

# State of the Rule of Law in Europe in 2022

## Reports from National Human Rights Institutions

Bulgaria



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# Bulgaria

*Ombudsman of the Republic of Bulgaria*

## Impact of 2021 rule of law reporting

### Follow-up by State authorities

The rule of law turned out to be an issue of intense discussion in Bulgarian society in 2021 as an immediate outcome of the 2020 protests. Rule of law challenges came under particular scrutiny during the electoral campaigns that preceded the regular general elections in April 2021, as well as the anticipated general elections in July and November 2021. This rendered discussions highly politicized, with no direct references to expert reports and independent reviews. Both political and public rule of law debates intensified at the time of the formation of the new coalition government of Bulgaria on December 12, 2021.

### Impact on the Institution's work

2021 ENNHRI rule of law report served the Ombudsman of the Republic of Bulgaria as an important framework for selecting annual working plan priorities for 2022.

### Follow-up initiatives by the Institution

As mentioned above, 2021 has been marked by a specific political context with three general elections taking place in just few months. The interim caretaker governments were focused on the management of overlapping crises of different type. The National Assembly worked just for few months with a special focus exclusively on adopting limited number of legislative amendments on critical issues, related to the pandemic and the economic crisis.

As a consequence, the venues that would have normally been used to foster a discussion on the ENHRI report were for most not available. Moreover, even if there is an obligation for the Parliament to review and discuss the Annual Report of the Ombudsman institution for the previous year (2020), such hearings started to regularly take place only in January 2022.

Nonetheless, the Ombudsman made an explicit reference to the ENNHRI Rule of Law report evidences and recommendations during the country mission of the LIBE

Democracy, Rule of Law and Fundamental Rights Monitoring Group of the European Parliament, which took place on 24-25<sup>th</sup> September 2021.

## **References**

- [https://www.europarl.europa.eu/meetdocs/2014\\_2019/plmrep/COMMITTEES/LIBE/DV/2021/11-29/MissionreportSK\\_BG\\_1240476\\_EN.pdf](https://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/LIBE/DV/2021/11-29/MissionreportSK_BG_1240476_EN.pdf)

## **NHRI's Recommendations to National and European policy makers**

The Ombudsman recommends the adoption of a common platform for sharing evidences from the different NHRIs' annual rule of law findings. Thus, it may boost more specific attention on the tool and its recommendations.

## **Independence and effectiveness of the NHRI**

### **International accreditation status and SCA recommendations**

The Ombudsman of the Republic of Bulgaria was re-accredited with A-status in March 2019 (1).

Among its recommendations, the SCA took the view that the selection process outlined in the enabling law would be strengthened by explicitly requiring the advertisement of vacancies, and by describing how a broad consultation and participation of civil society is to be achieved. The SCA encouraged the Bulgarian NHRI to advocate for the formalisation and application of a broad and transparent process.

The Bulgarian NHRI also reported that, while its budget had improved, it would benefit from additional funding to carry out its functions (including as an NPM and NMM), to establish regional offices and to ensure that its communications are accessible to all. The SCA encouraged the NHRI to continue to advocate for the funding necessary to ensure it can effectively carry out the full extent of its mandate.

Finally, the Bulgarian NHRI reported that there had been inadequate responses by state authorities, including relating to the NHRI's recommendations on the issue of domestic violence and the ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. The SCA encouraged the Bulgarian NHRI to continue to conduct follow-up activities to monitor the extent to which their recommendations have been implemented.

## References

- (1) <https://www.ohchr.org/Documents/Countries/NHRI/GANHRI/SCA%20Report%20March%202019%20-%20EN%20.pdf>

## Regulatory framework

The national regulatory framework applicable to the Bulgarian national human rights institution has not changed since 2021. The Ombudsman of the Republic of Bulgaria continues to function on a constitutional basis. The Ombudsman's mandate to contribute to access to justice for individuals includes complaints handling, providing legal assistance to individuals as well as awareness-raising.

