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Geneva, October 19, 2011

The Permanent Mission of the Republic of Bulgaria to the United Nations and other international organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and referring to the latter's Note with regard to Human Rights Council resolution 16/15, concerning the rights of persons with disabilities, dated 24 June 2011, has the honour to transmit the information provided by the Bulgarian authorities with regard to the implementation of the above mentioned resolution and the responses to the Questionnaire of the Office of the United Nations High Commissioner for Human Rights.

The Permanent Mission of the Republic of Bulgaria avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Annex: in accordance with the text – 5 pages.



Office of the United Nations
High Commissioner for Human Rights

OHCHR REGISTRY

20 OCT. 2011

Recipients :.....S. Walker

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Information
provided by the Bulgarian authorities with regard to the implementation
of Resolution 15/16 of the UN Human Rights Council
(Note Verbale of the Office of the UN High Commissioner on Human Rights
Ref. CM/SW/1a dated 24 June 2011)

- *Are there any restrictions of the right of persons with disabilities to vote and to be elected?*

The issue of the active and passive voting rights is regulated in the Constitution of the Republic of Bulgaria. The active electoral right is regulated in the provisions of Article 42: "The citizens aged 18 years or above, except for those placed under legal disability and persons serving an imprisonment sentence, have the right to elect central and local government authorities and to take part in referenda". The passive electoral right is regulated in the provisions of Article 65, para 1¹ (with regard to parliamentary elections) and Article 93, para 2² (with regard to presidential elections). As to the terms and conditions for exercising the active voting right in local government elections, Articles 138 and 139 make references to the law.

The Election Code regulates the active and passive voting rights in Articles 3 and 4 respectively, reproducing and further specifying the requirements laid down in the Constitution³.

¹ Article 65. (1) The right to be elected Member of Parliament shall vest in Bulgarian citizens who have no other citizenship, have attained the age of 21, have not been placed under legal disability and do not serve an imprisonment sentence.

² (2) The right to be elected President shall vest in any Bulgarian citizen by birth who is aged 40 or above and eligible to be elected Member of Parliament and who has lived in this country for the last five years.

³ (3) Article 3. (1) The right to elect Members of Parliament, the President and the Vice-President of the Republic shall vest in Bulgarian citizens who are aged 18 or above as of the election date included, who have not been placed under legal disability and do not serve an imprisonment sentence.

(2) The right to elect Members of the European Parliament for the Republic of Bulgaria shall vest in Bulgarian citizens who are aged 18 or above as of the election date included, who have lived in the Republic of Bulgaria or another Member State of the European Union for at least the last three months, who have not been placed under legal disability and do not serve an imprisonment sentence.

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(4) The right to elect municipal councilors and mayors shall vest in Bulgarian citizens who are aged 18 or above as of the election date included, who have not been placed under legal disability and do not serve an imprisonment sentence and who have lived in the respective settlement for at least the last six months.

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Passive Voting Rights

Article 4. (1) The right to be elected Member of Parliament shall vest in Bulgarian citizens who are aged 21 or above as of the election date included, have no other citizenship, have not been placed under legal disability and do not serve an imprisonment sentence.

(2) The right to be elected President and Vice-President of the Republic shall vest in any Bulgarian citizen by birth who is aged 40 or above and has no other citizenship, who has not been placed under legal disability, who does not serve an imprisonment sentence and has lived in this country for the last five years.

(3) The right to be elected Members of the European Parliament for the Republic of Bulgaria shall vest in Bulgarian citizens who are aged 21 or above as of the election date included, who have no citizenship of a non-EU country, who have not been placed under legal disability, who do not serve an imprisonment sentence, have a permanent address in the Republic of Bulgaria and have lived in the Republic of Bulgaria or another Member State of the European Union for at least the last six months.

In accordance with Article 1, paragraph 2 of the United Nations Convention on the Rights of Persons with Disabilities, "persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others".

The only category of persons with disabilities for whom the opportunity to exercise the voting rights enshrined in the Constitution and the laws may be restricted in any way, are the persons suffering from innate or acquired mental impairments and **only** if they have been placed under legal disability.

