Alternative Report on the Implementation of the International Covenant on Economic, Social and Cultural Rights in Bulgaria

**Bulgarian Helsinki Committee**

December 2018

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# Poverty and social exclusion. Effects on different vulnerable groups defined by sex, age, ethnicity, disability and sexual orientation and gender identity or expression

In the last 10 years the poverty level in Bulgaria remained one of the highest, both among the old and the new EU member states. In 2017, the number of persons who lived below the poverty line, was 1,665.3 thousand representing **23.4% of the population**.[[1]](#footnote-1) The main factor influencing the risk of poverty for the prevailing part of the population is the economic activity and participation in the labour market. The share of the poor people is highest among the unemployed (58.7%) and the risk of poverty for unemployed males is 8.2 percentage points higher than for unemployed females. Educational level influences considerably the risk of poverty for the employed people. Highest is the share of working poor people with primary and without education – 65.6%.[[2]](#footnote-2) The share of the poor among the employed with primary education is halved, and among those with secondary education – drops approximately by 8 times. The share of working poor people with tertiary education is below 2%.

Poverty data by type of household show that poverty is concentrated among elderly single-person households, women in single-person households, single parents with children and households with three or more children. **Every second woman in a single-person household lives in risk of poverty**.[[3]](#footnote-3) In 2017 the share of the poor is lowest among households of two adults and one child (12.0%) and two adults aged below 65 years (12.6%). Among single-person households the risk of poverty is around 1/5 higher for females than for males. Moreover, the risk of poverty among single-person households varies according to the household member's age – in 2017 it is 29.3 percentage points higher for persons aged 65 and over than for those aged below 65 years.[[4]](#footnote-4)

In 2017 the **highest share of poor people is among the Roma ethnic group – 77.2%** and the lowest are among the Bulgarian one – 15.7%.[[5]](#footnote-5) Considerable discrepancies are observed in the distribution of poor people belonging to separate ethnic groups and depending on their economic activity. Among the poor belonging to the Bulgarian ethnic group prevail retired people (53.3%), while among Roma one highest is the share of unemployed (39.9%). Regarding employed people, highest is the share of working poor people among the Roma – 25.9%, compared to 25.7% working poor people among the Turkish ethnic group and 20.1% among Bulgarian ethnic groups. [[6]](#footnote-6)

According to the EU SILC study “Social Inclusion and Living Conditions“, almost half of the Bulgarian children – **43.7%[[7]](#footnote-7) or 527,200 children live at risk of poverty or social exclusion**.[[8]](#footnote-8) Particularly vulnerable are those living in poor households, in families with more than 3 children or with only one parent, children of Roma and Turkish ethnicity, those not attending school, children with disabilities, those living in remote rural areas or in regions with limited employment, children of migrant and refugee families (and particularly those who are unaccompanied and separated from their families) as well as children in resident care. In 2017, the shares of materially deprived children by ethnicity were as follows: 16.5% – among Bulgarian ethnic group, 32.3% – among Turkish one, 71.6% – among Roma and 34.4% – among other ethnicities. No children’s necessity could be satisfied for 0.6% of the Bulgarians, 1.6% of Turkish, 16.3% of Roma. About 21% of materially deprived children of the Bulgarian ethnic group live at-risk-of-poverty at the same time. The shares for the other ethnic groups are: 45.5% of children of Turkish ethnic group, 85.5% of Roma and 5.0% of other.[[9]](#footnote-9)

The European Union Agency for Fundamental Rights (FRA) latest Minorities and Discrimination Survey (2016)[[10]](#footnote-10) states that most **Roma in Bulgaria** are far from being granted their fundamental rights. Poverty, exclusion from good education and discrimination in the labour market, as well as in other areas, are just some of the problems. In Bulgaria, the rate of Roma who live **below the poverty threshold is 86%**, higher than the average, compared to 22% of the general population in the country.[[11]](#footnote-11) Only 23% of all Roma surveyed declared themselves employed, while 55% - unemployed.[[12]](#footnote-12) In Bulgaria, 23% of all Roma people live in housing without tap water, **44% of all Roma people live in dwellings without any toilet, shower or bathroom inside.** [[13]](#footnote-13)

The data available from EU–SILC indicate that **disabled people** in Bulgaria face the highest overall risk of poverty or social exclusion in the EU, an estimated 55.9% AROPE in 2016.[[14]](#footnote-14) The at-risk-of-poverty rate after social transfers was 23,4% in 2017 (the second highest in the EU).[[15]](#footnote-15) The most recent SILC data shows that disabled materially deprived in Bulgaria are four times more than the EU average – 45.2%. [[16]](#footnote-16)

These risks are persistent and present a major policy challenge for Bulgaria. Moreover, the data do not include persons living in institutions, who may be particularly at risk. This situation can be explained by the combination of barriers to labour market access and inadequate social protection, as well as exclusion from education and training.

No data exists in regards to poverty of lesbian, gay, bisexual, transgender and intersex (LGBTI) people in Bulgaria.

# Access to health of ethnic minorities, persons with disabilities, trans and intersex people

**Only 45%** of all Bulgarians of Romani origin, aged 16 or older, are covered by a **national, basic health insurance**.[[17]](#footnote-17) The percentage of Roma indicating long-term activity limitations in Bulgaria is 25% for women and 19% for men.[[18]](#footnote-18) In 2017 a complaint was filed by the European Roma Rights Centre (an international NGO), in cooperation with the Bulgarian Helsinki Committee.[[19]](#footnote-19) The applicant adduces in it arguments that violation of the provisions of the European Social Charter, guaranteeing their right to protection of health, the right to social and medical assistance and the right to non-discrimination, is admitted with respect to women of Roma origin in Bulgaria, these violations being manifested in the sphere of the access to sexual and reproductive health services. More specifically, it is claimed that Roma women in Bulgaria are victims of segregation in maternity wards, where they are admitted in places with poorer material conditions, subjected to racist insults, and in some cases – of physical violence.