Moreover, within exercising the mandate the Ombudsman of the Republic of Bulgaria:

- can also make proposals and recommendations for the promotion and protection of the endangered citizens' rights and freedoms from private entities;
- may approach the Constitutional Court with a petition to establish unconstitutionality of any law whereby any rights and freedoms of citizens are violated;
- may submit a request for an interpretative decision or interpretative decree to the Supreme Court of Cassation and/or the Supreme Administrative Court;
- makes proposals and recommendations for reinstatement of the violated rights and freedoms to the respective authorities and private entities;
- mediates between the administrative authorities and the persons concerned for overcoming the violations committed and reconcile their positions;
- protects children's rights;
- makes proposals and recommendations for elimination of the reasons and conditions which create 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;
- monitors and promotes effective implementation of signed and ratified international instruments in the field of human rights;
- 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;

- 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;
- 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.

## References

- (1) <https://www.parliament.bg/en/const>
- (2) <https://www.ombudsman.bg/pictures/Ombudsman%20Act%20EN.pdf>

## Enabling and safe space

The independence of the Ombudsman institution is well established in the Constitutional provisions and the Ombudsman Act.

The relevant state authorities have good awareness of the Bulgarian NHRIs' mandate, independence and role of the NHRI. Furthermore, the Ombudsman has adequate access to information and to policy makers and it is involved in all stages of legislation and policy making with human rights implications.

It should be noted that the addressees of the NHRI's recommendations are legally obliged to provide a timely and reasoned reply. According to the Ombudsman Act (art. 6, al. 1), the state and municipal bodies and their administrations, the corporate bodies and citizens shall be obliged to submit information consigned to them officially, and to assist the ombudsman in connection with the complaints and signals sent to him. In addition, administrative penal provisions of the Ombudsman Act provide for a set of sanctions for those institutions and bodies who obstruct the Ombudsman to fulfil his official duties or who fail to submit requested information. So far none of these administrative penal provisions have been used by the Ombudsman's institution as there was no such cases.

In Bulgaria, measures necessary to protect and support the NHRI, heads of institution and staff against threats and harassment and any other forms of intimidation (including SLAPP actions) are in place.

According to Art. 16 (1) of the Ombudsman Act, the Ombudsman enjoys immunity on an equal basis as the MPs. In addition, the actions taken by the Ombudsman administration in response to citizens' complaints are protected by a special provision in the Rules of Procedure of the Ombudsman Institution which stipulates that the documents of the Ombudsman shall be inviolable and shall not be subject to control or seizure (Art. 7 (1) and

that the correspondence between the Ombudsman and the persons who address him with complaints or signals shall be inviolable and shall not be subject to control nor used as evidence in any proceedings (pursuant to Art. 7 (2)).

### **References**

- (1) <https://www.ombudsman.bg/pictures/Ombudsman%20Act%20EN.pdf>
- (2) <https://www.ombudsman.bg/pictures/Rules%20of%20Procedure%20of%20the%20Ombudsman%20EN.pdf>

### **NHRI's recommendations to national and regional authorities**

In order for the institution to fulfil in a more effective way its competencies as assigned by the law, the Ombudsman of the Republic of Bulgaria is constantly requesting an increase of its annual budget with the purpose to enlarge the team of experts. For instance, with amendments to the Law on Foreigners in the Republic of Bulgaria (SG, issue 23 of 2013) the Ombudsman was obliged to monitor the coercive administrative measures imposed on foreigners, namely, forced removal to the border of the Republic of Bulgaria and expulsion, but no additional budget was provided to support the implementation of this task.

Furthermore, the Bulgarian NHRI calls for support for the development of the Ombudspersons to the Municipal councils at local level.

### **Human rights defenders and civil society space**

The Ombudsman takes the view that the situation of human rights defenders and civil society space in Bulgaria has slightly improved in comparison to the worrying situation in 2020.

The human rights monitoring and reporting of the Ombudsman's institution in Bulgaria did not find any evidence of laws, measures or practices that could negatively impact on civil society space and/or reduce human rights defenders' activities in 2021. In fact, the two caretaker governments did not have the time nor the competence to pass any new legislation. Allegations were commented in the National Assembly that prior to April general elections political and public opinion leaders were under mass wiretapping surveillance. No such proofs were afterwards presented to the ad-hoc parliamentary inquiry committee.

