



30.11.2018

## NOTICE TO MEMBERS

**Subject: Petition No 0356/2018 by Ivan Yanev (Bulgarian) on problems encountered by persons with disabilities in Bulgaria**

### 1. Summary of petition

The petitioner is expressing deep concern about the constant restrictions related to persons with disabilities in Bulgaria. He explains that supports and benefits for disabled persons are gradually being reduced or withdrawn by the authorities, making the life of people with disabilities extremely difficult. The petitioner claims that in 2010 Bulgaria abolished the hereditary pension, which a person with disability used to receive after his/her parent had passed away. The transport support is now equivalent to 5 euros per month and the financial disability support is in the range of 75- 150 euros per month. The petitioner considers that a comprehensive reform is needed in Bulgaria.

### 2. Admissibility

Declared admissible on 29 August 2018. Information requested from Commission under Rule 216(6).

### 3. Commission reply, received on 30 November 2018

#### The Commission's observations

The petition deals with the rules governing the entitlement and the procedure to obtain social benefits from the social security system in a Member State for persons with disabilities.

Essentially, the provision of social security is a competence of the Member States. Article 48 of the Treaty on the Functioning of the European Union (TFEU) confers on the Union only the competence for the coordination, not the harmonisation, of the Member States' rules in the field of social security. Article 153 TFEU reiterates the right of Member States to define the fundamental principles of their social security systems. This includes the rules governing the

conditions of entitlement to social benefits and also the procedure for granting pensions, the amount of transport benefits and the procedure for employing people with disabilities in the Bulgarian civil service.

Nevertheless, the Commission attaches great importance to the situation of people with disabilities in all Member States. This is reflected for example in the work done in the framework of the European Semester and through monitoring the situation of persons with disabilities by collecting data in the Member States, which includes data about income inequality, poverty, education level and employment situation, and producing indicators on poverty risk, employment and education showing the gap between persons with and without disabilities.

The European Semester 2018 country report for Bulgaria points out that the poverty and employment gap for people with disabilities is amongst the highest in the EU, signalling weaknesses in social protection and employment measures.

Council Recommendations on the 2018 National Reform Programme of Bulgaria and delivering a Council opinion on the 2018 Convergence Programme of Bulgaria include Recital 9 explicitly referring to the social protection system in Bulgaria which does not provide sufficient support for the most vulnerable groups such as persons with disabilities. It further states that the provision of social services remains weak, and their integration with labour market and other services is incomplete.

It should be noted that the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), which the Republic of Bulgaria ratified in 2012, includes provisions for an adequate standard of living and social protection (Article 28). Since Bulgaria has not yet ratified the Optional Protocol of the UNCRPD, individual complaints against the violation of the Convention are not possible. However, just recently, on 21 September 2018, the UN Committee on the Rights of Persons with Disabilities, in its Concluding Observations to the initial Bulgarian report, invited Bulgaria to ensure that all persons with disabilities can meet the additional costs of disability, including by increasing allocations and resources<sup>1</sup>.

## Conclusion

In view of the competence conferred by the TFEU, EU law cannot be called upon to request the Bulgarian legislator to change the way provision of social security is organised.

Nevertheless, Member States may adopt measures at the national level so that persons with disabilities in Bulgaria are able to meet the additional costs of disability. This would be consistent with the commitments taken when ratifying the UNCRPD and with the Concluding Observations of the UN Committee on the Rights of Persons with Disabilities to the Bulgarian initial report.

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<sup>1</sup>[https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fBGR%2fCO%2f1&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fBGR%2fCO%2f1&Lang=en)