

## Comments of the Bulgarian Government to the report of the Commissioner for Human Rights following his visit to Bulgaria on 9-11 February 2015

Bulgaria would like to express appreciation of the work of the Commissioner for Human Rights and its readiness to continue the constructive cooperation with the Commissioner.

Bulgaria acknowledges the importance of the visit of the Commissioner and the consistence of the dialogue held with the Bulgarian officials. The Government of Bulgaria has carefully examined the report of the Commissioner and wishes to make the observations below.

### Human Rights of Persons Living in Institutions

Concerning section Human rights of children living in institutional care, one of the recommendations in the report refers to the implementation of the National Strategy "Vision for Deinstitutionalisation of Children in the Republic of Bulgaria" and the assessment of the Action Plan thereto for the period 2010 – 2015. In this regard, it is necessary to specify that the projects included in the Action Plan are financed by the European Structural Funds within the 2007 – 2013 programming period and implementation of most of them will end in 2015. An assessment and analysis of current achievements is to be made, aiming at identifying difficulties in order to plan for the next stage. As a result, the Action Plan for implementation of the National Strategy will be updated, with the goal of ensuring the sustainable continuation of the deinstitutionalisation process. Its main focus will be the prevention of risks and the provision of services in a family environment, the development of support services and the promotion of healthcare, social and educational integration, so as to provide effective support to children.

Regarding the outlined need of including all stakeholders in the implementation of the childcare deinstitutionalisation process and that of changing social attitudes, of note is the key role of the effective inter-governmental working group for management and coordination of the childcare deinstitutionalisation process, which aims not only to ensure consistency but also to provide timely decision-making. It is assisted by the inter-governmental expert working group for support of the coordination of the execution of the Action Plan of the National Strategy. Members of the expert group include representatives of many non-governmental organisations working in the field of child well-being.

Taking into account the results achieved in the implementation of the child care deinstitutionalisation process, which have already been mentioned many times in the report, we regard the statement that there are no family-based or family-type alternatives to parental care as rather inaccurate. The deinstitutionalisation process is not limited to closing the existing institutions but involves an overall change of the

model of foster care in a family environment. Illustrative in this respect is the following data: the total number of reintegration cases on which work has been done as of April 2015 is 1 989, including 357 successfully completed cases from the beginning of the year till the end of April 2015. In the same period 201 children were adopted under the conditions of full adoption. At the end of April 2015 the total number of children accommodated with families of relatives and friends is 6 677. As of the same period, 2 334 children live in foster families (131 children are placed in voluntary foster families and 2 203 children live in professional foster families) and the total number of the approved foster families is 2 376 (85 voluntary foster families and 2 291 professional foster families).

With regard to the conclusions on deinstitutionalisation of children with disabilities, it should be noted that the Management Programme of the Government sets out specific goals and measures, in support of the implementation of the reform and development of new models of care which should be legally regulated. The process of deinstitutionalisation of the care for children with disabilities is set to continue. To this end, the sustainable implementation of the reform will be supported in the new 2014 – 2020 programming period and the focus will be placed on the provision of integrated services for early child development, on the expansion of the network of social services in the community, as well as on the development of social inclusion services. In addition, priority will be assigned to development of support services in the community, which provide psychological and consultative support to families in the process of child raising. Namely, the extended network of services is a form of support for child raising with a preventive nature against institutionalisation.

In response to the statement made in the report regarding the problems with ensuring financial sustainability of the services in the community and in family environment, it is important to point out that the Government took specific steps to ensure sustainability of all services launched under the “Human Resources Development” Operational Programme 2007 – 2013, and the national budget has allocated funds for their financing as activities delegated by the state. In order to ensure consistency, elaboration and sustainable continuation of the child care reform, the focus of the new “Human Resources Development” Operational Programme 2014 – 2020 also includes measures aimed at supporting the deinstitutionalisation process.