## NHRI's role in promoting and protecting civil society space and human rights defenders

In the beginning of 2021 a new Law on Social Services entered into force with some implications on civil society organisations that are community based and deliver services to different marginalised social groups. The law was perceived by civil society as limiting the opportunities for some CSOs to get financial support from the state budget for different type of social services, delivered by civil society organisations to local communities (such as providing support to families with kids in risk, working with drop-out children from Roma community, etc.). The Ombudsman sent a recommendation to the relevant state authorities to address such concerns.

The Ombudsman submitted an opinion on a bill under discussion, which would support the introduction of the possibility for remote participation of members of the General Assembly and Boards of non-profit legal entities, which, in addition to being in line with the pandemic situation, will contribute to facilitating the process of taking solutions.

## Checks and balances

The Bulgarian NHRI human rights monitoring and reporting found some evidence of practices that limit the participation of rights holders, including vulnerable groups, and of stakeholders representing them, to legislative and policy processes. In the beginning of 2021 the use of expedited legislative processes together with a refusal to support civil-society led legislative amendments have marked the last months of the 44<sup>th</sup> National Assembly. For instance, a long-awaited draft law amending the Law for Domestic Violence Protection was not deposited by the Ministry of Justice to the National Assembly under the legislative procedure even if a WG with the participation of a large-spectrum of civil society organisations has assisted the Ministry of Justice in preparing the amendments. In order to speed-up the process, the Ombudsman organised an on-line public discussion with the participation of MPs, the Minister of Justice, all interested parties like civil society organisations, academics, etc. Nevertheless, in February 2021 the law amendment procedure failed and the draft law is still awaiting the new government to put it to the legislative agenda once again.

Furthermore, the Ombudsman identified national practices hindering the implementation of judgments of supranational courts. In its Annual Reports, the Ombudsman is regularly alerting on the failure of Bulgarian authorities to implement the general measures the Council of Europe Committee of Ministers requires with a view of executing judgments of the European Court of Human Rights (ECtHR). Some ECtHR judgments reveal systemic or structural problems that need to be addressed through legislative amendments or changes

in the case-law or administrative practice. These general measures, whose implementation is under the supervision of the Committee of Ministers, remain non-implemented for years by the national institutions. One of the main reasons is that the implementation requires active efforts on the part of different institutions which, in many cases, fail to timely take the necessary measures to execute the judgments. The coordination role of the Ministry of Justice is insufficient to ensure the adoption of measures which are within the competence of other institutions.

The Ombudsman also stresses that, as expected, given the April, July and November 2021 elections for MPs, a relatively large number of complaints were received from citizens this year regarding their voting rights. The most common complaints are related to: automated voting systems; problems with the exercise of the right to vote by quarantined citizens or by citizens who, due to their official duties on election day, are seconded to another location other than their permanent address; protection of personal data during the organization and conduct of elections; the need for more information on the voting of voters with permanent disabilities and those subject to mandatory quarantine or isolation. The Ombudsman sent a recommendation to the Chairman of the Central Election Commission, informing him of a serious problem related to the inability of citizens engaged in the technical logistics of machine voting to exercise their constitutional right to vote.

### **References**

- <https://www.ombudsman.bg/news/5441?page=12#middleWrapper>
- <https://www.ombudsman.bg/news/5459?page=11#middleWrapper>

### **Trust amongst citizens and between citizens and the public administration**

The Bulgarian NHRI considers that the state authorities sufficiently foster a good level of trust amongst citizens and between citizens and the public administration. This was a part of the inaugural statement of the newly elected government on the 13<sup>th</sup> of December 2021.

### **References**

- (1) <https://www.parliament.bg/bg/plenaryst/ns/55/ID/10596>

### **NHRIs as part of the system of checks and balances**

#### **Legislative amendments initiated by the Ombudsman**

In 2021 despite the lack of a regularly working parliament for most of the year, the Ombudsman actively exercised his powers for legislative proposals and initiatives to protect citizens' rights:

- At the beginning of the year, the MPs accepted the Ombudsman's proposal to include an explicit normative provision for non-sequestration of funds provided by the state as social payments in the Bill on Amendments to the Law on Measures and Actions during the State of Emergency.
- At the suggestion of the Ombudsman, the MPs solved the problem with the vicious practice of unscrupulous buyers not to register an acquired vehicle and it continues to be owned by the seller, and a crime can be committed with it. The specific legislative change is included in the Road Traffic Act.
- The Ombudsman also sent an opinion to the Minister of the Interior, in which he strongly disagreed with the provisions of the Draft Amendments to the Rules of Procedure of the Ministry of Interior published for public discussion. The reason is the intention of the ministry to create - through its regulations - a legal opportunity for border police officers to check whether traveling citizens have unpaid fines and unpaid tickets for traffic violations and, accordingly - to collect and serve them at the border. The Public Defender has repeatedly criticized the ministry's attempts to improve the collection of these fines by restricting citizens' basic rights, such as free movement or leaving the country, including by referring it to the Constitutional Court.

### **Appeals to the Constitutional Court with a petition to establish unconstitutionality**

In 2021, the Constitutional Court granted five ombudsman requests for a declaration of unconstitutionality, finding a contradiction with the Basic Law.

### **References**

- Annual Report on the Ombudsman Activities for 2021 (in Bulgarian)
- <https://www.ombudsman.bg/pictures/REPORT%202021-ANNUAL%20FINAL-BG.pdf>
- Speech of the Ombudsman, <https://www.ombudsman.bg/news/5527?page=5#middleWrapper>

### **NHRI's recommendations to national and regional authorities**

- Citizens' complaints show that it is necessary to make efforts to change the provisions of the Electoral Code to ensure the maximum enjoyment of the fundamental rights and freedoms of citizens in the electoral process, namely: the right of all persons who are quarantined for COVID-19, to exercise their right to vote, including persons quarantined at a different address from their current and permanent address; the right of persons who, due to their official duties on election

day, are seconded to another place other than their permanent address, to exercise their right to vote; providing for the possibility of opening a sufficient number of polling stations for Bulgarian citizens abroad in countries outside the EU, and providing an opportunity for all Bulgarian citizens before the polling station abroad to exercise their right to vote; legal and organisational order, in which for all citizens in their capacity as members of the PEC to be provided equal working conditions and participation in the process of handing over the ballot papers.

- Strengthen the coordination mechanisms among the institutions responsible for the execution of ECtHR judgments against Bulgaria. The lack of progress in this regard in 2021 has once again shown that general preventive measures need to be applied as taken by the State. This is why the Ombudsman proposes that an inter-institutional coordination council be set up involving representatives (experts) of all national institutions which need to be engaged directly in the process of coordination and monitoring of the implementation of the measures to execute ECtHR judgments.
- Yet again the Ombudsman recalls that after the entry into force of the provision of Article 28, para 3 of the Statutory Instruments Act at the end of 2016, the National Mechanism for compliance review of statutory instruments with the ECHR needs to be applied both by the executive and the legislature powers. A practice where the bills put forward by Members of Parliament are not checked for compliance with the ECHR and the ECtHR case-law could lead to a violation of the international standards of observance of human rights and new convictions of Bulgaria in Strasbourg.

## Functioning of the justice system

The functioning of the justice system and its ability to effectively implement the rule of law standards is still under monitoring from the LIBE Democracy, Rule of Law and Fundamental Rights Monitoring Group of the European Parliament.

In 2021 the Ombudsman institution continued to alert public authorities that the reform of juvenile justice in Bulgaria is long overdue. There are still no adequate correctional and educational services established in line with the leading standards of protection of the rights and interests of the child. The Ombudsman is constantly urging public authorities to Repeal the Combating the Anti-Social Behaviour of Minor and Underage Persons Act in effect since 1958 and adopt a Law on Deviation from Criminal Proceedings and Imposition of Educational Measures on Juveniles. The Ombudsman also called on the authorities to implement the EU Directive 2016/800 on procedural guarantees for children suspected or

accused in criminal proceedings into the Criminal Procedure Code, as well as to reform the system of juvenile justice and assess the need for specialised judicial juvenile panels.