The 2016–2018 developments in the **disability field** were marked by attempts for establishing a new assessment procedure[[20]](#footnote-20) of persons with disabilities. They were provoked rather by suspicion of misuse of disability status related to pensions than by political will and effort to comply with the UN Convention on the Rights of Persons with Disabilities approach. In 2018 disability NGOs started protests against the current personal assistance schemes and the adopted amendments in the disability assessment mechanism. On 18 July 2018, the government adopted amendments (enforced on 27 July 2018) to the*Medical Assessment Ordinance* and the *Regulations for the Structure and the Work Management of the Medical Assessment Bodies and the Regional Disability Claims Management System* despite disagreement on the part of nationally represented organisations of persons with disabilities and criticism from medical doctors. The amendments try to reduce the administrative burden of the assessed persons and to facilitate the formation and the flexible operation of the assessment commissions. The *Medical Assessment Ordinance* amendments aim at simplifying the math formula for assessment of multiple disabilities. Persons with disabilities appealed the *Medical Assessment Ordinance* at the Ministry of Healthcare at the end of August and announced that they would appeal it in court also. The main argument for appeal is that the new amendments lead to deprivation or reduction of social disability benefits for those assessed.

The 2018 several months of protests of mothers of children with disabilities grew into negotiations between disability NGOs, the government, the Ombudsman and the Parliament. The latter led to elaboration of **new drafts of Persons with Disabilities Act and Personal Aid Act** (voted in the Parliament in December 2018) which are still based on the medical assessments (not functional assessments) and use the philosophy of estimation of percent lost working capability. However, the positive achievement of the new legislation is that at least people with estimated most severe health conditions would finally be entitled to the right to use personal assistant services (which so far had been provided only on project basis). Another achievement would be that cash social benefits would be regularly updated and would be linked to poverty line (so far, they were very low fixed amounts).

There is no regulation or adopted medical standards on transgender hormone therapy and sex reassignment surgery – the main therapeutic approaches towards gender dysphoria. Moreover, issues of trans and intersex people’s medical conditions are not properly included in the curricula of medical and non-medical healthcare professionals. This significantly hampers trans and intersex people’s access to proper care.

# National Roma Integration Strategy (2012-2020) and its implementation

As in previous years, the period of 2016-2018 does not mark any significant advances in the implementation of the National Roma Integration Strategy (NRIS).[[21]](#footnote-21) **Improvements have been observed in the usage of EU funds for Roma inclusion** (especially European Social Fund (ESF) and partly European Regional Development Fund, while the engagement of the European Agricultural Fund for Rural Development (EAFRD) remains problematic) and for **education** (especially in reducing early school leaving and increasing participation in different levels of education, although *de facto* segregation remains a problem). Deterioration is obvious in the fields of governance (especially regarding the legitimacy of the National Roma Contact Point (NRCP) and the consultative process with civil society) and anti-Gypsyism (with a significant rise in anti-Roma rhetoric, publications and even actions). Serious challenges remain in all fields.[[22]](#footnote-22)

The period of 2016-2017 marked the full collapse of the legitimacy of both the National Roma Contact Point and the National Council for Cooperation on Ethnic and Integration Issues (NCCEII), which have been fully abandoned by the Roma NGOs and cannot implement their consultative and coordination roles. The policy dialogue between the Government and the Roma organisations occurs through other consultative formats (such as the Monitoring Committees of the EU co-funded Operational Programmes) and direct dialogue between NGOs and institutions.[[23]](#footnote-23)

A great achievement of the Bulgarian Government and the Roma organisations is the directing of relatively large financial resources from the EU co-funded operational programmes for Roma-targeted operations. The main Roma-targeted measures in the three operational programmes – HRDOP, SESGOP and RGOP – give more opportunities to the municipalities, and there are separate measures under which municipalities are specific beneficiaries, too. In the current programme period, the operational programmes rely on the use of the integrated approach: i.e., the combination of the different programmes and funds - HRDOP, SESGOP and RGOP - and the combination of the activities under all National Strategy priorities in the fields of education, employment, healthcare, housing, antidiscrimination and equal opportunities, culture, and media. An example in this direction is the operation on “Socio-economic integration of marginalised communities” (funded from the HRDO), “Integrated Measures for Improving the Access to Education” (funded from the SESGOP) and “Social Housing in the Urban Municipalities” financed by the ERDF-funded RGOP. The operation was announced in March 2018, the projects are expected to start in 2019 and thus the operation could not be still evaluated. Despite significantly increased allocation of the ESIF for Roma inclusion in the current programme period, **certain obstacles** at the national level sharply limit the possibility of Roma-targeted operations to achieve sustainable results:

* there is no institution with capacity to carry out systemic Roma integration project (designed to support policy reform in the national system);
* the capacity of civil society is not properly used: NGOs are not concrete beneficiaries, they are not granted big projects or global grants although the EEA Grants proved the effectiveness of this practice;
* the participation of non-state actors (for example, NGOs) is sharply limited by the rigid application of the “state aid” principle, by the unfavourable payment regime (small pre-payment and delays);
* due to both managerial mistakes (irregularities) and political mistakes, the payments to the SESGOP from the EU were suspended until an institutional reform is done (implementation of an action plan, including establishment of anew SESGOP implementation agency). As result many operations (including Roma targeted ones) were postponed;
* the administrative burden makes the beneficiaries to pay stronger attention to reporting than to the real field work. [[24]](#footnote-24)

There are bottlenecks of the effective use of the ESIF for Roma inclusion also at the local level:

* smaller municipalities (the rural-type municipalities where Roma are overrepresented) have limited human resources. In most cases there is only one employee who is also “entrusted with the Roma issues” along with his/her other administrative responsibilities and functions. Very often, such employees are not in-depth aware of the problems and specificities of the Roma community, which, in turn, hinders the municipality from being able to plan and design qualitatively and to make maximum use of the opportunities under the respective programmes;
* the rural communities need additional expertise to plan and develop projects targeting Roma integration through different funds.[[25]](#footnote-25)

During 2007-2013 the Human Resources Development Operational Programme financed seven Roma- or minority-targeted operations with a total budget of approximately EUR 35.26 million. This trend continues in the programming period 2014–2020.[[26]](#footnote-26)

# Access to quality education of Roma

In 2016 the EU Fundamental Rights Agency discovered that around 66% of children aged 4 to 7 attend kindergarten compared to 89% for general population.[[27]](#footnote-27) The proportion of Roma **early school-leavers (aged 18-24) is disproportionately high (67%)**, compared to the general population (13%).[[28]](#footnote-28) School segregation remains a problem in Bulgaria despite the legal prohibition of this practice – 60% of the Roma children who attend school go to *de facto* segregated schools.[[29]](#footnote-29) In Bulgaria, 7% of compulsory-school-age (7 to 14 years-of age children) from Roma families do not go to school while this percent grows sharply to 43 for children aged 14 to 18 and it is **97% for young people aged 19 to 24 who are not involved in any form of education**. The rate of 16 to 24-year-old Bulgarians of Romani origin, who are neither in work, nor in education or training, is 65%, while the rate is 79% for girls and women, and 52% for boys and men.[[30]](#footnote-30)

According to prominent NGOs working in the field of Roma integration, during **the period 2016-2017** “the field of education marks the area of the most significant advance in National Roma Integration Strategy implementation.”[[31]](#footnote-31) The developments in mainstream education policy and the political attention on ensuring full attendance in pre-school and primary school education (which became a top-priority for the current government) are among the main reasons for the advance of educational integration. The attendance of Roma children in pre-school education has increased but still is below average. The existence of financial barriers (e.g., kindergarten fees), the lack of an intercultural perspective, and the lack of modern teaching methods that take into account the specifics of Roma children and parents form the most serious challenges regarding their access to quality pre-school education. A significant advance has been achieved regarding the enrolment of Roma in primary school and reducing the dropout rate. Certain challenges remain, especially in ensuring enrolment into secondary schools (grade 8-12) and developing of education in rural areas. The period under review revealed significant remaining challenges in promoting ethnically mixed, inclusive education and desegregation. Persistent challenges also remain obvious in increasing learning results and quality of education.[[32]](#footnote-32)

The pre-school education is compulsory from the school year in which the child turns five.[[33]](#footnote-33) Nevertheless, for fourth consecutive year the **net enrolment rate in pre-primary education is decreasing** to 78.4% in 2017/18 year compared to 83,6% in 2013/14 according to the National Statistical Institute. The negative trend shows that every fifth Bulgarian child is not enrolled. One reason underlined by NGOs and experts is the kindergarten fee. Despite the campaign of NGOs and Ombudsman, political decision for removal of kindergarten fees is still not taken. The state budget forecast for 2019 does not contain financial back up for such a measure either. The lack of kindergartens or enough places continues to be an obstacle to the higher enrolment of Roma children, mainly in some urban Roma neighbourhoods. In addition, in big cities like Varna, Sofia and Bourgas are functioning online application systems for enrolment at kindergartens that require technical competences and having a computer with internet connection at home. This excludes many Roma families since the local administrations do not provide any type of technical assistance to parents. The low quality of education and care in the kindergartens attended by Roma children combined with poor interaction with Roma parents is the other big barrier.

With its Decision 373/05.07.2017 and later with Decree 100/08.06.2018 the Council of Ministers set **multi-institutional framework for full enrolment**. It contains Mechanism, Coordination Unit and local multi-institutional teams. The Mechanism[[34]](#footnote-34) includes the key institutions working with children and their families (educational, social care, healthcare, police, municipal authorities and others). They are obliged to cooperate on 7 cross-cutting areas for ensuring that every child will attend school.[[35]](#footnote-35) The engagement of parents and the local Roma community is underestimated in this mechanism. In reality, Roma NGOs and mediators take active part in many local teams and this highly improves the teams’ efficiency. Nevertheless, no support is provided for their participation.

In September 2017 the Ministry of Education and Science (MES) announced that 206,378 children aged 5-18 are not enrolled (the number did not include other 100,000 who were officially abroad with their families). According to MES data 1,134 local teams were formed[[36]](#footnote-36) and they carried out 216,904 home visits in search of 197,659 children. Around 23,898 children have been enrolled back to school. 2,124 out of them dropped out again.[[37]](#footnote-37) According to MES data the rest of the children who have not been enrolled back to school are absent due to: going abroad (35%), no reliable information was obtained about them (35%), unwillingness of the parents (18%), health problems (8%), early marriages (2%), etc.

During the period 1 August-31 October 2018 more than 10,000 specialists united in 1,239 local teams carried out 24,356 home visits. MES reports that in this short period 9,100 children were integrated at school.[[38]](#footnote-38) Nevertheless, around 6,000 of them are children in 1st grade who have not been enrolled in pre-schooling before and most probably would be enrolled without the local teams.

The analysis of this data shows that: the percentage of successfully reintegrated children is comparatively low – around 10%; migration abroad appears as the most serious challenge as no institution in Bulgaria keeps reliable information on how many children went abroad and whether they are enrolled in school in the hosting country; a possible reason for the big share of children for whom no reliable information was obtained (35%) is that Roma communities do not trust the local teams; health problems also appear as serious obstacle which leads to the possible explanation with the lack of educational forms in the rural areas and Roma neighborhoods for children with health problems.

