



30/06/2023

RAP/RCha/BGR/21(2023)

EUROPEAN SOCIAL CHARTER

Comments submitted by
the Validity Foundation - Mental Disability Advocacy Centre
the Network of Independent Experts – NIE
Kera Foundation
Chance and Support Association
concerning the 21st National Report on the implementation of
the European Social Charter

submitted by
THE GOVERNMENT OF BULGARIA

Follow-up to Collective Complaints No. 31/2005, 41/2007,
46/2007, 121/2016, 125/2016 and 151/2017.

Report registered by the Secretariat
on 30 June 2023

CYCLE 2023

KERA FOUNDATION

NETWORK OF INDEPENDENT EXPERTS



NGO information to the European Committee of Social Rights

For consideration of the 21st National Report on the implementation of the
European Social Charter submitted by the government of

BULGARIA

Submitted by:

Validity Foundation - Mental Disability Advocacy Centre

The Network of Independent Experts – NIE

Kera Foundation

Chance and Support Association

30 June 2023

I. OVERVIEW

1. This written submission provides information on the implementation of the European Social Charter (hereafter “Social Charter”) by Bulgaria. On 21 December 2022 the Government submitted the 21st report containing information on the follow-up to the European Committee of Social Rights’ decisions on collective complaints. The submitting international and domestic NGOs would like to provide the Committee with information on recent developments in two areas: a) discrimination of persons with disabilities concerning access to housing, protection from poverty and social exclusion, and b) failure to implement the right to inclusive education, by commenting on the implementation of the Committee’s decision in the case of *MDAC v. Bulgaria*.
2. This submission has been written jointly by Network of Independent Experts – NIE, Kera Foundation and Validity Foundation - Mental Disability Advocacy Centre, and it was further endorsed by the Chance and Support Association.
3. **Validity Foundation – Mental Disability Advocacy Centre** is an international non-governmental human rights organisation which uses legal strategies to promote, protect and defend the human rights of adults and children with intellectual and psychosocial disabilities. Validity’s vision is a world of equality where emotional, mental and learning differences are valued equally; where the inherent autonomy and dignity of each person are fully respected; and where human rights are realised for all persons without discrimination of any form. Validity holds participatory status at the Council of Europe, and special consultative status at ECOSOC. For more information, please visit www.validity.ngo.
4. **Network of Independent Experts – NIE** is an independent NGO, established and operating in Bulgaria. It brings together experts with different background who advocate for equality, independent living and full inclusion of persons with disabilities. For more information, visit www.nie.expert.
5. **Kera Foundation** is an independent NGO working in Bulgaria in the field of human rights, including the rights of children and adults with disabilities. The organisation aims to promote humane, ethical, and effective care and achieving full recognition of the potential of children and adults with disabilities. Kera Foundation takes cases on behalf of children with disabilities to ensure their right to access to justice is respected.
6. **Chance and Support Association** is a Bulgarian NGO working intensely in the field of training, support and supervision of professionals in the social work and social services sector. Its activities focus on providing support and advocacy to persons with different vulnerabilities, including persons with disabilities, and on promoting change in the applicable legislation and policies.
7. The submission is also endorsed by the following **persons with disabilities**:

Elena Valkanova: “I live in a small group home in the city of Plovdiv.”

Iva Velikova: “I live in a small group home in the city of Plovdiv.”

Lyudmila Borisova: “I work in a library, named "Rodina", I have a total of three degrees - one in Economics, two university degrees - one in Social studies, and one to become a librarian. In addition, I have been involved in many civil actions, evaluations, statements, and other things in the field of protecting human rights, in more particular protecting the human rights of people with disabilities. Despite everything (the fact that I live in an institution), I managed to stand up for myself and my right to a dignified life. Despite the system, I managed one way or another.”

Tanya Petkova: “I am 37 years old and I live in Sevlievo. I have suffered from psychosocial disability and I live in a rented apartment paid for by my mother I rely on her for everything including the rent and the bills. I've been hospitalised in psychiatric hospitals more than 45 times, I've lived in a group home for people with mental disabilities, and I have a pretty clear idea of what it's all about.”