### **References**

- 2021 Annual Report of the Ombudsman as National Preventive Mechanism  
<https://www.ombudsman.bg/pictures/file/%D0%93%D0%BE%D0%B4%D0%B8%D1%88%D0%B5%D0%BD%20%D0%B4%D0%BE%D0%BA%D0%BB%D0%B0%D0%B4%20%D0%9E%D0%BC%D0%B1%D1%83%D0%B4%D1%81%D0%BC%D0%B0%D0%BD%20%D0%9D%D0%9F%D0%9C%20-%202021.pdf>

### **Role of the NHRI in contributing to the effective functioning of the justice system**

Besides advocacy efforts to prompt an adequate reform of the juvenile justice system, as reported above, in June 2021 the Ombudsman appealed before the Constitutional Court a provision of the Criminal Procedure Code (CPC, Article 64, para. 2, second sentence) which allows the accused not to appear in person in court when deciding whether to remain behind bars or impose a lighter measure of restraint. The Ombudsman argued this constitutes a violation of the Constitution because it opposes the principles of the rule of law (Article 4, para. 1), the right to personal liberty and inviolability (Article 56), and rules on proceedings before the court (Art. 122) of the Constitution. The constitutional judges supported the arguments made by the Ombudsman that the contested provision violates the right to protection of citizens under Article 122 in connection with Article 56 of the Constitution.

Furthermore, in view of the letters, petitions, objections and opinions received by the institution, on the model of judicial card optimization reform that provided for the abolishment of several city courts in the country-side, the Ombudsman sent a recommendation to the Supreme Judicial Council expressing his position on the proposed closure of courts, which in her views restricts the right to access to justice. The Ombudsman called on authorities to hold a public consultation with citizens and to ensure a system that delivers quality and unhindered justice in accordance with the right to access to justice.

### **NHRI's recommendations to national and regional authorities**

The Bulgarian NHRI recommends that any reform that address the access to justice should be done after extensive consultation with citizens and take into consideration the judgments of the ECtHR.

Furthermore, particular attention ought to be paid to the need to set up a modern juvenile justice system. The reform of juvenile justice in Bulgaria remains at an early stage. There

are no adequate correctional-educational services compliant with the international standards for the protection of children's rights and interests in place yet. A comprehensive assessment needs to be made of the need for specialised judicial panels to handle cases for children and young people.

## **Media freedom, pluralism and safety of journalists**

The Bulgarian NHRI stresses that the situation of media freedom, pluralism and safety of journalists remains worrying in Bulgaria.

Among major developments in 2021, the Sofia Appellate Prosecutor's Office (SAP) has confirmed its refusal to launch an investigation into police violence against journalist Dimitar Kenarov during anti-government protests. The Ombudsman institution is monitoring this case as part of its monitoring on police violence issues.

## **Role of the NHRI in promoting and safeguarding an enabling environment for media and freedom of expression**

For the last three years, the Ombudsman institution has been approached with just 3 complaints on violation of freedom of expression. This might be related to the fact that there are two more independent state bodies that have a specific mandate to deal either with issues related to media pluralism (the Council for Electronic Media) (1) or with infringements of the freedom of expression, such as hate speech, (the Commission for Protection against Discrimination) (2). Nevertheless, the Ombudsman is constantly advocating for the respect of freedom of expression as a fundamental right. The latest statements of the Ombudsman relate to hate speech and include specific recommendations to public authorities to put more effective instruments for monitoring and reporting hate speech crimes (4) (5).

The Ombudsman institution is closely monitoring the execution by Bulgarian authorities of the European Court of Human Rights final judgments related to violations of Article 10 of the ECHR under the *Bozhkov v. Bulgaria* case (3) – still an issue of concern is related to disproportionate interference with the freedom of expression of journalists, as a result of their convictions to administrative penalty in criminal proceedings between 2003 and 2008 for defamation of public servants. In its 2019 Annual Report the Ombudsman of the Republic of Bulgaria has underlined the need for completing the work of the special inter-ministerial working group which has prepared draft amendments to the Criminal Code with the aim to include the exemption from criminal liability and the imposition of an administrative sanction where the defamation concerns a public authority or official and the removal or reducing of the lower limits of fines.