The beginning of 2018 marked **two important changes in financing school education** – the reform of delegated school budgets and providing additional funds for work with students from vulnerable group. Both of them have been designed to let two types of disadvantaged schools (rural ones and schools that educate Roma children) appoint and keep motivated teachers via increasing their salaries. The funds were distributed in May – June 2018. MES still does not have generalized information about their usage which is still ongoing. However, the application of the Financing Regulation is faced with several serious challenges:

1. lack of expected specific results tied to granting the funds;
2. lack of guarantees that resources would be invested also in working with parents;
3. real danger that the investment will further strengthen segregated education, because the Regulation stresses the number of children as criteria for financing, the largest additional funding is provided to the biggest segregated schools;
4. lack of opportunities for engaging NGOs;[[39]](#footnote-39)
5. The upper-secondary students are not included although the number of students from vulnerable groups in upper secondary schools is increasing. Amalipe and dozens of schools initiated advocacy activities for providing funds for work with vulnerable upper-secondary students.[[40]](#footnote-40) The State budget for 2019 meets this claim and contains funds for upper-secondary students.[[41]](#footnote-41)

Another new positive development in 2017-2018 is the real introduction of the position of educational mediator and the appointment of over 200 such mediators.

However, the information from 2017 reveals a quite disturbing picture of **educational segregation** in the pre-school and primary education (as data about ethnicity of the enrolled students is not officially collected, indicator of educational level of their parents is applied, while Roma parents with low education level are dominating):

* every fifth educational institution is segregated: in 748 schools and kindergartens out of 3,371 that have submitted information, parents with lower than secondary education are between 80 and 100%;
* 17,71% (or 597 institutions) are mixed but with advancing secondary segregation;
* only one third (or 1,123) of the schools and kindergarten are mixed;
* every forth school or kindergarten (26,79% or 903) is attended by children of highly educated parents; Roma children are quite an exception.

# Forced evictions of Roma and other vulnerable groups

In 2015–2017, the situation in Bulgaria with the forced evictions of Roma citizens from their only homes continued to be a serious problem. It deteriorated in practice, part of the deterioration resulting from **racist instigation originating from or finding support among the extreme nationalists who participate in the government**. Bulgarian authorities have been failing to take actions to submit amendments to the State Property Act (SPA), Municipal Property Act (MPA) and Spatial Planning Act (SpPA), which would guarantee proportionality of the actions aimed at coping with the illegal possession of public property and the orders for illegal buildings to be demolished. Research in the social situation of the Roma families whose only homes are destroyed, and provision of alternative placement is not a practice.[[42]](#footnote-42)

With the inclusion in the government of the ultranationalist coalition of the United Patriots in 2017, whose three parties have incited for years anti-Roma moods in society, the local authorities in several Bulgarian towns and villages launched massive campaigns over the year to demolish illegal dwellings of Roma people, built over privately owned or municipal land. **In most cases those were houses that were built decades ago, which the municipalities tolerated during all that time.** What is more, some municipal authorities implicitly recognised the existence of these buildings over the years: citizens of Roma origin who turned to the BHC were registered as permanently residing at the addresses of the houses marked for demolition; for other buildings the municipal authorities had calculated for years taxes and fees; service providers were supplying electricity and water – not without the knowledge and cooperation of the authorities – to some of the buildings. In all cases in which the Bulgarian Helsinki Committee (BHC) provided legal aid and representation in court to the citizens of Roma origin, **the local authorities had not offered any alternative accommodation to the families threatened with planned demolitions of their homes**. In most of these families there were children, including new-born babies, as well as people with serious health problems. In most cases the buildings targeted to be demolished were the only home of the families living in them. In all cases the families could not afford to buy or even rent another place to live in, because they lived below the poverty threshold estimated by the National Statistical Institute. They were all doomed to homelessness and life in the street – the fate of a number of other families for whom the limited resources made it impossible for the BHC to reach them.[[43]](#footnote-43)

In March 2017, an **analysis by the non-profit *Equal Opportunities Initiative Association and the Open Society European Policy Institute*** was published, outlining the principal issues in the legislation and in the practice connected with the evictions of the Roma houses.[[44]](#footnote-44) The analysis also reaches the conclusion that the issuing and the execution of **orders for the demolition of illegal houses affects particularly adversely and disproportionally the Roma families** above all. This is proven by the fact that 97% (or 500 of a total of 514) orders by the Directorate for National Construction Control (DNCC) concerning residential buildings, issued in 2010 –2012, target only homes of Roma citizens. According to data collected from 61% of all municipalities in Bulgaria, 89% (or 399 out of all 444) orders concerning residential buildings, issued by the local administrations, target only homes of Roma citizens. The administrative practices applied during the demolition of the only homes of Roma families, are in violation of international law for protection against discrimination, adopted by Bulgaria. There was no discussion on a possible reasonable alternative prior to the demolition; the affected families were not offered adequate alternative accommodation and in practice they remained homeless – without a possibility to be registered at a new permanent address, which hampers the issuing of regular identity documents and hence the access to fundamental rights and services. According to the analysis, there is no accurate statistics concerning the number of the illegal housing facilities in the segregated Roma neighbourhoods, but they are considered to be **at least one quarter of all houses in those areas**. The local authorities are not in a position to offer an adequate solution to the problem due to insufficient or non-existent availability of municipal and social housing. For this reason, orders issued for the demolition of illegal houses in the Roma neighbourhoods in response to demands by citizens are often not executed for years. However, once issued, these orders have no statute of limitation and are **activated sporadically during election campaigns** or when there is intensified investment interest in the respective places.

According to the analysis, the practices of removing illegal buildings that are the only homes of Roma in the segregated areas do not contribute to a lasting resolving of the problems with the housing situation of the Roma minority and are in contradiction to the country’s adopted long-term strategy for integration of the Roma population. Due to the fact that the affected families are not provided any housing anywhere and remain homeless, as a rule, they remain to live in the same neighbourhoods: initially they stay for a while with relatives and in a few weeks or month they build something to live in – at the same place where their former demolished homes were, or in immediate proximity.