Petya Garova: “I live in a small group home in the town of Lukovit. Despite that, I am a university student (with support from outside people, not the staff in the small group home). I have worked in an international company as an intern for 3 months.”

II. SPECIFIC COMMENTS

a) Discrimination of persons with disabilities concerning access to housing, protection from poverty and social exclusion

1. In its Decision 31/2005, the Committee on Social Rights found that Bulgaria violates the right to housing of people of Roma origin. Taking into consideration this decision, and the measures reported by the Bulgarian Government in its National Report, we would like to draw the Committee's attention to a similar violation affecting another disadvantaged group, namely, persons with disabilities.
2. There are approximately 9,000 persons with disabilities and older persons living in 159 specialised institutions for the provision of social services in Bulgaria, and the number of people waiting for first-choice accommodation in these institutions is 1,796, of which 923 are persons with “mental disorders, mental retardation and dementia”. About 1,580 persons are waiting for first-time accommodation in 271 community-based social services for residential care (family-type accommodation centres and sheltered housing), almost all of them persons with mental or intellectual disabilities, and dementia. These services are fully funded by the state budget. On 31.12.2021, the number of persons with mental disabilities who are permanently accommodated (for more than one year) in state psychiatric hospitals were 207. These people do not need active treatment but cannot leave because they have no housing, or because of a lack of close relatives or unwillingness to care for them after leaving the hospital. [...] The number of people waiting for placement in a specialised institution in Bulgaria remains high, making it

necessary to develop alternatives for supported living in the community that eliminates the need for institutional care.¹

3. An Action Plan for Implementation of the National Strategy for Long Term Care 2022-2027 states as follows:

“In the last five years, the capacity of specialised institutions for people with disabilities and the elderly has been reduced from 10,965 places to 10,668 places, i.e. by 297 places (as of 31.01.2022). At the same time, over the same period, the number of places in community-based social services for people with disabilities and older persons has increased from 9,309 to 10,436 or by 1,127 places (by 31 January 2022).”

It should be noted, however, that these figures are misleading, insofar as residential care facilities are concerned. A new type of “community-based” residential setting (small group homes) accommodates around 4,000 people,² which significantly exceeds the number of people who were transferred from the old type of large institutions. Moreover, from our experience and those of other NGOs in the country, the new group homes replicate the institutional model of care and therefore are no different from the former big institutions, apart from the new and smaller size of the buildings. That is to say, there is an increase rather than a decrease in the number of people with disabilities in Bulgaria being institutionalised.

4. In the same Action Plan, the Government itself provides the following analysis:

“Demand for institutional care continues to be driven mainly by:

- *increased demand for long-term care services as a result of a permanently ageing population;*
- *insufficient provision of community and home-based services;*
- *existing stereotypes and attitudes which sometimes lead to discrimination against people with psycho-social disabilities and intellectual disabilities;*
- *in some cases, the unreformed legal capacity system gives too many rights to the guardians of persons under full legal guardianship. Still, it does not offer adequate support measures for the persons concerned.”³*

5. Our research, observations and monitoring on the so-called process of deinstitutionalisation in Bulgaria shows that the new small group homes do not meet the needs of people with disabilities, and they are not in compliant with human rights norms.

¹ Action Plan for Implementation of the National Strategy for Long Term Care 2022-2027, pages 12-13, accessible in Bulgarian at: <https://www.strategy.bg/FileHandler.ashx?fileId=30238>

² According to the official information available at the website of the Agency for Social Assistance (available at: <https://asp.government.bg/bg/deynosti/sotsialni-uslugi/sotsialni-uslugi-za-palnoletni-litsa/registar-na-vidovete-sotsialni-uslugi-finansirani-ot-darzhavniya-byudzhet/>) the right number of people in small group homes is 3 895. The information is provided for different types of group homes separately. No information is provided on how many people placed in the group homes came from the community because of the lack of services there.