## References

- (1) Council for Electronic Media: [www.cem.bg/](http://www.cem.bg/)
- (2) Commission for Protection against Discrimination, established in 2005 by a special Act. The Commission also acts as a national contact point on hate crimes with the Organization for Security and Cooperation in Europe.
- (3) *Bozhkov v. Bulgaria* case:  
[https://hudoc.exec.coe.int/eng#{%22EXECIdentifier%22:\[%22004-1909%22\]}](https://hudoc.exec.coe.int/eng#{%22EXECIdentifier%22:[%22004-1909%22]})
- (4) Speeches of the Ombudsman:  
<https://www.ombudsman.bg/news/5211?page=10#middleWrapper>
- (5) Statement of the Ombudsman:  
<https://www.ombudsman.bg/news/5287?page=4#middleWrapper>

## Corruption

Corruption in Bulgaria since last year's rule of law reporting has remained at worrying levels. This assessment is based, among others, on the continued monitoring by the LIBE Democracy, Rule of Law and Fundamental Rights Monitoring Group of the European Parliament. Corruption allegation scandals continue to be part of the public discourse in Bulgaria in 2021, especially in the context of the three electoral campaigns preceding the general elections in April, July and November 2021.

Although no corruption related complaints have been received in 2021 by the office of the Ombudsman institution, some 988 complaints were received in relation to the right to good governance and good administration – an increase by 0.5% in comparison to 2020. As a result of the inspections carried out, in 47% of the complaints the Ombudsman has established violation of the right to good governance. In 337 cases, the Ombudsman gave recommendations and proposals to administrative authorities and the majority of them were taken into account. In 478 cases, a solution was found through mediation between citizens and the administration.

The protection of whistle blowers is still deficient in Bulgarian law. The Ombudsman has invited state authorities to pay special attention to the urgency of addressing this gap. A special focus should be put on prohibition of retaliation and support measures including comprehensive and independent information and advice, which is easily accessible to the public and free of charge, on procedures and remedies available, on protection against retaliation, and on the rights of the person concerned. In a recent statement before the Parliamentary Committee on Human Rights, Religion and Citizens' Complaints, the

Ombudsman underlined the need for timely and effective transposition of the Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law.

### **References**

- 2021 Annual Report of the Ombudsman of Bulgaria, to be published by 31 March 2022: <https://www.ombudsman.bg/pictures/REPORT%202021-ANNUAL%20FINAL-BG.pdf>
- The Parliamentary Committee on Human Rights, Religion and Citizens' Complaints: <https://www.parliament.bg/en/parliamentarycommittees/2968>

### **NHRI's recommendations to national and regional authorities**

As called by the Ombudsman in his statement, authorities should take steps to adequately ensure legal protection for whistle-blowers in line with the requirements of Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law. Special focus should be put on the prohibition of retaliation and support measures including comprehensive and independent information and advice. Information on available procedures and remedies on protection against retaliation and on the rights of the person concerned shall be easily accessible to the public and free of charge.

## **Impact of measures taken in response to COVID-19 on the national rule of law environment**

### **Most significant impacts of measures taken in response to the COVID-19 outbreak on the rule of law and human rights protection**

Based on the number and the type of complaints received by the Bulgarian NHRI in 2021, it seems that the major risks for the human rights in the post-COVID-19 will be:

1. persistence of measures affecting human rights that are not or no longer legitimate or proportionate to the threats posed, especially with a long-term impact on school pupils and the mental health of kids;
2. exacerbation of social exclusion, especially persistent for the Roma group members in Bulgaria;
3. impact on vulnerable sectors of the population, especially Romani women and children;

4. negative implications for the enjoyment of socio-economic rights, especially for retired and elderly people, refugees and migrants.

## References

- Speeches of the Ombudsman:  
<https://www.ombudsman.bg/news/5529?page=5#middleWrapper>

## Actions taken by the NHRI to promote and protect rule of law and human rights in the crisis context

As an immediate response to the epidemic situation, the Ombudsman of the Republic of Bulgaria organised free of charge access to the mobile contacts of all experts working in the institution, thus providing for a total of 35 hot-lines to hear and respond to citizens' concerns. This approach resulted in a constant increase of complaints received and services delivered to citizens during the emergency period as compared to the same period during the previous year.