Other statements in the report refer to the lack of harmonised social work standards and insufficient training and motivation of social workers within the child protection system. It should be noted here that among the priorities of the Government is to bring the legal and regulatory framework in the field of child protection in accordance with the National Strategy “Vision for Deinstitutionalisation of Children in the Republic of Bulgaria”. One of the goals is to strengthen the capacity of the child protection system.

It is noted in the Report that along with the reform in the field of child protection, it is necessary to take combined and long-term measures for fighting poverty and discrimination based on origin and disability. This recommendation is in full compliance with the applied policies for promoting child well-being in view of their compound nature. The support of children and families holds a major role in the National Strategy for Poverty Reduction and Promoting Social Inclusion 2020, which was adopted in the early 2013. The main areas in this field are related to creating opportunities for preventing the risks of poverty and social exclusion, and a key aspect is the provision of employment incomes, opportunities for combining personal and professional life, access to establishments for childcare, good education and good organisation of the learning process, services for early child development, etc.

In this sense, all policies related to improving the conditions of child raising lead to concrete results in the deinstitutionalisation process. For example, the Draft Act amending and supplementing the Family Benefits for Children Act includes measures for improving the efficiency and relevance of family support and for promoting responsible parenthood, which will have the effect of reducing entry to institutions. Some of the changes are targeted at pregnant underage mothers and compulsory measures will be taken with this respect for protection in a family environment under the Child Protection Act. These measures are aimed mainly at the use of social services, referral, consulting, provision of assistance, including access to healthcare, educational and other services, etc. The draft act was adopted by the Council of Ministers on 29 April 2015 and was submitted for deliberation to the National Assembly.

In addition, a special Social Services Act is being designed, aimed at improving the planning, accessibility, quality, financing mechanisms and the efficiency of services.

Concerning section Human Rights of Children Living in Juvenile Delinquency Institution, it is pointed out, that: "It gives rise to serious concern, that children in the Educational boarding schools and the Social-pedagogical boarding schools are seriously discriminated in regard to access to education."

In the last two years in the Social-pedagogical boarding schools and in the Educational boarding schools a number of checks were made by the Ministry of Education and science, the State Agency for Child protection, the Supreme Administrative Prosecutor's Office and the Regional inspectorates on education. The concrete findings, made during these checks, confirm the necessity of urgent amendments in the respective legislation. Infringements and omissions have been found out in the activity and the functioning of boarding schools, related not only to the level of the educational process, but also to the insufficient capacity of the staff for unspecific social functions. A change in the model of the activity of these institutions from educational to social is needed, for example by creating centers near the place of residence of the children. If there is a change in the legislation, a change in the entire vision on the status of these schools and the model of their activity would be possible.

At this stage the deficiencies regarding the training process are compensated by corrective-educational and additional activities. In the Educational boarding schools professional training classes have been organized for the interested students. In the past school year a professional class was organized at the one of the two Social-pedagogical boarding schools.

The interagency working group made partial amendments in the Rules for the Organization and the Activity of Educational boarding schools and Social-pedagogical boarding schools. Through the envisaged amendments the coordination between the school staff, the Departments "Child protection" and the local Commissions combating the anti-social acts of minors and juveniles will be improved. There will be a positive effect on parents and children themselves, on the awareness of the rights of children when they enter school, on the organization of the corrective-educational activity, etc. In October and November 2014 three training sessions for teachers, tutors and principals of Educational boarding schools and the Social-pedagogical boarding schools were conducted.

On the Operative Program "Science and Education for Intelligent Growth 2014 – 2020" a Project will be implemented to provide conditions and resources for building and development of supporting surroundings in kindergartens and schools involving education. A separate module in it will be for the students with deviant behavior.

