation of both the EU Charter and the UN CRPD, which are based on inspections and analyses in relation to citizens' complaints, the institution's participation in organised public discussions, participation in interdepartmental working groups, reflecting the activities of public institutions directly responsible for the formation and implementation of policies related to people with disabilities.

The Ombudsman institution in Bulgaria is using various activities through which Charter is promoted, including: complaints handling and litigation, advisory functions, human rights monitoring, reporting and awareness raising.

The effective use of the EU Charter and the UN CRPD depends on the existence of a set of favorable pre-conditions such as the good knowledge of EU law and EU Charter by the institution head, investing in constant training of administration staff, the introduction of internal monitoring procedure which takes into account all aspects of legal framework analysis; fruitful cooperation with human rights NGOs, etc.

The rich catalogue of issues on which the Ombudsman institution has intervened by referring to both the EU Charter and the

UN CRPD could be further used for the purposes of **monitoring the fundamental rights compliance of expenditures as introduced by the Common Provisions Regulation (CPR)**,⁶

The Partnership Agreement itself, contains some references to the Charter and the UNCRPD. Those appear when the document refers to the goals of social inclusion (stressing the need to accommodate people with disabilities and the need to take steps and ensure the protection of fundamental rights of vulnerable groups. In particular, the Policy Objective 4,⁷ which refers to the need of implementing the European Pillar of Social Rights (EPSR), further includes references to key fundamental rights such as gender equality and equality of opportunity.

⁶ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy.

⁷ Republic of Bulgaria, 'Structural Partnership Agreement 2021-2027' (July 2022) <
https://commission.europa.eu/document/download/ac34b467-bb18-4053-b4a9-5fe60fe13b36_en?filename=bg_partnership_agreement_2021-2027_eng.pdf, p14

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LIST OF ABBREVIATIONS

APC	Administrative Procedure Code
APD	Agency for People with Disabilities
BFSA	Bulgarian Food Safety Agency
BHC	Bulgarian Helsinki Committee
BID	Bulgarian Identity Documents
BPD	Border Police Department
CCt	Constitutional Court
CC	Criminal Code
CCD	Centre for Work with Children with Disabilities
CPC	Consumer Protection Commission
CEC	Central Election Commission
CERP	Conditional Early Release (Parole)
CM	Council of Ministers
CMD	Council of Ministers Decision
CPA	Child Protection Act
CPC	Criminal Procedure Code
CPD	Commission for Protection against Discrimination
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
CPT	Committee for the Prevention of Torture
CRA	Civil Registration Act
CRB	Constitution of the Republic of Bulgaria
CRC	UN Convention on the Rights of the Child
CRCm	Communications Regulation Commission
CRPD	UN Convention on the Rights of Persons with Disabilities
DL	Deprived from liberty
EC	European Commission
ENOC	European Network of Ombudspersons for Children
EIA	Environmental Impact Assessment
EU	European Union
ECtHR	European Court of Human Rights
EWRC	Energy and Water Regulatory Commission
EXLSG	European Charter of Local Self-Government
HA	Health Act
IPDA	Integration of People with Disabilities Act
IRALOUA	Implementing Regulation on the Agricultural Land Ownership and Use Act
IREFDCA	Implementing Regulation on the Execution of Punishments and Detention in Custody Act
IRIPDA	Implementing Regulation on the Integration of People with Disabilities Act
JA	Judiciary Act

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MES	Ministry of Education and Science
MEW	Ministry of Environment and Water
MH	Ministry of Health
MHC	Mental Health Centre
MI	Ministry of Interior
MIA	Ministry of Interior Act
MJ	Ministry of Justice
MLS	Ministry of Labour and Social Policy
MRDPW	Ministry of Regional Development and Public Works
MTC	Ministry of Transport and Communications
NA	National Assembly
NAMRB	National Association of Municipalities in the Republic of Bulgaria
NCIPD	National Council for Integration of Persons with Disabilities
NEMC	National Expert Medical Commission
NHIF	National Health Insurance Fund
NPAPD	National programme “Assistants for Persons with Disabilities“
NPM	National Preventive Mechanism
NSSI	National Social Security Institute
OA	Ombudsman Act
OPCT	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OSCE	Organisation for Security and Co-operation in Europe
PCA	Protection of Consumers Act
CPD	Child Protection Department
RDNCS	Regional Directorate for National Construction Supervision
RIE	Regional Inspectorate on Education
RIEW	Regional Inspectorate for Environment and Water
SAA	Social Assistance Agency
SAA	Social Assistance Act
SAC	Supreme Administrative Court
SACP	State Agency for Child Protection
SAD	Social Assistance Directorate
SAR	State Agency for Refugees
SCC	Supreme Court of Cassation
SG	State Gazette

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