A serious obstacle before the improvement of the practices related to the illegal only homes of people in segregated Roma neighbourhoods can be seen in the **delayed implementation of most of the principal goals under the third priority of the *National Strategy for Roma Integration*** (NSRI): improvement of the housing conditions, including the adjacent technical infrastructure. The main problem is the lack of effective results for the stated goal of “improving and complementing the legislation in the sphere of the housing conditions,” both for creating possibilities to legitimise the buildings fit for living, and for synchronisation of the legislation regulating the illegal construction with the stated norms and principles of non-discrimination. Another major problem is the non-attainment of the stated goal for a systematic communication plan to raise public awareness about the integration policies. In the priority sphere connected with improvement of the housing conditions of the Roma population, the absence of systematic communication on the part of the central and the local administrations, both with the affected persons and with the majority intensifies the interethnic tension: the anti-Roma attitudes among the majority and total lack of trust in the institutions among the Roma.

# Access to education of persons with disabilities

**Only around half of the children with disabilities are believed to be integrated into the mainstream education system, while around 8,000 children with disabilities do not go to school**.[[45]](#footnote-45) A 2018 situation analysis by UNICEF reveals that the shortage of specialized public transportation, as well as the lack of physically accessible environment in most of the schools and kindergartens continues to be the main barrier for inclusion of children with physical disabilities. Many schools and kindergarten lack specialized materials. Innovations and technologies are not utilized to facilitate the learning process of children with specific needs.[[46]](#footnote-46) Another main challenge of inclusion is the lack of qualified specialists for providing additional support to children with specific educational needs (speech therapists, psychologists, specialist teachers) at schools and kindergartens, especially located in villages and small towns. There is a need to endorse an approach focused on children’s needs while actively encouraging joint efforts of parents, teachers, specialists and other institutions outside the education system. [[47]](#footnote-47)

The UNICEF study of the phenomena of failure to enrol in school[[48]](#footnote-48) showed that a major part of school management and **pedagogical staff lack the training** required for ensuring inclusive and high-quality education of children with special education needs. The main reasons for this are related to the pre-service training of teachers, as well as lack of continuous support and opportunities for professional development of teachers. [[49]](#footnote-49)

Education levels reported for disabled people are low and no data is available on early school leavers due to disability. However, the result is demonstrated through high unemployment rates and strong dependence on social welfare, i.e. remarkable poverty among disabled population. The gap in school leaving is very large and is unfortunately increasing. The effect of the implementation of the 2017–2018 state efforts for coping with this situation is still unclear. The National Network for Children (umbrella NGO) states that the weaknesses in prevention of early drop outs so far are the still unclear effect of its implementation, the short deadlines and the lack of good organisation of the interinstitutional teams by coverage, the unequal involvement of different professionals and the incomplete source database of children subject to compulsory education.[[50]](#footnote-50)

**Inclusive education** is supported mainly by a EU funded project the implementation and the products of which are still non-transparent. Tools and methodologies for inclusive education to comply with the 2016 Education Act are lacking. Evaluation of the quality of inclusive education is not being performed. The Network for Children (NGO) states that their experts assess with a very low mark the progress in the inclusive education field in 2017 *“due to the partially secured conditions for the implementation of the legislative initiatives launched in 2016. Sustainable and timely funding and provision with specialists, methodologies, tools and practices has not been yet secured despite the presence of legal requirements.”*[[51]](#footnote-51)

The UN Committee on the Rights of Persons with Disabilities also expressed its concerns regarding inclusive education in Bulgaria after its session in September 2018.[[52]](#footnote-52)

# Access to education of LGBTI people

Bulgarian authorities do not address issues of LGBTI people in the field of education despite those issues being well documented by FRA.[[53]](#footnote-53) Social attitudes against inclusion of any information that is seen as presenting homosexuality as normal variant of human sexuality in school curricula are strong. There are no policies for addressing homophobic or transphobic bullying in schools.

# Migration, Asylum and Integration (2011–2020)

Since 2014 the number of migrants entering Bulgaria has increased. Those who must stay in Bulgaria face serious difficulties in dealing with the discriminatory attitudes of authorities and of private individuals and groups. During the period 2014–2016 the Bulgarian Helsinki Committee has received **numerous complaints from migrants of bias motivated physical abuse, robberies and insults by border police and other law enforcement officials**.[[54]](#footnote-54)Private vigilante groups “hunting” for migrants near the Bulgarian-Turkish border have also physically abused, detained and robbed migrants on numerous occasions. Prosecution offices and courts acquit the perpetrators. Provision of interpretation, legal aid and accommodation for immigrants seeking protection are a serious challenge. Integration in Bulgaria for refugees is lacking.

The over-crowding of the refugee camps at the end of the summer of 2016 once again illustrated the shortcomings of the national system for handling refugees, which crashes when there is an influx that exceeds the currently existing housing capacity of 5,490 by more than 2/3. What happens usually in these instances is that the hygienic and health conditions at camps deteriorate and 2016 was no exception. Regarding proceedings on the evaluation of the applications for international asylum protection in 2016 there were improvements, but also deviations from the legal standards and good practices. The quality of the decisions delivered by the refugee administration deteriorated in substance. In 2016 the decisions on asylum applications correctly identified the reasons for granting asylum pursuant to the law in only 16% of the cases, and only 26% of the decisions included a review and discussion of the main elements of the applicant’s refugee story. In 67% of the cases the facts and circumstances matched the legal outcome of the decision, but only 16% of the decisions contained a review of all substantive issues of the declared refugee story. Asylum seekers were not granted legal assistance.

