



European Network of
National Human Rights Institutions

Implementing the Council of Europe Recommendation on National Human Rights Institutions: The State of Play

The situation in Bulgaria



Bulgaria Country Report

Overview

Name of NHRI and mandate:

- Bulgarian Ombudsman (ORB)
- Multi-mandated NHRI; also ombuds-institution, NMM & NPM.

Sources:

- NHRI: [ENNHRI, State of the Rule of Law in Europe in 2022, Bulgaria Country Report](#)
- Sub-Committee on Accreditation (SCA): [SCA report March 2019](#)
- CoE independent bodies: [CPT Report on Bulgaria \(2022\)](#); [CPT Report on Bulgaria \(2018\)](#); [ECRI Report on Bulgaria \(2022\)](#); [Council of Europe Commissioner for Human Rights report on Bulgaria \(2020\)](#)

Good practices and improvements:

- **CM Principle 1:** the Bulgarian Ombudsman is an A-Status NHRI.
- **CM Principle 2:** constitutional mandate, including independence guarantees.
- **CM Principle 3§3, 3§5 and 3§6:** the ombudsman mandate consists of addressing alleged violations from private entities; making relevant and concrete recommendations for law amendments; exercising strong powers to contribute to an effective justice system, through individual complaints-handling, petition the Constitutional Court to establish unconstitutionality of any law which infringes

human rights and freedoms, and submitting a request for an interpretative decision or decree to the Supreme Court of Cassation and/or the Supreme Administrative Court.

Key areas where improvement is needed:

- **CM Recommendations 6, 7:& 10: adequate, sufficient and sustainable budget and staffing to carry out the mandate:** in line with findings from the CoE Commissioner for Human Rights and the SCA, the Bulgarian NHRI reports insufficient resources to carry out its functions, and is continuously requesting an increase of its annual budget with the purpose to enlarge its team of experts especially lawyers.
- **CM Recommendation 9: timely and reasoned response and follow-up to NHRIs recommendations:** while addressees of the NHRI's recommendations are legally obliged to provide a timely and reasoned reply, the Bulgarian Ombudsman reports that this legal obligation sometimes is not duly respected in practice.
- **CM Recommendation 4: more transparent and inclusive selection process:** the SCA (2019) recommends that the selection process outlined in the Law would be strengthened by explicitly requiring the advertisement of vacancies, and by describing the means by which broad consultation and/or participation of civil society in the process is to be achieved. On a more positive note, the NHRI reported that the current ombudsman has been elected in May 2020 following a public and transparent procedure that reflected all recommendations made by the SCA Report.

Specific findings per Principle

The tables below include data on the assessment of the implementation of each Principle (i.e. the individual parts) within the Recommendation from three sources: the National Human Rights Institutions, the Sub-Committee on Accreditation of GANHRI and the Council of Europe independent bodies. Overall, the findings are considered in four overall groups: the establishment of NHRIs; the strengthening of NHRIs; a safe and enabling environment for NHRIs; and cooperation with and support for NHRIs.

I. Establishment of NHRIs

Principle 1	Member States should ensure that NHRIs are in place and that they are established, accredited and function in full compliance with the Paris Principles
Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI	<p><i>SCA Report March 2019, p. 16</i></p> <p>The SCA recommends that the ORB be re-accredited with A status. The SCA notes that, in March 2011, it recommended that two (2) institutions from Bulgaria, the ORB (Ombudsman of the Republic of Bulgaria) and the Commission for the Protection against Discrimination, be accredited with B status.'</p>
Assessment of implementation by CoE independent bodies	<p><i>CoE Commissioner country report on Bulgaria, March 2020, p. 14 (Para.37)</i></p> <p>The Commissioner notes with satisfaction that in 2019, the institution of the Ombudsman was accredited by the Global Alliance of National Human Rights Institutions (GANHRI) with the accreditation status "A", meaning that it is fully compliant with the Paris Principles on National Human Rights Institutions.</p>