Concerning section Human Rights of Adults with Disabilities in Institutions, it should be noted that the findings in relation with the acceleration of the process of deinstitutionalisation of the care for elderly people and achieving effective results by revising the strategy and setting measurable goals in this field do not take into account the measures taken in the course of the reform in the field of long-term care for elderly people and people with disabilities. In early 2014, the Council of Ministers adopted a National Strategy for Long-Term Care. The Strategy provides for creating accessible and quality services in the community and in family environments, aimed to foster social inclusion of elderly people and people with disabilities while playing a preventive role against the institutionalisation of such people. The Strategy places a strong focus on the deinstitutionalisation of the care for elderly people and people with disabilities, development of family-environment services, and support of families with higher responsibility for dependents in the family. Promoting the integration of social and healthcare services, including development of innovative inter-sectoral services and the application of an integrated approach are also among the priorities of the Strategy.

The Strategy will be implemented through the development and application of an Action Plan, which will be adopted by the Council of Ministers. It will include concrete measures, projects and activities, the institutions responsible for their fulfilment, the deadlines, amounts and sources of financing, including European funds. By the end of the year an analysis of the condition of the specialised institutions will be made, which will support the reform in the field of deinstitutionalisation of the care for people with disabilities and elderly people.

With regard to the submitted information about the current situation of people with disabilities placed in specialised institutions, we would like to present the following precise data: at the end of 2014 the number of elderly people with disabilities placed in specialised institutions was 5 275. 2 097 persons are placed in 27 homes for adults with mental disabilities and 1 029 persons are placed in 13 homes for elderly people with psychological disorders. There are 1 221 persons in 21 homes for elderly people with physical disabilities, 122 persons in 4 homes for elderly people with sensory impairments, and 806 persons are placed in 14 homes for elderly people with dementia.

Another finding made in the report refers to services in home environments and it stated that such services are mainly in the form of various projects. It should be noted in this regard that an essential aspect of the support to elderly people and people with disabilities is the provision of social services in a home environment, including "personal assistants", "social assistants" and "home assistants". Besides the funds from the "Human Resources Development" Operational Programme, the provision of such services is also funded by the State under the National Programme "Assistants to People with Disabilities", which has been implemented since 2003. The Programme ensures care in family environments for people with permanent disabilities or very ill single people, through inclusion of unemployed persons as personal and social assistants. This helps reduce the number of people with disabilities in specialised institutions by placing them in a family environment and improving their living conditions. In addition, the Programme helps create jobs in the field of social services. As of April 2015 the number of people with disabilities using the services under the Programme reached 2 779.

### Human Rights of Immigrants, Asylum Seekers and Refugees

According to the Constitution and to the Foreigners in the Republic of Bulgaria Act the legally residing foreigners shall enjoy all rights, except those that require Bulgarian citizenship. The access to the right of asylum in Bulgaria is fully granted through the Asylum and Refugees Act, in line with the EU legislation. In June 2015 the Government adopted a National Strategy on Migration, Asylum and Integration (2015-2020). The document incorporates three other similar strategies developed in the period from 2008 to 2014, including the National Integration Strategy for Individuals Granted International Protection in Bulgaria (2014-2020). It also updates them in accordance with the new migration situation in Bulgaria and in the EU, following the increase of the migration pressure in 2013. The main objective of the Strategy is to create a political framework for building a comprehensive and sustainable legal and institutional basis for successful management of legal migration and integration. It also aims to prevent and counteract illegal migration, as well as to identify and provide the necessary support for the individuals seeking and receiving international protection in Bulgaria.

Since the migration pressure towards our country started to increase in 2013 we face an unprecedented situation. The Bulgarian authorities undertook a number of measures and steps and the asylum granting capacity of our country have increased significantly.

In order to provide access to legal assistance to those seeking protection, the State Agency for Refugees, together with the Council of Ministers, has implemented projects financed under the European Refugee Fund for provision of legal assistance. The beneficiaries were recognized organisations in refugee law and in the protection of human rights, such as the Bulgarian Helsinki Committee and the National Refugee Centre Association.