At the end of 2016, the refugee legislation was amended[[55]](#footnote-55) and restriction of the freedom of movement was introduced for the persons seeking protection during the proceedings before State Agency for Refugees (SAR).[[56]](#footnote-56) The most negative development in 2017 was the broadening of the practice to conduct refugee procedures in conditions of immigration detention in Special Homes for Temporary Accommodation of Foreigners (SHTAF) of the Migration Directorate of Ministry of Interior. The delay of the access to procedure for the persons who had applied for asylum from the administrative centres for detention of foreigners – SHTAF – deteriorated in 2017. If in the previous year the average detention period for persons seeking protection was 9 days, in 2017 that period increased to an average of 19 days.[[57]](#footnote-57) Translation, interpreting and communication in a comprehensible and preferred language during the proceedings for providing international protection and status were not secured for all persons seeking protection. Legal aid at the procedure phase conducted before SAR was supposed to be provided only to persons from vulnerable groups in 2018. In 2017, too, no standard operational procedures were adopted for identifying and work with persons from vulnerable groups, including unaccompanied minors.[[58]](#footnote-58)

# Impediments faced by asylum seekers and refugees in accessing social assistance, health care, education and social housing and the measures taken to overcome impediments

The Ordinance for Integration of Refugees and Persons with Humanitarian Status, which was adopted in 2016 after a discussion that continued for two years, never worked in practice, but it was revoked on 31 March 2017 by the caretaker government on the last day of its term in office. The revoking was motivated with the fulfilment of the election promise given by the newly-elected President Rumen Radev – in contradiction to the Constitution and to the principle of separation of powers proclaimed in it. The new **Ordinance on Integration** adopted on 19 July 2017 did not differ substantially from the rules of the revoked ordinance. In spite of the adoption of the new Ordinance on Integration, the government did not approve concrete rules and budget for encouraging the municipalities to undertake integration plans and measures. In this way, **the situation of zero integration of the refugees in Bulgaria continues already for the fifth year in succession**.[[59]](#footnote-59)

# Gender equality

During the period under review Bulgaria continued to lack a clearly defined state policy for encouraging gender equality. The *Act on Equality between Women and Men*, which came into force in 2016 and which had serious shortcomings, notably its declaratory character and lack of concrete substantive provisions, predictably failed to bring improvement of the situation of women in any sphere of life. One of the few commitments of the government, explicitly formulated in the law – to adopt plans for implementation of the National Strategy for Equality between Women and Men – remained unfulfilled in 2017. The circumstance that women are more capable than men to take care of the dependent members of the family and for the household remained among the most sustainable and harmful gender-based stereotypes in Bulgarian society. Immediate expression of its action can be seen in the statistics of the National Social Security Institute (NSSI), where a very serious gender inequality is observed with respect to the use of paid leave to care for dependent members of the family. For yet another successive year, the NSSI data indicate that in almost 100% of the cases it was women who remained at home to care for sick members of the family and for the small children, even when under the law leave can be used or transferred to be used to the man.[[60]](#footnote-60)

A similar situation is also reported in EIGE’s Gender Equality Index published in 2017.[[61]](#footnote-61) Bulgaria ranks last in the European Union in gender equality with respect to the “Time” indicator. That indicator measures the time that women and men devote to unpaid domestic work and care for children, sick and elderly people, as well as the time that they devote to themselves through participation in sports, cultural or other events. Thus, for example, the percentage of women involved daily with cooking or other domestic duties in Bulgaria е 72.9, whereas for men it is only 13. At the same time, the share of men who devote to entertainment at least one hour every other day is 60% higher compared to women. This results in lower remunerations (by 15.4%) and pensions (by 35%), as well as higher risk of poverty and social exclusion for women in Bulgaria compared to men.

Transgender people are generally omitted from any policies or political discussions covering gender equality.

# Unemployment among disabled persons

While the disability employment rate in Bulgaria appears only moderately low, compared to the EU average, the gap between disabled and non-disabled persons is very wide. The same is true for unemployment and the rate of economic activity is also low. Disabled people in Bulgaria have significantly lowered chances to enter the labour market and to find work (and these data do not include people living in institutions who may be very far from the labour market). Government efforts to boost employment do not seem effective so far. [[62]](#footnote-62) The approach to employment of disabled people continues to support employers failing to assist disabled people in their efforts to get and sustain a job – appropriate transport means, technical aids or personal assistance, not to mention the lack of accessible environment, which restricts their mobility in general. **The results are limited to ‘subsidised employment’** for the duration of the grant scheme under the Human Resource Development Operational Programme. The major weakness of these schemes rests with their design, which provides for minimum monthly wage plus social security contributions paid by the Operational Programme to the employers hiring registered unemployed people with disability status ignoring individual needs of the disabled job applicants.

The government **does not plan any measures related to ensuring accessibility, providing for flexible working arrangements and targeted vocational training and employment for persons with disabilities**. Instead it maintains the status quo of granting disability status based on diagnosis and pension status based on the latter. The 2018 National Employment Action Plan again, as in previous years, mentions the persons with disabilities as a priority target group for active employment measures in the labour market among other disadvantaged groups. Without any concrete numbers they are mentioned in the Projects “Horizons 3”, “We can too”, “Active inclusion” as a target group for support and inclusion in the labour market. The only concrete numbers regarding persons with disabilities are identified in the earmarked measures under the Employment Promotion Act (EPA).[[63]](#footnote-63)

In September 2018 the UN Committee on the Rights of Persons with Disabilities noted with concern “in spite of the incentives for employers who hire persons with disabilities, they continue facing unemployment and discrimination in the employment sector. The Committee is also concerned about the low level of awareness among employers about reasonable accommodation at the work place. Furthermore, the Committee is concerned about low transition rate of persons with disabilities from sheltered workplaces ‘into open labour market’.[[64]](#footnote-64)