Pursuant to Article 5 of the Families and Persons Act, the legal grounds for placing a person under legal disability are "mental retardation" or "a mental disorder". The Bulgarian legal doctrine recognizes mental retardation as an innate mental disease (oligophrenia) with various degrees of gravity (imbecility, debility and idiocy), while "a mental disorder" is considered to be an acquired mental disease, e.g. the mental disorder manifested in various forms (psychopathy, schizophrenia, neurosis, depression, cyclophrenia, delirium, atenia, some forms of epilepsy and others). However, the law puts forward yet another cumulative requirement, i.e. these disorders must prevent the persons from "taking care of their affairs".

The procedure for placing a person under legal disability is set out in the provisions of the Civil Procedure Code, Article 336 through 340. A claim has to be filed and the defendant is the person whose placing under legal disability is requested in the claim. This person is presumed legally capable pending the conclusion of the court proceedings and the issuance of the judgment, enjoying all the rights envisaged in civil proceedings, i.e. to use the services of legal defence, to produce evidence, to ask for the collection of evidence, to ask for the preparation of expert opinions, etc. The Civil Procedure Code explicitly requires from the judge ruling in the case to meet the defendant in person and to talk to him or her, as well as to require a forensic expert opinion on his or her condition before issuing the judgment. Furthermore, the law explicitly prohibits proceedings in absentia or recognition of the claim.

Within the meaning of Article 1, para 2 of the UN Convention, the terms "mental retardation" and "a mental disorder" could be put into the categories of "intellectual impairments" and "mental impairments" respectively.

(4) The right to be elected Members of the European Parliament for the Republic of Bulgaria shall vest also in citizens of a Member State of the European Union who are not Bulgarian nationals, who are aged 21 or above as of the election date included, who have no citizenship of a non-EU country, who have not been placed under legal disability, who do not serve an imprisonment sentence, who have not been disenfranchised in the Member State whose nationals they are, who have the status of a long-term or permanent resident in the Republic of Bulgaria, who have lived in the Republic of Bulgaria or another Member State of the European Union for at least the last six months and have expressed their willingness to be elected in a declaration in writing.

(5) The right to be elected municipal councilors and mayors shall vest in Bulgarian citizens who have no citizenship of a non-EU country, who are aged 18 or above as of the election date included, who have not been placed under legal disability, who do not serve an imprisonment sentence and who have lived in the respective settlement for at least the last six months.

(6) The right to be elected municipal councilors shall vest also in citizens of a Member State of the European Union who are not Bulgarian nationals, who have no citizenship of a non-EU country, who are aged 18 or above as of the election date included, who have not been placed under legal disability, who do not serve an imprisonment sentence, who have the status of a long-term or permanent resident in the Republic of Bulgaria, who have lived in the respective settlement for at least the last six months, who have not been disenfranchised in the Member State whose nationals they are, and have expressed their willingness to be elected in a declaration in writing.

• ***What steps has your government undertaken and what mechanism is in place:***

(a) to ensure the close and active consultation with persons with disabilities and their representative organizations in the decision-making process, including those related to the development of legislation and policies?

The policy for integration of persons with disabilities is worked out and implemented by the Council of Ministers, the Minister of Labour and Social Policy, Regional Governors and local government authorities in collaboration with the nationally representative organizations of and for persons with disabilities and the nationally representative organizations of workers and employees in accordance with the approved National Strategy for Persons with Disabilities.

A National Council for the Integration of Persons with Disabilities has been set up at as an advisory body the Council of Ministers for the purpose of ensuring this cooperation in the elaboration and implementation of policies in the field of the integration of persons with disabilities. It is chaired by the Minister of Labour and Social Policy, and is comprised of representatives of: the state as designated by the Council of Ministers, the nationally representative organizations of and for persons with disabilities, the nationally representative organizations of workers and employees, the nationally representative organizations of employers and the National Association of Municipalities in the Republic of Bulgaria.