<p>Principle 2</p>	<p>Member States should provide a firm legal basis for NHRIs, preferably at the constitutional level, and/or in a law which defines the mandates and functions of such institutions, guarantees their independence and provides them with the means necessary to accomplish their functions effectively, both at national and international levels, bearing in mind existing standards and recommendations on NHRIs, in particular the Paris Principles and their interpretation developed by GANHRI's Sub-Committee on Accreditation.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>The Ombudsman of the Republic of Bulgaria is a supreme independent constitutional body. According to Art. 91a of the Constitution, the National Assembly shall elect an Ombudsman, who shall defend the rights and freedoms of the citizens. The powers and activities of the Ombudsman are regulated by a special law – the Ombudsman Act.</p> <p>The independence of the Ombudsman institution is well established in provisions of the Ombudsman Act. According to Art. (1), in his/her activity the ombudsman shall be independent and shall only be subordinated to the Constitution, the laws and the ratified international agreements party to which is the Republic of Bulgaria, guided by his personal conscience and ethics.</p> <p>Furthermore, the operational independence of the institution is provided in Art.39(2) of the Ombudsman Act that provides for the Ombudsman to work out the Regulations for his organisation and activity which should be then approved by the National Assembly and promulgated in the State Gazette. Since the Rules of Procedures of the institution were first adopted in 2012, two more amendments were drafted by the Ombudsman and approved by the National Assembly without any hurdles.</p> <p>The Rules of Procedures establish:</p>

	<ul style="list-style-type: none"> • the powers and main principles in the work of the Ombudsman; • the appointment and organisation of administrative staff; • all procedures applicable to the review of complaints, the functioning of the NPM, the mediation, the actions upon the Ombudsman's initiative, • the voice of opinions, recommendations and proposals; • the budget; • the annual report and the reports on specific cases.
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>ECRI Report on Bulgaria 2022, p.36</i> <i>(Comment of the government on ECRI's report)</i></p> <p>The Ombudsman's Act settles the legal status, organisation and activity of the institution to intervene when the rights and freedoms of citizens are violated by state authorities or by natural or legal persons subject to private law.'</p>

II. Strengthening of NHRIs

<p>Principle 3.1</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - monitor and analyse the human rights situation in the country, publish reports on these findings and address recommendations to public authorities at national, regional and local levels and, when applicable, to private entities, and present an annual report to the relevant authorities, including before parliament, for its consideration.
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 3</i></p> <p>'[...] within exercising the mandate the Ombudsman of the Republic of Bulgaria, the ombuds can also make proposals and recommendations for the promotion and protection of the endangered citizens' rights and freedoms from private entities;' [...] 'Moreover, within exercising the mandate the Ombudsman of the Republic of Bulgaria:[...] 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;'</p> <p><i>Information provided by the NHRI in 2023</i></p> <p><i>The Annual Report of the ORB is publicly debated in National Assembly;</i></p> <p><i>Each year the ORB is publishing an Annual report for its activities as NPM;</i></p>

	<p><i>Each year the ORB publishes reports on specific issues of concern – for instance in 2021 it was a report on the Impact of COVID-19 pandemic on child's rights;</i></p> <p><i>ORB has sent numerous reports to UN Bodies – CEDAW, CRC, etc.</i></p> <p><i>The Ombudsman of the Republic of Bulgaria monitors as well the implementation of the ECtHR judgments in Bulgaria and sends specific recommendations to Bulgarian authorities</i></p>
<p>Principle 3.2</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - freely address public opinion, raise public awareness on human rights and carry out education and training programmes;
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p><i>The Ombudsman Act provides for the right of the ombudsperson to express public opinion and statements, including in the mass media Art. 20, (1), p.3.</i></p> <p><i>The Ombudsman of the Republic of Bulgaria maintains an open dialogue with citizens and their organisations – on a monthly basis the institution publishes more than 10 public statements of the Ombudsman on its official website.</i></p> <p><i>Education and training is provided to university students under joint programs with three Sofia based universities,</i></p>

	<p><i>The Ombudsman participates in public conferences in the effort to raise public awareness on all deficits regarding rights of vulnerable groups – in 2022 alone the ORB initiated, participated or was the patron of 16 different public events covering issues such as domestic violence, the right of children with special educational needs, the rule of law, ECHR, etc.</i></p>
<p>Principle 3.3</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <p>- fully address all alleged human rights violations by all administrative authorities, other relevant State entities and, when applicable, private entities</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>See also COM Principle 3§1</i></p> <p><i>Information provided by the NHRI in 2023 in the Annual Report 2022 of the Ombudsman of Bulgaria (in Bulgarian)</i></p> <p><i>The Ombudsman Office</i> has the mandate to address alleged violations by state authorities and private entities.</p> <p><i>The latest amendments to the Ombudsman Act from 2018 vested in the institution 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. In exercising this power, the Ombudsman can also make proposals and recommendations for the promotion and protection of the endangered citizens' rights and freedoms from private entities. In 2022 the Ombudsman has received 15 189 complaints from citizens on the basis of which the NHRI has sent 3 196 recommendations – 40% addressed to state</i></p>