The report suggests that there is a lack of mechanism for early identification, assessment and referral of vulnerable people with special needs seeking protection, including unattended children. The State Agency for Refugees applies the questionnaire designed under project "Response to asylum vulnerability", developed by the United Nations High Commissioner for Refugees (UNHCR), and the questionnaire "Protect". If there are unidentified vulnerable persons, the reason for this is that they have not sought timely assistance from social workers. All identified persons with special needs are duly referred to relevant assistance – be it medical, psychiatric or psychological - and towards mediation for addressing other problems. Therefore, such mechanism for early identification exists. However, the Bulgarian authorities will examine further this process and the ways for its improvement.

At every stage of the proceedings for granting protection, according to the Bulgarian legislation, free of charge legal assistance is provided. Breakfast, lunch and dinner are provided to all persons until granting the status.

Moreover, unattended children are as a rule placed together with majority-age relatives – brothers, sisters, aunts and uncles. For children who do not have such relatives or persons, who traditionally take care for them, care is taken they to be accommodated separately from adults during the proceedings. A serious issue faced by the Bulgarian authorities is the lack of desire by most unattended children to study Bulgarian, so as to be included in the educational process. Despite the efforts of the respective authorities, there are cases of unattended underage children who leave the State agency for Refugees territorial units arbitrarily, immediately after registration, and therefore cannot benefit from the provided opportunities for accommodation, support and training.

Concerning the guardianship, it is true that a guardian is not appointed on a timely basis to the children undergoing proceedings – there is a legal impediment for this and it will be removed with the adoption of the Draft Act amending and supplementing the Asylum and Refugees Act. Still, a social worker from the Social Assistance Directorate is appointed to every unattended child by location, who represents the child in the proceedings for status granting. After issuing the final decision on the applications for protection of underage children, the children are referred to the Social Assistance

directorates and the Child Protection department, by location, for placement in conditions appropriate for their age, and for appointment of guardians.

In case of doubt as to the child's age, decisions are always made in favour of the person seeking protection, i.e. it is assumed that the person is a minor. In case of uncertainty, the State Agency for Refugees makes a medical check to assess the child's age.

There have been no cases in which the State Agency for Refugees had not respected court decisions in favour of the child and still treats the person in question as an adult.

With regard to the access to interpretation and information on rights and obligations as well as legal and social counselling, the children are informed of their rights and obligations upon their registration in the presence of a social worker and their rights and obligations are delivered to them in writing. They receive legal and social consultations and medical aid in line with their needs.

As far as access to housing, according to the Bulgarian legislation, the persons who have been granted protection are entitled to stay in acceptance centres for up to 14 days from receipt of the decision on their protection application. Under extraordinary circumstances stays in the centres may be extended to no longer than 6 months, which practice has been applied many times in the autumn and winter seasons. At present the Bulgarian authorities have not been formally addressed with any allegations of existing corruption practices in relation to extended stays of persons with granted international protection in the territorial units of State Agency for Refugees.

Pursuant to the Grant Agreement between the State Agency for Refugees and the European Commission aimed to meet the urgent needs of the Bulgarian protection granting system, accommodation at external addresses will be provided to 800 persons per year receiving protection - 110 families (four-member) and 360 single persons. Projects will be initiated aimed at improving the living conditions, enhancing the capacity for acceptance and accommodation, and provision of medical care and the necessary additional administrative capacity for granting international protection.

Concerning section Detention of migrants and Asylum Seekers, foreigners are detained in Special Homes for Temporary Placement of Foreigners, if they have illegally crossed the borders of Bulgaria and have not stated their desire to file an application for international protection upon their detention, as well as if they are foreigners detained inside the country. The act amending and supplementing the Asylum and Refugees Act provides for detention in specialised places as a measure of last resort under expressly listed preconditions, i.e. if the person poses a threat to the national security and public order. As regards detention of children, it is not targeting unattended minors but aims to preserve the integrity of the family, if there are such cases.