³ Action Plan for Implementation of the National Strategy for Long Term Care 2022-2027, page 14, accessible in Bulgarian at: <https://www.strategy.bg/FileHandler.ashx?fileId=30238>

This is primarily because services are developed by social service providers and companies specialising in building construction, but at no point are people with disabilities involved in the planning and managing the services, not even those who spent years or survived institutions. No measures are proposed to ensure their full participation, overcoming the psychological and emotional barriers to assertive and meaningful involvement in the process of planning the social services and support measures. There is no understanding of the effect of institutionalisation upon people, for example, the problems arising from the years of isolation, institutionalisation and total dependence on the institution and its staff. This affects the capacity of people with disabilities to bring issues like access to housing into the public eye and prevents them from taking part in any kind of decision related to managing group homes.⁴ On the other hand, prolonged institutionalisation is precisely the result of the lack of housing and adequate protection from poverty, to which people with disabilities are disproportionately exposed more than everyone else.

6. Analysing the lack of community housing, below we comment on several factors that lead to this:

a) Lack of accessible housing.

People with disabilities often need housing that meets specific accessibility criteria. Whereas accessibility is sometimes prioritised in the physical environments of residential (institutional) settings, there is no investment in creating accessible housing. Indeed, there is an Accessible Living and Personal Mobility Programme, but it is only applicable in cases where the person with a disability already has their own home. Thus, people who do not own housing are *de facto* subject to discriminatory exclusion from the scope of this programme, as they cannot afford to convert rented (even social) accommodation.

b) Lack of accessible environment in community housing provided by Municipalities for people living in poverty.

c) Legal restrictions.

There are also a number of legal constraints that prevent people with disabilities from accessing housing, including social housing. In some regions, residential care residents are assumed to have no housing problems. In other cases, income requirements are imposed on persons with disabilities that prevent them from accessing social housing.

d) Poverty.

Economic constraints are also widespread: people with disabilities usually rely on a low (the lowest possible in terms of amount) pension, and if they work, their labour is significantly undervalued, and they are paid minimum wage. This hinders their access to the property market - not only to acquire their own home but also to rent one.

⁴ However, even though group homes are promoted as “family type” facilities, the legislation and the internal rules for their management never allowed the residents to take part in the management of the facility and, in many cases, even to take small decisions like when to eat, when to sleep, with whom to meet, etc.

e) Social barriers.

7. Despite the existing legal framework in the field of social services and some relatively recent amendments, the problem of access to quality and proper services for people with disabilities in Bulgaria has not yet been solved. On the one hand, service providers create discretionary services, and there is no remedy for people with disabilities to make their needs known to the authorities. This leads to the creation of services that are not needed and a continuing situation of lack of needed services. For some people, living outside an institution means having access to housing and social services. For others, living in the community is only possible by ensuring access to housing by the State - as services such as assisted living support do exist. For other people, however, services need to be tailored to meet their specific needs - more flexible assisted support, allocating more hours of support than the maximum quantity set up by law, services related to maintaining home life, support with medication, etc. No such flexibility is offered. In addition, in many regions, personal and social assistant support are not available. In many cases, the authorities expect people to find their own assistants among their family members. But often, it is not possible for people who have lost their family or links with their family or due to the nature of the impairment (as it may happen if the person has a long-term psychosocial disability left without proper support).
8. The obstacles identified in the Action Plan are valid, yet no solutions have been proposed. In many cases, placement in a social institution (irrespective of its size) occurs because a person has been placed under guardianship, and relatives decide for them. In many cases, this happens even if the person is not formally placed under guardianship, as labelling a person with a diagnosis of a psychosocial disability or intellectual disability is enough for the authorities and society to start treating them as *de facto* placed under guardianship.
9. Families and relatives of people with these disabilities are often left without meaningful support and therefore find no other option but to place their family member(s) in residential care. In other cases, due to the lack of adequate support in the community, people with disabilities become very easy targets of crimes, such as fraud. In this way, they often lose their housing, and the only option for placement remains the institution again.

b) The institutionalisation of people with disabilities, including in small group homes, is a form of discrimination

10. The CRPD expresses clearly in the Guidelines on deinstitutionalisation, including in emergencies, that institutionalising people with disabilities, including in small group homes, is a form of discrimination.⁵ This discrimination is often conditioned by a lack of

⁵ UN CRPD Committee, Guidelines on deinstitutionalization, including in emergencies (CRPD/C/5), para 59.

access to housing, which people with disabilities face due to poverty or lack of respect for their rights.