The National Council for the Integration of Persons with Disabilities gives opinions on all draft legislative acts, strategies, plans and programmes concerning the rights of persons with disabilities and their integration. More specifically, the National Council:

1. Provides support and assistance in the drafting and implementation of the policy for integration of persons with disabilities in accordance with the requirements of the national and international legal standards;
2. Organizes the study and analysis of the integration needs of persons with disabilities and submits proposals to enhance the social and economic efficiency of the integration process to the competent central, municipal, public and economic bodies and organizations;
3. Discusses and gives opinion on all draft legislative acts, strategies, plans and programmes concerning persons with disabilities;
4. Promotes the coordination between the central, municipal, public and economic bodies and organizations and the non-governmental organizations of and for persons with disabilities in view of ensuring the necessary support of the community to their activities in the field of the integration of persons with disabilities;
5. Interacts with the advisory bodies at the national level, which tackle specific aspects of the policy of integration of persons with disabilities;
6. Establishes and maintains contacts with international governmental and non-governmental organizations of and for persons with disabilities;
7. Makes arrangements for giving publicity to the issues and measures related to the integration of persons with disabilities through active cooperation with the media;
8. Submits annual reports on its activities to the Council of Ministers and takes measures for their improvement;
9. Receives, summarizes and discusses the annual financial reports and the annual balance sheets of the nationally representative organizations of and for persons with

disabilities and the reports on their activities for the integration of persons with disabilities which are based on the state budget subsidy they receive.

The Council of Ministers adopts the Rules for the Membership and Activities of the National Council for the Integration of Persons with Disabilities, stating also the criteria for the national representative character of the organizations of and for persons with disabilities. The Rules specify the membership and activities of the National Council for the Integration of Persons with Disabilities and the criteria for the representative character of the organizations of and for persons with disabilities.

(b) to promote the participation of non-governmental organizations and associations in social and political life

The nationally representative organizations of persons with disabilities and the nationally representative organizations for persons with disabilities are active partners in the implementation of measures and activities aimed at integrating the persons with disabilities. The resources from the state budget subsidy are used for financial support to the work of these organizations for active involvement in social and political life.

The Ministry of Labour and Social Policy appreciates the role of the fruitful partnership and cooperation among government institutions, regional and local authorities and non-governmental organizations of and for persons with disabilities because this is the right track for the successful dismantling of all barriers to the social inclusion of persons with disabilities.

The fundamental principle in the policy for persons with disabilities strictly observed by the Bulgarian authorities is "Nothing for the persons with disabilities without the persons with disabilities". In this regard, the active participation of the persons with disabilities and of their representatives in social and political life is genuinely safeguarded.

(c) to assist organizations of persons with disabilities at the international, national, regional and local level

The nationally representative organizations of persons with disabilities and the nationally representative organizations for persons with disabilities receive subsidies where they are eligible beneficiaries in terms of their nationally representative character in accordance with the Rules for the Membership and Activities of the National Council for the Integration of Persons with Disabilities. The subsidies are used to provide financial support to activities which these organizations carry out at the international, national, regional and local level.

One of the activities supported through the financial subsidy is precisely the participation in international activities and cooperation.

- *How are persons with disabilities and their representative organizations involved in the UN Convention monitoring process?*

Bulgaria has signed the United Nations Convention on the Rights of Persons with Disabilities and thus the country has undertaken the commitment to ratify it subsequently. The Convention was signed within the framework of the 62nd Session of the UN General Assembly during the Treaty Event on 27 September 2007. Bulgaria signed the Optional Protocol on 18 December 2008.

Currently, Bulgaria is working on improving the domestic legal framework and its enforcement with a view to attaining the required protection and measures for this vulnerable group. In this connection, a review of the existing Bulgarian legislation is underway and a

proposal is being drafted on the introduction of a national enforcement coordination mechanism in this country.

An inter-departmental working group has been in operation since the beginning of this year to prepare Bulgaria for the ratification of the UN Convention on the Rights of Persons with Disabilities. Active members of the working group are representatives of the nationally representative organizations of and for persons with disabilities, as well as other NGOs which have expressed their willingness to participate.

- *Is there statistical information available on the participation of persons with disabilities in social and political life?*

A database is to be established soon at the Agency for Persons with Disabilities.

Sofia, October 2011.