	<p><i>authorities, 33% addressed to bodies entrusted with the rendering of public services, 18% addressed to local public authorities and 9% addressed to private entities. Two-thirds of the recommendations were implemented.</i></p>
<p>Principle 3.4</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - have unfettered access to all relevant premises, including places of deprivation of liberty, and to all relevant individuals, in order to be able to carry out a credible examination of all issues covered by their mandate and to all relevant information, subject to possible restrictions stemming from the protection of other rights and legitimate interests and with due respect for the confidentiality of information obtained;
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023 – taken from its Annual Report 2022 for the Activities of the Ombuds institution in Bulgaria as NPM</i></p> <p><i>The Ombudsman Act provides that the competences of the ombudsman as a National Preventive Mechanism shall concern the places with persons deprived of liberty, or detained or accommodated pursuant to an act or with the consent of a state authority, which cannot be left at their will, for the purpose of protection of such persons from torture or other forms of cruel, inhuman or degrading treatment or punishment (Art. 28a Para 1. In fulfilling this competence, The ombudsman shall have the right to: 1. access without advance notification at any time to all places for detention referred to in Para 1 and their sites and facilities; 2. access to all information concerning the number of persons deprived of their liberty in places of detention as defined in Para 1, as well as the number of places and their location; 3. choose the places referred to in Para 1 he wants to visit and the persons he wants to interview; 4. have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the</i></p>

	<p><i>ombudsman as a national preventive mechanism believes may supply relevant information; 5. access to all information referring to the treatment of the persons referred to in Para 1 as well as their conditions of detention; 6. request information from officials of the visited place for detention, to interview them, and to carry out private interviews with any other person on the territory of the visited site; 7. organise medicinal checks of the persons with their consent. The employees and officials in the places referred to in Para 1 shall be obliged to render assistance and provide the required information to the ombudsman. The Ombudsman shall be notified in the preparation of drafts of normative acts which affect his powers as a national preventive mechanism.</i></p> <p><i>In addition, the Ombudsman act requires that Art. 6 (2) (new – SG 29/12, in force from 11.05.2012) The state and municipal authorities shall be obliged to provide information within 14 days from being requested regarding the places referred to in Art. 28a, the conditions and the number of persons therein, as well as other information required for exercise of the ombudsman’s competences under Chapter Four “a” on the National Preventive Mechanism.</i></p> <p><i>In 2022 the Ombudsman of the Republic of Bulgaria acting as NPM has carried out 58 inspections in places of detention, state psychiatric hospitals and mental health centers, refugee and migrant accommodation centers, residential and family-type accommodation centers for children and adults which included more than 11 thousands of people. On the grounds of the inspections the ORB has sent 134 recommendations to various stakeholders.</i></p>
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>CPT Report on Bulgaria 2022, p.41 (Para.78)</i></p> <p>Regarding the independent monitoring of prisons, this was performed by the Ombudsman (and her staff), in her capacity as the NPM. Further, based on an agreement with the Ministry of Justice and</p>

	<p>the GDIN, prisons continued to be visited on a regular basis by representatives of the Bulgarian Helsinki Committee.</p>
<p>Principle 3.5</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - monitor existing and draft policies and legislation with human rights implications before, during and after their adoption in order to advise the State about the impact of such policies and legislation on human rights and on the activities of human rights defenders, including by making relevant and concrete recommendations.
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 3</i></p> <p><i>'Moreover, within exercising the mandate the Ombudsman of the Republic of Bulgaria: [...] submits opinions to the Council of Ministers and the National Assembly on bills relevant to human rights;' [...] p. 7: 'In 2021 despite the lack of a regularly working parliament for most of the year, the Ombudsman actively exercised the powers for legislative proposals and initiatives to protect citizens' rights</i></p> <p><i>Information provided by the NHRI from its Annual Report 2022 and Annual Report 2021 of the activities of the Ombudsman (both in Bulgarian)</i></p> <p><i><u>Art. 19 of the Ombudsman Act</u> provides that the Ombudsman shall:</i></p> <p><i>Para 7. (suppl. – SG 29/12, in force from 11.05.2012, previous item 6 - SG 20/18) extend proposals and recommendations for removal of the reasons and conditions which create preconditions for violation of the rights and freedoms, including proposals for normative changes;</i></p>

Para 9. (new – SG 29/12, in force from 11.05.2012, previous item 8 - SG 20/18) provide opinions to the Council of Ministers and the National Assembly on draft laws concerning the human rights protection;

In 2021 the institution has issued **21 legislative proposals and recommendations**, while in 2022 some **27 legislative proposals and statements were addressed to the National Assembly** such like:

- The Ombudsman's proposal for an explicit normative provision on non-sequestration of compensations granted in connection with COVID-19 under the "Save Me" programme was accepted. At the beginning of 2022, an explicit text was voted and adopted, which protects the covid supplements of pensioners in cases of seizure in enforcement proceedings;
- Through a change in the Road Traffic Act, cars sold before 27 December 2017 can be written off by the seller in the traffic police agency until the end of 2023 only with the contract of sale.
- An opinion was sent to the Minister of the Interior, stating a strong disagreement with the proposed provisions in the draft amendment to the Rules of Procedure of the Ministry of Interior, concerning the possibility for border police officers to check whether travelling citizens have unpaid fines and unpaid tickets for traffic violations, and, accordingly, to collect and deliver them at the border.
- An opinion was sent on a bill to support the introduction of the possibility for remote participation of the members of the general meeting of non-profit legal entities.