With regard to the finding in para 129 of the small number of children, attending school we would like to underline that there are no children seeking or having received

international protection willing to go to school and left without access to the educational system. All children, who have filed documents with the Ministry of Education and Science and/or the Regional inspectorates of education, are directed and enrolled at school. Furthermore, there are cases of enrolment of children with permission of the Minister of education and science, regardless of whether they have attended the compulsory by law courses in Bulgarian language.

In February and March 2014 proposals for amendment the Asylum and Refugees Act have been drawn, aiming to facilitate the access to the education system of children seeking or having received international protection, as well as their enrollment in schools on age principle, providing training in Bulgarian language and other subjects.

Regardless of the necessity of the improvement of the legislation, at present the children, seeking or having received international protection and enrolled in schools, have equal rights with the Bulgarian citizens. In view of the increased migration the Bulgarian authorities continues to seek effective instruments to assist the process of educational integration of children, seeking or having received international protection. Hence, in the Operative Program "Science and Education for Intelligent Growth (2015 – 2020)", Priority Axis 3 "Educational environment for active social inclusion", targeted measures and activities were developed for additional training in Bulgarian language, as well as for work with parents refugees in order to increase their awareness of school enrollment and improve their eagerness to include their children in the education system.

It is stipulated in the Draft of the new Pre-school and School Education Act that children and students in compulsory pre-school and school age residing in Bulgaria, regardless of their citizenship, are entitled to free of charge education in Bulgarian language. The training will be carried out under conditions determined by State Educational Standard by seeking a more flexible approach according the abilities and interests of each student. This standard will be developed in compliance with the new Pre-school and School Education Act.

The report points out that in September 2014 protesting parents, teachers and local authorities impeded nine children to attend school in the village of Kalishte, Pernik District. In this connection it should be noted that for these children access to the educational system has been ensured. Eight children were enrolled in Sofia schools. Five of them were accepted to attend 1<sup>st</sup> grade. After an interview in the Regional Inspectorate of Education in the city of Sofia, one student was directed to attend 2<sup>nd</sup> grade and two – to attend 5<sup>th</sup> grade. One student did not attend the interview because of having left the country. All the eight children were directed to schools in Sofia. The enrollment of children at schools in the capital significantly facilitates the educational integration as it provides various opportunities to continue their education.



In conclusion it should be underlined, that to all children, who have stated or will state willingness to enroll in State or Municipal schools, access to the educational system will be ensured.

#### Media Freedom

Bulgarian society is particularly sensitive towards the links between political, economical and media interests and the transparency of media property.

The National legislation ensures protection and conditions for promotion of competition and free economic initiative, media market including. Several bodies monitor the situation on the market. The Commission on Protection of Competition is empowered to enforce the law, and its activities cover all requests on ascertaining infringements of free market competition.

Concerning the section Excessive Concentration of Media Ownership, we would like to highlight the fact that the amendments to the Mandatory Deposit of Copies of Printed and Other Works Act introduced the requirement for all publishers of periodical print media to submit a declaration in a standard form to the Ministry of Culture identifying the actual owner of the media.

In its licensing activity under the Radio and Television Act, the Council for Electronic Media monitors compliance with the requirements regarding the transparency of the capital and property of the natural and legal persons applying for a radio and television broadcasting license. The Council for Electronic Media maintains a public register of the legal entities controlling media operators and their management.

For now, the legal system does not recognize the difference between media ownership and the ownership in any other field. In 2015, the government presented its programme, foreseeing new regulations for the acquisition and merger of media. The idea is to eliminate the possibility of influence on the media environment by a single owner and persons affiliated to him/her. Furthermore, another idea is to be discussed – the media which have failed to fulfill their obligations to disclose their real owners to be banned from public funds and public procurement. In the regulated electronic media sphere - the issue of ownership concentration is not currently present.