11. We find that, in analysing the facts relating to the pathway by which persons with disabilities lose their ability to live in the community and in their own housing (whether owned or rented), and they are institutionalised, we should clearly express our understanding that placement in any type of institution does not constitute fulfilment of the State's obligation to provide access to housing. This follows from an understanding of the provisions of the Social Charter, considered in the light of the UN Convention on the Rights of Persons with Disabilities (including the DI Guidelines and General Comments), and from an interpretation of Article 31 of the Charter itself.
12. It should be noted that, despite what the State party has declared in its submission to the Committee, particularly as set out in para. 1.1. concerning the implementation of an operational programme which allegedly provides support not only to people of Roma origin but also to people from other vulnerable groups, persons with disabilities placed in residential care are excluded from these efforts of the State authorities.
13. Recently, we analysed the case-law concerning placement in care of persons placed under full guardianship, and we found that in no case had either the courts or the social care authorities even tried to explore the possibility of out-of-institution solutions (for housing), including in regions where the programme was in operation.⁶ The reasons for institutional placement were generally related to lack of a place to live and a supportive environment, but in no case were alternatives such as social housing or those established under programs such as the one described by the government in section 1.1 of the national report explored. Neither have they been considered as a stand-alone option nor in combination with social support options, including financial and social support services. Our research has also explicitly focused on whether, in regions where these programmes exist, there is at least an interest on the part of the authorities to provide accommodation for people from the highly vulnerable group of institutionalised people with disabilities. The answer is negative. These programmes do not cover a single person from the group mentioned. Thus, *de facto*, people with disabilities in institutions and residential care are denied the right to access housing.

c) People with disabilities, whether children or adults, are at serious risk of poverty and social exclusion.

14. Social exclusion on the basis of a person's disability, whether child or adult, remains commonplace in Bulgaria. Social exclusion takes many forms, but we will focus on exclusion through institutionalisation. In addition to the above, a driving factor resulting

⁶ The analysis was done as part of the collection of information in the process of preparing a submission related to the implementation of the decision *Stanev v. Bulgaria* issued by the European Court of Human Rights. The submission was presented before the Committee of Ministers, and it is available at https://nie.expert/wp-content/uploads/2023/03/20230123_-Rule-9-Submission-2023-_follow-up_Submitted.pdf.

in social exclusion is the lack of access to social services necessary to ensure community life for people with disabilities, including children with disabilities.

15. In Bulgaria, the process of closing large institutions is underway. With regard to children, this process has covered most institutions, except some ‘Homes for medical and social care for children’ - institutions that accommodate newborn children with disabilities (up to 3 years of age, but *de facto* are also detained well beyond this age).⁷ However, the closure of large institutions is not a process that necessarily leads to overcoming social isolation and deinstitutionalisation. Instead, the process is rather one of transinstitutionalisation, as people, including children, are simply being moved from large institutions to smaller residential services that retain the institutional characteristics evident in the old, big institutions.
16. This result has occurred despite the stated intentions of the State to carry out a deinstitutionalisation process. The failure of these processes has been due to multiple factors. On the one hand, there was a failure at the outset to clarify among the experts involved what is actually meant by deinstitutionalisation and what the core values of the process are. This made it very easy to confuse the real aim - providing independent living in the community for people with disabilities - with something completely opposite: constructing buildings to move people from bigger to smaller institutions. Those buildings, however, did not even have the necessary features to become real homes for their inhabitants; instead, they recreated the atmosphere and rules of large institutions and crushed the hopes of people with disabilities for a more independent life. The so-called deinstitutionalisation process has become a social service provider-led process in which decisions about what is needed for people with disabilities have been made without real involvement of the people who are most affected by the outcomes of this process - the people with disabilities in institutions.
17. Other serious problems are access to services generally available to people with disabilities, lack of reasonable accommodation and accessibility in the broadest sense. In the report *Deinstitutionalisation and Life in the Community in Bulgaria - a Three-Dimensional Illusion* the following is emphasised:

“In recent years, Bulgaria’s investment in these services has begun to resemble an inverted pyramid, where services provided to people with disabilities attempt to encompass every possible service in a ‘protected’ environment, instead of making general services available to all people, including people with disabilities. Rather than enabling people with disabilities to access general services, the specialised services have become an end in themselves and pull specialists from general services under the

⁷ At the beginning of 2023, the Bulgarian Helsinki Committee issued a report in which it was pointed out that at the end of 2022, there were 240 children still living in institutions, and some of them were at very early ages. 124 children were below 3. This number includes children with and without disabilities. See Bulgarian Helsinki Committee Annual „Human Rights in Bulgaria in 2022.”, page 157. The report is available in Bulgarian at <https://bghelsinki.org/bg/reports/human-rights-in-bulgaria-in-2022>.

pretence of providing 'integrated services'. The place where people with disabilities access services matters, and currently persons with disabilities are overwhelmingly required to access general services in the same place as the segregated specialised services. This situation raises the following concerns:

- *Persons with disabilities 'have access' to mainstream services without any support or reasonable accommodation; and*
- *Persons with disabilities can practically have access only to services which separate them out from the society.*⁸

18. One of the problems facing social service planning in Bulgaria for many years has been the lack of statistics concerning people with disabilities. Such data were not collected until the 2021 census, the results of which became clear at the end of 2022, which provided the first information on people with disabilities in Bulgaria.⁹ The census shows that there are 654,547 people with an administratively recognised disability.¹⁰ Of these, 22,248 are children under 16 years of age.¹¹ Only around 40% of adults with disabilities are in employment, which means that people with disabilities are at a significantly higher risk of poverty.¹²
19. Linked to the census results and their publication is an obligation for municipalities to carry out a social services planning process, the result of which should be summarised in a document called the 'Social Services Map'. This implies carrying out an analysis of the situation in each municipality and planning the opening of appropriate services. This process should be completed by the end of 2023. Unfortunately, observations of the processes show once again a formal approach without any understanding of basic human rights, including the right to protection from social exclusion.
20. The analyses offered by the Municipalities are formal and do not contain a real analysis of the needs of people with disabilities. The idea that the analyses are based on the

⁸ Nadezhda Toteva Deneva at all, *Deinstitutionalisation and Life in the Community in Bulgaria - a Three-Dimensional Illusion, Validity*, 2021, p. 17.

⁹ Note that the census took into account only people with an administratively recognised disability. This means, that the results do not include people who may have a disability, but because of some reasons, they did not take steps to obtain a certificate for that. It is a very common case when people have psychosocial or intellectual disabilities. There is a probability that more children than adults are not recognised as persons with disabilities because of the many different barriers they and their parents may encounter. It can be a lack of financial resources, administrative barriers or just a lack of understanding that a specific condition is a form of disability (but not, for example, a characteristic of the personality or the behaviour of the child).

¹⁰ It is around 10 per cent of the population of the country.

¹¹ The results of the census are available at:

<https://nsi.bg/bg/content/19944/%D0%BF%D1%80%D0%B5%D1%81%D1%81%D1%8A%D0%BE%D0%B1%D1%89%D0%B5%D0%BD%D0%B8%D0%B5/%D0%B7%D0%B4%D1%80%D0%B0%D0%B2%D0%B5%D0%BD-%D1%81%D1%82%D0%B0%D1%82%D1%83%D1%81-%D0%BD%D0%B0-%D0%BD%D0%B0%D1%81%D0%B5%D0%BB%D0%B5%D0%BD%D0%B8%D0%B5%D1%82%D0%BE-%D0%BA%D1%8A%D0%BC-7-%D1%81%D0%B5%D0%BF%D1%82%D0%B5%D0%BC%D0%B2%D1%80%D0%B8-2021-%D0%B3%D0%BE%D0%B4%D0%B8%D0%BD%D0%B0>

^F For more see at: <https://ime.bg/articles/karti-horata-s-uvrejdaniya-v-bylgariya-spered-prebroyavane21-/>.

concept of access to rights (rather than a medical model) is completely alien to these analyses.