<p>Principle 3.6</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <p>- contribute to an effective justice system for all, through awareness-raising measures and facilitating access to rights and remedies and, as applicable, by providing legal assistance, being a party before the courts or, when applicable, receiving individual complaints;</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 3</i></p> <p>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, [...] the Ombudsman may submit a request for an interpretative decision or interpretative decree to the Supreme Court of Cassation and/or the Supreme Administrative Court.</p> <p><i>Information provided by the NHRI in 2023 taken from its Annual Report 2022 and 2021 on the activities of the Ombudsman (in Bulgarian)</i></p> <ul style="list-style-type: none"> • <i>For instance, in 2021 In connection with the numerous letters, petitions, objections and opinions on the model of judicial card optimisation reform, the Ombudsman sent a recommendation to the Supreme Judicial Council with a position on the proposed closure of courts, which restricts the right of access to justice.</i> • <i>In 2021, the Ombudsman of the Republic of Bulgaria submitted five requests to the Constitutional Court to establish the unconstitutionality of a law in connection with the violation</i>

	<p><i>of civil rights. The Constitutional Court ruled to declare unconstitutional legislative provisions on four of these requests and ruled out the fifth request.</i></p> <ul style="list-style-type: none"> <i>In 2022, the Ombudsman of the Republic of Bulgaria submitted four requests to the Constitutional Court to establish the unconstitutionality of a law in connection with the violation of civil rights. At the time of completing the preparation of the Ombudsman's Annual Report for 2022, the Constitutional Court ruled to declare unconstitutional legislative provisions on one of these requests and ruled on the admissibility of the two others.</i>
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>ECRI Report on Bulgaria 2022, p. 36 (Comments of the government of Bulgaria on the ECRI Report)</i></p> <p>'In accordance with Art. 150 para. 3 of the Constitution, the Ombudsman may approach the Constitutional Court with a request for declaring as unconstitutional a law which infringes human rights and freedoms.'</p>
<p>Principle 3.7</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - encourage the signature, ratification of and accession to international human rights treaties and contribute to the effective implementation of such treaties, as well as related judgments, decisions and recommendations as well as to monitor States' compliance with them.
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 3</i></p> <p>Moreover, within exercising the mandate the Ombudsman of the Republic of Bulgaria [...] monitors and promotes effective implementation of signed and ratified international instruments in the field of</p>

	<p>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.</p> <p><i>Information provided by the NHRI in 2023 and taken from its Annual Report of Activities of the Ombudsman institution in Bulgaria for 2022 and 2021</i></p> <p><i>Art. 19 of the Ombudsman Act provides that the Ombudsman shall:</i></p> <p><i>Para 11. (new – SG 29/12, in force from 11.05.2012, previous item 10 - SG 20/18) make proposals and recommendations to the Council of Ministers and the National Assembly concerning the signing and ratification of international acts in the field of the human rights;</i></p> <p>During the last three years the Ombudsman of the Republic of Bulgaria has published in each Annual Report for its activities special chapter devoted to the monitoring findings on the level of implementation of international human rights treaties, covering especially the ECHR, UN CAT, UN CRPD, UN CRC, UN CEDAW. Each year the Ombudsman of the Republic of Bulgaria is urging state authorities to ratify important international instruments - Bulgaria has not yet ratified Protocol 16 to the ECHR, which provides for a mechanism for cooperation between the national court and the ECtHR, similar to preliminary rulings before the EU court. This mechanism will significantly facilitate the harmonization of the case law of the Bulgarian court with that of the ECtHR and will contribute to fewer convictions.</p> <p>Bulgaria should also ratify or accede to the Optional Protocol to the UN CRC on the Complaints Procedure (Third Optional Protocol)</p>
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<p>Principle 4</p>	<p>The process of selection and appointment of the leadership of a NHRI should be competence based, transparent and participatory, in order to guarantee the independence and pluralist representation of these institutions. It should also be based on clear, predetermined, objective and publicly accessible criteria.</p> <p>The duration of the appointment should be clearly set out in the founding legislation, so that the leadership posts of the NHRI do not stay vacant for any significant period of time.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>Information Provided by the NHRI in 2023</i></p> <p><i>The current Ombudsman of the Republic of Bulgaria has been elected in May 2020 following a public and transparent procedure that reflected all recommendations made by the SCA Report:</i></p> <p><i>The Parliamentary Standing Committee on Human Rights and Religious Freedoms of the 44th National Assembly adopted "Procedural rules for the terms and conditions for proposing candidates for ombudsman, the presentation and public disclosure of documents, the hearing of candidates for ombudsman in the Commission on Religions and Human Rights, as well as the procedure for selection by the National Assembly", The procedure announced the vacancy, provided that nominations for election of Ombudsman may be made by national representatives, parliamentary groups and non-profit legal entities in the public interest. It also provided for broad consultation and/or participation of civil society in the process is to be achieved. During the procedure itself 23 opinions and consultative documents from civil society organisations on the nomination were received, published on the specially dedicated section on the web portal of the parliamentary institution and taken into consideration by the Parliamentary Standing Committee and the National Assembly prior to the vote in plenary.</i></p> <p><i>Although the Ombudsman Act requires that elected shall be the candidate having received a majority of more than half of the voting national representatives, on 21 May 2020, Members of Parliament</i></p>