Key achievements of the Ombudsman of Bulgaria institution in addressing problematic issues include:

### **Immunity from seizure for funds provided as a financial compensation in the emergency epidemic situation**

Citizens, whose employment was affected by the COVID 19 crisis and who received financial support from the state, complained that banks withheld such funds and remitted them to private enforcement agencies (private bailiffs). They were, consequently, left with no income, as well as with no money for food and for pressing needs. Funds granted through the 'Keep Me Employed' programme are considered as a financial compensation provided to insured workers employed in economic activities whose pursuit is temporarily restricted. An amendment to the *Measures and Activities during the State of Emergency Declared by Decision of the National Assembly of 13 March 2020 and Overcoming the Consequences Act* was made on a proposal of the Ombudsman to include a ban on the seizure of compensation funds granted.

### **Access to justice**

In the Bulgarian NHRI's opinion addressed to the Standing Parliamentary Committee on Internal Security and Public Order in connection with the floor debate on the *Bill to Amend the Measures and Activities during the State of Emergency Declared by Decision of the National Assembly of 13 March 2020 and Overcoming the Consequences Act*, the Ombudsman stressed that access to justice was an indisputable and inalienable right that should be exercised freely and the state authorities and institutions should take all possible measures and actions to create the necessary arrangements and conditions for the free

exercise of the right to access justice. The Ombudsman recommended that the legal provisions governing the use of videoconferencing to hold court proceedings in civil, criminal, and administrative cases should be voted on and adopted as soon as possible.

### **Right to healthcare**

A recommendation was put forward to the Minister for Health following numerous complaints filed by essential healthcare professionals about the government's failure to disburse medical checks of pregnant Romani women.

### **Rights of persons with disabilities**

The amendments to the Family Allowances for Children Act (FACA), promulgated in the State Gazette, issue 14 of 2021, with effect from 17 February 2021, have rendered the families of relatives and near friends, as well as the volunteer foster families providing care and support in a family setting to children whose type and degree of disability or permanent incapacity for work have been determined at 90 percent or more, eligible to receive the monthly monetary benefits payable according to Article 8e(5) of the FACA.

### **Abolition of fees for community-based social services provided remotely during the state of emergency**

Upon a recommendation sent by the Ombudsman to the National Assembly, the fees for community-based social services that were provided remotely during the state of emergency have been abolished.

### **Rights of the child**

The Ombudsman put forward more than 100 recommendations. Some of those referred to specific cases while others related to the rights of large groups of children. Most recommendations were addressed to the competent child protection authorities – Social Assistance Directorates (SAD), the Agency for Social Assistance (ASA), the State Agency for Child Protection (SACP), the Ministry of Labour and Social Policy (MLSP), the Ministry of Education and Science (MES) and certain Regional Departments of Education, the Ministry of Health (MH) and the National Health Insurance Fund (NHIF), mayors of municipalities, and law enforcement authorities. In response to her recommendations, the Ombudsman was informed of the actions taken, including findings of infringements and the sanction meted out.

The Ombudsman office resumed in 2021 monitoring inspections acting as National Preventive Mechanism (NPM). In 2021, despite the complicated epidemic situation, the Ombudsman acting as NPM carried out inspections at 64 sites, which is an increase by 35% as compared to 2020. The main purpose of the inspections was, first of all, to assess

the anti-epidemic measures taken in the closed institutions, as well as to monitor the implementation of the recommendations given during previous visits.

### **References**

- 2021 Annual Report of the Ombudsman of Bulgaria, to be published by 31 March 2022: <https://www.ombudsman.bg/pictures/REPORT%202021-ANNUAL%20FINAL-BG.pdf>
- 2021 Annual Report of the Ombudsman as National Preventive Mechanism: <https://www.ombudsman.bg/pictures/file/%D0%93%D0%BE%D0%B4%D0%B8%D1%88%D0%B5%D0%BD%20%D0%B4%D0%BE%D0%BA%D0%BB%D0%B0%D0%B4%20%D0%9E%D0%BC%D0%B1%D1%83%D0%B4%D1%81%D0%BC%D0%B0%D0%BD%20%D0%9D%D0%9F%D0%9C%20-%202021.pdf>

### **NHRI's recommendations to national and regional authorities**

The Ombudsman of the republic of Bulgaria recommends to put forward effective tools to respect the principle of proportionality when implementing new measures, especially in the field of access to education.