21. People placed in institutions and residential services are generally not included as needing support in these plans - there are no options for providing support to leave the institution¹³ or residential service. People in this type of service are not provided with personal and/or social assistants, adequate services for the development of skills that would serve them in real life, services for overcoming the consequences of prolonged institutionalisation, including psychological support and rehabilitation. The constitute violations of the UN Convention on the Rights of Persons with Disabilities. Alongside this, however, these failings give rise to conditions which result in prolonged or permanent social exclusion of people with disabilities (including children). We submit that this violates Article 30 of the European Social Charter (revised) and constitutes discrimination within the meaning of Article E of the Charter.
22. In this sense, we find that the measures taken by the State to ensure access to housing for vulnerable people and to protect them from poverty are extremely one-sided and insufficient. In particular, people with disabilities are systematically excluded from access to housing. Nor do they receive adequate protection against poverty and social exclusion. In particular, social exclusion through the institutionalisation of children and adults with disabilities in Bulgaria remains a serious problem that has not been addressed, despite the considerable financial resources spent on overcoming it and the legislative changes undertaken.

d) Failure to implement the right to inclusive education by commenting on the implementation of the Committee's decision in the case of *MDAC v. Bulgaria*.

23. There is no doubt that in 2007 children with disabilities were severely restricted in their access to education. Despite the positive changes that have taken place since the *MDAC v. Bulgaria* decision, it is difficult to say that progress has been of such a nature as to ensure that children with disabilities will not be excluded from access to education.
24. Currently, the legislation in Bulgaria uses the term “children with special educational needs” to describe this group of children with an increased need for support within the educational process. This group includes children with physical and psychosocial disabilities as well as children who, although “healthy, have specific educational difficulties and require special educational assistance”. Following the entry into force of the Pre-school and School Education Act in 2016, inclusive education was recognised as an integral part of the right to education.¹⁴ However, despite all this, many children with special needs, especially those with higher support needs, find themselves discriminated against when it comes to their access to education. The barriers to access to education

¹³ In the best-case scenario, the plan is just to move the person from a big institution to a small group home.

¹⁴ See Article 7(2) of the Preschool and School Education Act.

that children with disabilities currently face are related to a lack of sufficient resourcing on the one hand, and a lack of coordination between different structures, and even efforts directed in different directions on the other.

25. Inclusive education should be seen as a holistic process, encompassing the creation of an environment that allows and encourages different types of support, making the school environment accessible to all children, regardless of their differences and degree of disability. This environment should not allow any form of segregation - pupils should be together in the same classroom, accommodating their differences. This environment should encourage children to develop their full potential, participate fully and discover their talents and gifts. The CRPD Committee's General comment No. 4 (2016) on the right to inclusive education underlines that "education must be directed at the full development of the human potential and sense of dignity and self-worth, and the strengthening of respect for human rights and human diversity."¹⁵
26. Unfortunately, the Bulgarian education system has not yet overcome the heavy legacy of the past. Although as early as 2002 the National Education Act (now abolished) repealed Instruction 6 of 1977, according to which some children were categorised as "uneducable", and as already said, in 2016, the Preschool and School Education Act assumes that inclusive education is part of the right to education in general. Despite these legislative changes and efforts to put them into practice, the inertia of the past has not yet been overcome. On the one hand, there is still a widespread discriminatory attitude towards children with intellectual disabilities, especially those in residential care, and it is a common perception that there is nothing to expect from them and no point in investing effort, resources and time in their education.
27. In 2019, a team from Disability Rights International, carried out a series of visits to various residential services for children.¹⁶ As a rule, in all of them, among a number of other violations, it was found that very few children had access to education. For most, access is provided formally but not in reality, and the general attitude is one of underestimation and exclusion from the opportunity for development. One of the participants in the monitoring¹⁷ expressed this in the following way:
- "The tyranny of low expectations for children with disabilities is the most pervasive problem I observed throughout Bulgaria. Negative perceptions about children with disabilities are self-fulfilling. When it is assumed that children with disabilities can't do something, they are never given the opportunity to try."*¹⁸
28. Alongside these discriminatory beliefs about children with disabilities, it should be noted that there are several compromising provisions in education legislation that allow for the