	<p><i>elected by a majority of 2/3ds (173 votes) Assoc. Prof. Dr. Diana Kovacheva to the post of National Ombudsman for a term of five years.</i></p> <p><i>On 22 July 2020, Members of Parliament elected Ms. Elena Cherneva-Markova to the post of Deputy Ombudsman. Her nomination was submitted and presented by the Ombudsman, Assoc. Prof. Diana Kovacheva, following a public hearing and a transparent selection procedure for which as well a vacancy announcement was made public on the Ombudsman's web page.</i></p>
<p>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</p>	<p><i>SCA Report March 2019, pp. 16-17</i></p> <p>'According to Art. 8 and 10 (2) of the amended Act, the Ombudsman is elected by the National Assembly in a transparent and public way by a majority vote of more than half (1/2) of the voting national representatives. Further, Art. 10 (1) provides that the proposal for election of Ombudsman may be made by national representatives, parliamentary groups and non-profit legal entities in the public interest. The SCA is of the view that the selection process outlined in the Law would be strengthened by explicitly requiring the advertisement of vacancies, and by describing the means by which broad consultation and/or participation of civil society in the process is to be achieved. Further, Art. 11(1) provides for the election of the Deputy Ombudsman by the National Assembly with an open vote, following a public, transparent and competitive nomination and selection procedure. The ORB reports that, prior to the election of the Deputy Ombudsman, the Ombudsman made a public invitation to civil society organizations to nominate candidates, and that several such nominations were made. Nevertheless, the SCA is again of the view that the selection process outlined in the Law would be strengthened by explicitly requiring the advertisement of vacancies, and by describing the means by which broad consultation and/or participation of civil society in the process is to be achieved. A process that promotes merit-based selection and ensures pluralism is necessary to ensure the independence of, and public confidence in, the senior leadership of an NHRI.</p>

<p>Principle 5</p>	<p>To ensure independence, the enabling legislation of a NHRI should contain an objective dismissal process for the NHRI leadership, with clearly defined terms in a constitutional or legislative text. The dismissal process should be fair and ensure objectivity and impartiality and should be confined to only those actions which impact adversely on the capacity of the leaders of NHRIs to fulfil their mandate.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p><i>The Ombudsman Act provides in Art. 15. (1) that the legal capacity of the ombudsman and of the deputy ombudsman shall be terminated ahead of terms by the National Assembly for: 1. established incompatibility or non-eligibility; 2. actual inability to exercise his legal capacity for a period longer than six months; 3. enactment of a conviction for deliberate crime; 4. failure to fulfil his duties and for violation of the Constitution and the laws of the country or the commonly accepted moral rules for public conduct; 5. (new – SG 42/09; amend. – SG 97/10, in force from 10.12.2010, amend. - SG 7/18) entry into force of an act, finding conflict of interests under the Act on Counteracting Corruption and on Seizure of Illegally Acquired Property; 6. (prev. text of Item 05 – SG 42/09) resignation; 7. (prev. text of Item 06 – SG 42/09) death. (2) The decision for pre-term termination of the legal capacities of the ombudsman or of the deputy ombudsman under para 1, item 1, 2 and 4 shall be adopted by the National Assembly on request of at least one fifth of the national representatives, and the grounds under para 1, item 3, 5 and 6 shall be announced by the chairman of the National Assembly to the National Assembly. (3) Besides in the cases under para 1 the deputy ombudsman shall be released by the National Assembly upon a motivated proposal of the ombudsman. (4) The ombudsman and the deputy ombudsman shall have the right to be heard out by the National Assembly in the cases of para 1, item 1, 2, 4 and 5, and the deputy ombudsman - also on para 3.</i></p>