# Unemployment and social assistance benefits

Only persons who are registered at the Employment Departments and had been socially secured (payments for their social security contributions to the National Insurance Institute had been made) for at least 9 months during the last 15 months are eligible to receive **out-of-work unemployment benefits**. Once registered they may receive benefits depending on their status. In Bulgaria the minimum daily compensation for unemployment is BGN 9 (EUR 4.5) and the maximum is 60% of the social security income of the persons before the security payments were ceased (ЕUR 37).[[65]](#footnote-65) The length of the social security period to be taken into account in determination of the unemployment compensation is changed so that only the period when the persons had contributed to the Unemployment Fund after 2001 is taken into consideration. The scheme for contribution-compensation is changed also and in this way a person should have been insured for unemployment for up to 3 years to receive compensation for 4 months, respectively – 3 to 6 years to receive compensation for 6 months, 6 to 9 years to receive compensation for 8 months, 9 to 12 years (so far it was 15 to 20 years) to receive compensation for 10 months, over 12 years (so far it was over 25 years) to receive compensation 12 months.[[66]](#footnote-66) In 2016, BGN 514.6 million (EUR 263,8 million) were paid under the **function ‘Unemployment’[[67]](#footnote-67) or 3.2% of total social protection expenditure**. Compared to the previous year, the social protection expenditures under this function increased by 15.5%. The highest share (75.5%) is the periodic cash payments for benefits compensating the loss of income when a person is able to work and is available for work but is not able to find suitable employment for him/her, including persons not previously employed.[[68]](#footnote-68)

The general rule is that unemployed persons who are assessed as in need of social assistance are involved in employment programs adopted by the minister of labour and social policy and implemented by state and municipal administrations, Social Assistance Agency, Employment Agency and legal entities.[[69]](#footnote-69) If the unemployed persons refuse to be involved in such programs they are deprived of the right to social allowances for a period of one year.[[70]](#footnote-70) **Social assistance** is aimed at supporting employment of persons who receive monthly social benefits/allowances.[[71]](#footnote-71) Monthly social allowances are allocated after assessment of: the income of the person and his/her family, property, health, education, employment status and age.[[72]](#footnote-72) Persons with 70 and over 70% limited work capability have the right to social monthly allowance if their monthly income is lower than EUR 48.[[73]](#footnote-73) Persons with 50 and over 50% limited work capability are entitled to the right to social monthly allowance if their monthly income is lower than EUR 38. Most of the persons with such percentage limited work capability have disability pensions and are not eligible for social assistance allowances in practice.

Bulgaria is among the EU member states where **family allowances for children** have a relatively wide scope but are not large in amount. These allowances are not tied to a social security contribution or parents’ employment and are not by their nature social security compensations or maintenance allowance for families with children. They are not typical social assistance, although they are aimed at complementing incomes with a view to covering the persons’ basic necessities of life.

In 2015 the parliament amended the Family Allowance for Children Act which provide for **terminating the monthly family allowances** when the child stops attending school and is thereafter stopped for a minimum of one year, even if the child returns to school. The amendments also provide that the monthly family allowance terminate when the child becomes a parent. These amendments aimed at discouraging early marriages in the Roma community. However, they are punitive and disproportionate and amount to discrimination against Roma and Roma girls in particular. In 2016 there have been around 800 underage births of which around 90% were from Roma mothers.

# Deinstitutionalisation of child care

In 2017, the positive tendency of closing down institutions for children continued.[[74]](#footnote-74) However, de-institutionalisation of children’s services in Bulgaria still does not contain sufficiently effective measures for promotion of family support, foster care and adoptions[[75]](#footnote-75) and leaves the entrance to institutions for babies open especially for poor children and children with disabilities.[[76]](#footnote-76) Children with disabilities remained excluded from the families.[[77]](#footnote-77) Severe diagnoses are still a barrier before foster parenthood and before adoption. The practice of opening ‘hollow’ services that multiply institutional care is still a serious problem.[[78]](#footnote-78) The alarming data on the quality of care and on the security of the children in some Family type accommodation centres (FTAC) suggest that in 2017, too, there still existed the risk of metamorphosis of the Deinstitutionalisation into FTACisation. According to expert assessments, the most serious problem consists in the fact that in many FTACs the number of unspecialised staffs predominates. The problem with the big number of children in formal care and of children facing the risk of being abandoned remained. According to UNICEF data, every year in Bulgaria about 3,800 children continue to be separated from their families, one out of three of them being below the age of 3 years. [[79]](#footnote-79) Development of early child development services is lagging. Research in quality of community-based services both for children and adults with disabilities is non-existent in practice.

According to UNICEF’s 2018 analysis the most serious challenges in the process of deinstitutionalization are: insufficient funding of the newly opened social services in the community; low pay to the specialists employed; understaffing; staff turnover; lack of adequate training; insufficient number of supervisions and individual counselling; children and young people relocated unprepared, hence stressed; subscribing to the so-called “medicalization” approach; the recurrence of obsolete institutional practices reinstated in the new residential services; poor communication between the responsible authorities, lack of uniform standards for social work with children, insufficient number, remuneration, training and supervision of the social workers at the Child Protection Departments.[[80]](#footnote-80)

# Developments in legal capacity legislation and practice

After the ECHR delivered its judgement on the case of *Stanev v. Bulgaria*[[81]](#footnote-81) in 2012 and the UN Convention on the Rights of Persons with Disabilities was ratified, the work on review and elaboration of new legislation on abolishment of plenary guardianship and introduction of supported decision making measures has started. As a result of it a draft of **Natural Persons and Support Measures Act**[[82]](#footnote-82) was adopted by the Government in 2016 and introduced for voting in the Parliament but after the Government resigned and new Parliament was elected in 2017 there have been no developments in this field. The draft law is centered on the UN CRPD recognition of legal capacity concept and was elaborated to implement the supported decision-making concept in legislation.