¹⁵ UN Committee on the Rights of Persons with Disabilities, General comment No. 4 (2016) on the right to inclusive education (CRPD/C/GC/4), para 15.

¹⁶ The report is available at: <https://www.driadvocacy.org/bulgaria-report-2019/>. Some lawyers from the Network of Independent Experts – NIE took part in the monitoring visits and contributed to the final report.

¹⁷ Dr. Ruthie M. Beckwith, Ph.D. See the same report, page 10.

¹⁸ See p. 10 of the English version of the report and page 7 of the Bulgarian version.

exclusion of children with disabilities from the education process. For example, according to the Pre-School and School Education Act, inclusive education is “*the process of recognising, accepting, and supporting the individuality of each child or student and the diversity of needs of all children and students by activating and incorporating resources aimed at removing barriers to learning and teaching and at creating opportunities for the development and participation of children and students in all aspects of community life.*”¹⁹

29. This definition does not contain a rule indicating that inclusive education must happen in mainstream schools. This, together with certain other provisions in the law and regulations, allows *de facto* exclusion of children with disabilities from the educational process, even though they may be formally and statistically covered by it. This happens, for example, when children (especially children in residential care) are included in various forms of individual learning programmes, which are in practice, implemented in a segregated environment and are very far from the actual educational process.
30. Children with disabilities living in the community too often also face multiple obstacles in accessing education. These problems include inaccessible architectural environments in many schools, lack of trained staff, especially in smaller and remote locations, unacceptable treatment of children with disabilities, including lack of tolerance, discrimination by classmates and even teachers, and even violence.²⁰
31. Another problem that reflects on the right to education of children with disabilities relates to the lack of coordination of different authorities when it comes to supporting a child with a disability. In many cases, the needs of children with disabilities are simultaneously being assessed by social, health and education authorities. However, there is no coordination between them. Legislation attempts to circumvent this problem by decentralising services, including education and social services. Municipalities have a responsibility to provide adequate support and environment. The main units that provide support activities for children with disabilities within the educational process are the Support and Personal Development Centres. Although they are municipal by law, the legislation allows for considerable ambiguity as to the specific duties of municipalities.²¹

¹⁹ Para 1 p. 26 of the Supplementary Provisions of the Pre-School and School Education Act.

²⁰ Lawyers from the Network of Independent Experts- NIE provided many years (including before the formal establishment of the Network) consultations to parents of children with disabilities and children themselves in relation to their access to education. Thanks to this they have personally ascertained the extent of the prevalence of this type of problems. However, despite the many consultations, direct administrative and legal action has very rarely been pursued, as parents often fear that if they take a more proactive stance in defending their children's rights, they will be victimised and lose the access they have already achieved. Thus, they put up with inaccessible buildings, lack of choice of where the child can study, exclusion of children from certain activities, swallowing mistreatment and sometimes even acts of violence, inadequate educational support or lack of it.

²¹ An analysis of this issue was made in 2016 in the report "The Right to Education for Children with Disabilities in an Inclusive Environment and the Role of Municipalities", issued by the Centre for Inclusive Education, available here:

https://priobshti.se/sites/default/files/uploads/untitled_folder/final_report_municipalities_role_education_in_inclusive_setting_19_12_2016.pdf. The conclusions are still valid.