Principle 6	<p>Member States should provide NHRIs with adequate, sufficient and sustainable resources to allow them to carry out their mandate, including to engage with all relevant stakeholders in a fully independent manner and freely determine their priorities and activities.</p>
Assessment of implementation by the NHRI	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 5</i></p> <p>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.</p>
Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI	<p><i>SCA Report March 2019, p. 17</i></p> <p>The ORB reports that, while its budget has improved, it would benefit from additional funding in order 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 encourages ORB to continue to advocate for the funding necessary to ensure that it can effectively carry out the full extent of its mandate.</p>
Assessment of implementation by CoE independent bodies	<p><i>CoE Commissioner Country report on Bulgaria, March 2020, p. 16</i></p> <p>The CPD and the Ombudsman should be provided with sufficient resources to effectively and flexibly carry out their work, including at any regional offices.</p>

<p>Principle 7</p>	<p>NHRIs should have the authority to determine their staffing profile and recruit their own staff, as well as sufficient resources available, in order to fulfil their mandate, so as to permit the employment and retention of staff and to ensure that they receive adequate training.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023.</i></p> <p><i>Bulgarian NHRI enjoys the full authority to determine the staffing profile and recruit staff.</i></p> <p><i>The Ombudsman Act provides that: Art. 18a. (New – SG 20/18) (1) The ombudsman shall be assisted by an administration appointed according to the principles of transparency, efficiency, pluralism and non-discrimination. (2) The terms and procedure for announcing the vacancies and for appointing the employees shall be laid down in the Regulations for the Organization and the Activities of the Ombudsman.</i></p> <p><i>The Rules of Procedure of the Ombudsman Institution provide that: Article 12. (1) Servants in the administration of the Ombudsman shall be employed under labour or service contracts. The Ombudsman shall determine which positions shall be occupied by persons employed under service contracts.</i></p> <p><i>Nevertheless, it is common practice to have vacant positions within the administration because of relatively inadequate remuneration as compared to that in other public bodies.</i></p>
<p>Principle 8</p>	<p>Member States should ensure that NHRIs enjoy adequate access to information and to policy makers and legislators, including timely consultations on the human rights implications of draft legislation and policy strategies.</p>

<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 4</i></p> <p>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.</p> <p><i>Information provided by the NHRI in 2023 and taken from its Annual Report on the Activities of the Ombudsman in 2022 and 2021</i></p> <p><i>In 2022 the Ombudsman took part in more than 30 sittings of different parliamentary committees, was heard by the plenary of the 47th National Assembly. Representatives of the Bulgarian NHRI are taking part in different working groups established by sector ministries to develop new legislative proposals.</i></p>
<p>Principle 9</p>	<p>Member States should implement the recommendations of NHRIs and are encouraged:</p> <ul style="list-style-type: none"> - to make it a legal obligation for all addressees of NHRI recommendations to provide a reasoned reply within an appropriate time frame, - to develop processes to facilitate effective follow-up of NHRI recommendations, in a timely fashion and - include information thereon in their relevant documents and reports.

<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 4</i></p> <p>‘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.</p> <p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 2</i></p> <p>‘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 violation and the ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence’</p> <p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 1</i></p> <p>‘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.</p>
<p>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</p>	<p><i>SCA Report March 2019, pp. 17-18</i></p> <p>‘The ORB reports that it has made various recommendations on the issue of domestic violence, including in relation to the ratification of the Council of Europe Convention on Preventing and</p>

	<p>Combating Violence against Women and Domestic Violence. It further reports that there has been an inadequate response to these recommendations by relevant State authorities. In fulfilling its protection mandate, an NHRI must not only monitor, investigate and report on the human rights situation in the country, it should also undertake rigorous and systematic follow-up activities to promote and advocate for the implementation of its recommendations and findings, and the protection of those whose rights were found to be violated. Public authorities are encouraged to respond to recommendations from NHRIs in a timely manner, and to provide detailed information on practical and systematic follow up action, as appropriate, to the NHRI's recommendations. The SCA encourages the ORB to continue to conduct follow up activities to monitor the extent to which their recommendations have been implemented.'</p>
<p>Principle 10</p>	<p>When member States grant NHRIs additional competences to perform functions foreseen by international conventions in the field of human rights, such as the United Nations Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Convention on the Rights of Persons with Disabilities, the NHRI should have access to sufficient resources to develop the capacity to effectively discharge its functions, including having appropriately qualified and trained staff.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p><i>Over the year there is no a constant practice for offering to the Ombudsman institution access to sufficient resources to develop the capacity to effectively discharge its functions. This remains a challenge having in mind the following developments:</i></p> <p><i>There were 2 particularity important changes in the legislative framework enlarging the competencies of the Ombudsman institution to perform functions foreseen by international conventions in the field of human rights: in 2012 the UN OPCAT NPM was established within the ombuds institution; in 2018 the</i></p>