A field research showed that most of the persons with intellectual disabilities or/and psychosocial problems living in institutions and community-based residential services are placed under guardianship.[[83]](#footnote-83) Placement under guardianship in Bulgaria constitutes a very severe restriction, which bars the person under guardianship from access to justice, from employment and the right to marry. Degrading and inhuman treatment was identified in these institutions and very rarely individual approach and respect to the human rights of the residents in the new residential services was ensured.[[84]](#footnote-84)

The adopted 2016 amendments in the Social Assistance Act and its regulations[[85]](#footnote-85) cannot provide for better provision of care and services to this group of people. No judicial review is provided for the placement of persons under partial guardianship in institutions or residential community services. The assessment of the needs of the detained persons and of the availability of support services/measures should be done by administratively appointed concrete “specialists” in a multidisciplinary team for whose independence and competence no guarantees are provided in the law. According to the provisions of the Regulations, the person to whom services are to be offered (including the persons under partial guardianship) is included in the preparing of the evaluation and the plan, his/her wish is taken into consideration and is reflected in the evaluation and in the plan, which are signed by the individual personally. However, there are no provisions on the procedure according to which this is to be done. There are likewise no provisions for the accommodation of persons who are incapable of expressing their will. Similarly, no guarantees are provided against arbitrary temporary administrative placement of persons with partial guardianship, possibility for access to court with a view to lifting their guardianship, nor effective means of compensation under the legislation on the liability of the state and the municipalities for damages.

# Deinstitutionalisation of care of adults with mental disabilities

In January 2018 the Council of Ministers adopted the **Action plan 2018–2021 to the National Strategy for Long term Care** – a welcome development, however, prioritising the establishment of family-type accommodation centres (FTAC), day-care centres and centres for rehabilitation rather than the provision of sufficient and effective support for independent living of persons with disabilities warns for further social exclusion.[[86]](#footnote-86) A working group within the Ministry of Social Policy was set up in May 2018 to involve disability and human rights NGOs in the process of evaluation of the concrete proposals from municipalities of development of services under this plan. As of August 2018 a few municipalities had submitted their proposals. The available alternatives to placement in institutions are personal assistance services provided at home, day care provided in day care centres as well as placement in residential accommodation centres in the community (although some of them are just part of existing or “closed” institutions). The persons with disabilities and persons over the age of 65 who receive personal assistance in their homes are around 17,000[[87]](#footnote-87) and those in need who applied for personal assistants are around 40,000. Persons with disabilities who receive disability pensions are over 500,000 and those who receive disability allowances are around 500,000, according to official data.[[88]](#footnote-88)It is obvious that the available community-based services as personal assistance, day care and residential placement “in the community” are not enough to respond to the demand. Moreover, none of these services is tailored to the needs and wishes of the persons with disabilities to whom it is provided and independent research in their quality is not performed.

At the background of some development in the field of community-based services the situation in institutions for persons with mental disabilities remained the same. In May 2018, the Council of Europe’s Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published the report [[89]](#footnote-89) on its seventh periodic visit to Bulgaria, which took place from 25 September to 6 October 2017. The CPT concludes that it *“cannot escape the sober conclusion that residents in the social care establishments visited had de facto been abandoned by the State, which had manifestly totally failed to provide those vulnerable persons with the human contact, comfort, care and assistance they required, as well as the dignity they deserved. It is equally regrettable that staff (and the management) of these establishments had been left to struggle from day to day with totally insufficient human resources, without adequate funding and without any attention or support from the Bulgarian authorities.”*

# Recommendations

The Bulgarian Helsinki Committee makes the following recommendations regarding the compliance of the legislation and practice in Bulgaria with the standards of the Covenant. The recommendations below are by no means exhaustive. They focus on the most important and urgent problems, which need to be addressed with priority.

1. The government of Bulgaria should take appropriate measures to reduce poverty in general and poverty among some vulnerable groups such as Roma, women living in single-person households, children and people with disabilities.
2. The government of Bulgaria should ensure that all Bulgarian citizens are covered by health insurance and should take urgent measures to address the high share of Roma who do not benefit from health insurance.
3. The government of Bulgaria should take measures to reduce disproportionately high rate of early school-leavers among Roma and should abolish the de facto segregation of Roma education at all levels.
4. The government of Bulgaria should repeal the provisions of the Family Allowance for Children Act, which establish a discriminatory regime against Roma and minor women who cannot benefit from family allowances when they become parents.
5. The government of Bulgaria should introduce amendment to the legislation to introduce the principle of proportionality in the demolition of illegal construction, avoid forced evictions as much as possible and ensure that where they take place the affected individuals are provided with adequate alternative housing.
6. The government of Bulgaria should continue deinstitutionalizing child care and should address the most serious challenges in the process of deinstitutionalization, in particular the insufficient funding of the newly opened social services in the community, low payment of the specialists employed, lack of adequate training and recurrence of obsolete institutional practices.
7. The government of Bulgaria should speed up deinstitutionalization of persons with disabilities, favouring genuine community-based settings with adequate quality of services.
8. The government of Bulgaria should ensure that persons with disabilities are not discriminated against, in law or in practice, particularly in their access to justice, inclusive education, reasonable accommodation, employment and marriage.
9. The government of Bulgaria should take resolute steps to provide for appropriate services for refugees in order to ensure their integration in society.
10. The government of Bulgaria should take further efforts too close the gender pay gap and counter stereotypes regarding the roles and responsibilities of women in the family and society at large.
11. The government of Bulgaria should take measures to adopt policies protecting children and adults from homophobic and transphobic abuse in any educational setting as well as medical regulations in regard to gender confirmation therapies for transgender and intersex people.

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34. Its full name is Mechanism for Cooperation among Institutions for Inclusion in the Educational System of Children and Students in Pre-school and School Age. [↑](#footnote-ref-34)
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