Thus, as a result of a combination of reasons related, generally speaking, to the predominant application of approaches to issues related to the support of people with disabilities and children in particular, based on the medical model, lack of knowledge and skills to apply rights-based approaches and, in some cases, a formal approach to the obligations imposed on municipalities by law related to the analysis and provision of integrated approaches to solving the problems of people, including children from at-risk groups.²²

32. The 2021 Census and its results, already referred to above, show that 22,248 children under 16 years of age have a formally recognised disability. While there is no information on the exact age of children falling into the above group, it is evident that their number is much higher than the number of children with disabilities formally covered by the education system, according to the statistics provided by the Government in the National Report submitted to the Committee. There are two hypotheses: either that there are a large number of children with disabilities who are not covered by the education system, or that they are covered but are not recognised as children with disabilities, and therefore not adequately supported. Both result in educational exclusion of children with disabilities.
33. In the Social Services Maps that each Municipality should develop by the end of 2023, educational services should also be addressed. In providing for the preparation of such an analysis, the legislator intended to ensure that coordination and synchrony between the various support systems were achieved. This is crucial, but the results of this process do not suggest that this synchronisation will be achieved. Rather, unless the usual formal and disability rights-blind approach is changed, the current situation where systems work out of sync and sometimes in different directions will persist. For example, for a child to be placed in residential care, the leading factors are usually disability, poverty of the parents, difficulties in raising the child, lack of access to health support. However, instead of analysing how families (especially in smaller and remote locations) can be provided with the support they need through a combination of social and health care, the child is referred to residential care. Educational needs remain in the background. This may also be due to different understandings by professionals in different fields about the priorities of the child's welfare and where the emphasis should be placed.
34. However, once a child is in residential care, in very few cases they can attend mainstream school. In a higher percentage of cases, educational needs are subordinated to health and social needs and neglected. Access to education is even more difficult when the residential service is located in a locality with no specialised support for access to education. Education then becomes merely a formal process without actual access to all that inclusive education should be. Moreover, the educational process does not take place in an inclusive environment but in a segregating one.

²² Despite the fact that the UN Convention on the Rights of Persons with Disabilities was ratified and entered into force for Bulgaria in 2012..

35. The above-quoted study by the Centre for Inclusive Education contains the following statements by people involved in the education process at different levels:

*“We have been putting this problem to the three ministries for years, that they need to sit down and synchronise their policies, and we will be able to get a much bigger result with the money that we have in general, which, believe me, is not small at all. Resources are being wasted because there is no coordination between the three systems”*²³, and: *‘There is no coordination. Each ministry makes its own sectoral policy, behaving as if the other ministries do not exist. It writes its own laws, regulations, strategies, etc. In the case of municipalities, the lack of coordination is most evident, that’s where all the nonsense comes together.’*²⁴

36. On the ground of the above regarding the right to housing, prevention of poverty and social exclusion and the right to education as well, we ask the Committee to:

- Recognise the institutionalisation of persons with disabilities (including children) as a form of discrimination and violation of articles 30 and 31 in conjunction with article E of the Charter.
- Recognise placement in small group homes as a form of institutionalisation which is a part of the whole process of continued institutionalisation of persons (including children) with disabilities.
- Call on the State to stop immediately building and investing in any kind of institutional care. We urge the Committee to call on Bulgaria to start investing in accessible homes and social services based in the community and adapting general services through the implementation of the principle of universal design.
- Recognise the lack of support for children with disabilities to fully participate in mainstream education together with all other children, the lack of accessibility and reasonable accommodations in the general schools as a violation of the right to education of children with disabilities.
- Call on the State to stop discrimination against children with disabilities immediately and immediately start adapting the school and preschool system for the needs of all children with disabilities.
- Recognise the lack of cooperation between different authorities involved in supporting children and adults with disabilities as a reason for discrimination and exclusion and call on the State to start a process of combining the efforts of different authorities, based on a human rights-centered model and the principles of the CRPD.

²³ The quote is from an expert with years of experience in local government and can be found on page 20 of the report.

²⁴ Ibid.