	<p><i>Ombudsman got additional function to manage and preside the Supervisory Council under the Law for People with Disabilities under the UN CRPD. Only in the first case the institution got the necessary funding that provided for developing sufficient capacity.</i></p> <p><i>Moreover, with amendments to the Law on Foreigners in the Republic of Bulgaria (SG, No. 23 of 2013), the ombudsman became obliged to monitor coercive administrative measures imposed on foreigners, namely: 1. forced removal to the border of the Republic of Bulgaria; 2. expulsion. This legislative change was in conformity with the requirements of Directive 2008/115/EC of the European Parliament and of the Council of the EU. No additional funding was provided in order for the institution to enhance its capacity.</i></p> <p><i>In 2023 the scope of competencies of the institution has further been enlarged by establishing a new function to the Ombudsman to perform an external audit of the activity of working with reports and protection of whistleblowers under the Act on the Protection of Persons Reporting Information or Publicly Disclosing Information on Breaches. A final provision of the law stipulates that the funds, necessary to cover the costs of the implementation of the activities, assigned by the Act shall be provided by the budgets of the Ombudsman by the Ministry of Finance. If necessary, the Ombudsman may make a proposal to the Minister of Finance to provide additional funds to ensure the assigned activities.</i></p>
<p>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</p>	<p><i>Need for additional resources to carry out the NPM function. See Principle 6 further.</i></p>

III. Safe and Enabling Environment

<p>Principle 11</p>	<p>Member States should ensure that NHRIs can operate independently, in an environment which is conducive to them carrying out their mandate in an effective manner and in a climate of impartiality, integrity, transparency and fairness.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023 in the State Gazette (no. 53, 26 June 2018, in Bulgarian)</i></p> <p><i>The Ombudsman Act stipulates that: Art. 3. (1) In his activity the ombudsman shall be independent and shall only be subordinated to the Constitution, the laws and the ratified international agreements party to which is the Republic of Bulgaria, guided by his personal conscience and ethics.</i></p> <p><i>Furthermore, the Rules of Procedure of the Ombudsman institution provide for:</i></p> <p><i>Article 8. In his work the Ombudsman shall be guided by the following principles: 1. impartiality and independence; 2. strengthening justice and rule of law; 3. protection of the best interest of the child; 4. judgment in accordance with his belief as regards compliance with good governance requirements.</i></p>
<p>Principle 12</p>	<p>Member States should foster awareness and the co-operation of all relevant public authorities in relation to the mandate, independence and role of NHRIs, including through training and awareness-raising activities.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p><i>The Ombudsman Act provides for:</i></p>

	<p><i>Art. 6. (1) (prev. text of Art. 06 – SG 29/12, in force from 11.05.2012) 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.</i></p> <p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 4</i></p> <p><i>'The relevant state authorities have good awareness of the Bulgarian NHRIs' mandate, independence and role of the NHRI.'</i></p>
<p>Principle 13</p>	<p>Member States should take all measures necessary to protect and support NHRIs against threats and harassment and any other forms of intimidation, including through ensuring functional immunity. Any cases of alleged reprisals or intimidation against NHRIs, their membership and staff, or against those who co-operate or seek to co-operate with them, should be promptly and thoroughly investigated and the perpetrators brought to justice.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 4</i></p> <p><i>'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)).'</i></p>

<p>Assessment of implementation by CoE independent bodies</p>	<p><i>ECRI Report on Bulgaria 2022, p. 7 (Para.3)</i></p> <p>‘ECRI notes, as a positive example, that the Ombudsman already benefits from functional immunity.’</p> <p>[...] The Constitution of the Republic of Bulgaria in art. 69, art. 103, para. 1, art. 132 and art. 147, para. 6, declares which state bodies shall enjoy functional immunity. Although not included in those articles, the independence, impartiality and effectiveness of the CPD is fully guaranteed by the existing primary legislation.[...] ‘Furthermore, ECRI has learned that the absence of functional immunity for the CPD creates practical problems for the Commission’s work as its members can be – and have been – brought to court over decisions taken by those who were found to have engaged in acts of discrimination.’</p> <p><i>CoE Commissioner Report on Bulgaria, November 2019, p.16</i></p> <p>The authorities are urged to take all necessary measures to ensure that the Commission for Protection against Discrimination is fully independent at institutional and operational level. [...] The Chair of the CPD, the Ombudsman and staff holding leadership and decision-making powers within these institutions should benefit from functional immunity and be protected against judicial harassment.</p>
<p>Principle 14</p>	<p>Member States should ensure that confidential information collected by NHRIs in the context of their mandate is privileged and is not unduly made public.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023.</i></p> <p><i>The <u>Rules of Procedure</u> of the Ombudsman institution provide for: Article 7. (1) The documents of the Ombudsman shall be inviolable and shall not be subject to control or seizure. (2) The correspondence between the Ombudsman and the persons who address him with complains or signals shall be</i></p>

inviolable and shall not be subject to control nor used as evidence in any proceedings. (3) Persons who have addressed the Ombudsman with complaints or signals shall be entitled to access to the correspondence between the Ombudsman and other authorities or persons in relation to their complaints or signals under the terms and conditions of the Access to Public Information Act.

No infringement of these provisions have been registered so far.

IV. Co-operation and Support

<p>Principle 15</p>	<p>Member States should take effective measures to enable NHRIs to communicate and co-operate with, in addition to the various levels of administration in the member States, in particular:</p> <ul style="list-style-type: none"> a. counterpart institutions, where appropriate through networking and exchange of information and practices, as well as through regular meetings such as those taking place within the framework of ENNHRI and GANHRI; b. civil society stakeholders, in particular non-governmental organisations and human rights defenders, who should enjoy easy and safe access to NHRIs as part of an enabling environment; c. other human rights structures, including regional, local and/or specialised institutions, notably Ombudsman institutions and equality bodies and their respective networks, where appropriate through jointly organised activities; d. international and regional organisations working in related or similar fields.
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p><i>Rules of Procedure of the Ombudsman institution provide for: Article 4. The Ombudsman shall cooperate with partner institutions in other states as well as with international organisations that work in the field of human rights protection.</i></p>

Article 5. (1) The Ombudsman shall work together with the local public mediators and other similar institutions in Bulgaria and shall render methodological assistance. (2) The Ombudsman shall cooperate with non-governmental organisations that work in the field of human rights protection.

a. The Ombudsman of the Republic of Bulgaria is actively co-operating with counterpart institutions through active networking and regular meetings:

- *The Ombudsman of Bulgaria has been elected in 2022 as member of both ENNHRI and GANHRI Boards;*
- *experts from the institution are part of different ENNHRI WGs (in particular on rights of people with disabilities).*

In March 2020 the Ombudsman of Bulgaria was the first ombuds institution to [be heard](#) by the UN CEDAW committee.

The Ombudsman [participated in the third cycle of the Universal Periodic Review](#) of the human rights situation in Bulgaria – a mechanism of the United Nations Human Rights Council aimed at improving the human rights situation in all countries and addressing human rights violations wherever they occur.

Information provided by the NHRI in its [Annual Reports](#) for the Activities of the Ombudsman in [2020](#), [2021](#) and, [2022](#)

b. Bulgaria’s Ombudsman institution maintains regular contacts with all civil society stakeholders – during the last 3 years the Ombuds institution hosted 11 public discussions, initiated by or organized in co-operation with CSOs: on the rights of children in conflict of the law; on the rights of people with special educational needs; on domestic violence legislation; on the rights of socially disadvantaged people of access to legal aid, etc.

Information provided by the NHRI in its 2022 Annual Report of the Ombudsman acting as NPM, p.8

Moreover, in 2022, the Ombudsman of the Republic of Bulgaria, in her capacity as NPM, was referred by one of the most prominent national human rights defender - the Bulgarian Helsinki Committee - in connection with violated rights of people with mental illnesses. The Ombudsman challenged before the Constitutional court existing legal provisions, which provided for people in involuntary treatment placements to be heard via Skype video conference calls, without asking anyone's consent, while the affected person usually participates in it from the mental health center in which he/she is treated after emergency placement and his/her lawyer is in the courtroom and has no contact with the person. This is an absolutely unacceptable situation, even more so when it refers to a vulnerable participant in the process, such as persons with mental disorders.

In its judgment in that case, the Constitutional Court ruled unconstitutional the challenged legal provisions.

c. The Ombuds institution is maintaining close contacts with the existing network of local public mediators. In 2021 the Ombudsman of Bulgaria organised in cooperation with the ombuds local offices in 12 cities a national campaign in support for easy access of children to psychological consultations in the context of the COVID-19 pandemic.

d. the Ombudsman is working in close co-operation with other ombuds organisations like ENOC, etc.

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