Information by the Republic of Bulgaria

Contribution to the Questionnaire developed by the Special Rapporteur on the Rights of Persons with Disabilities at the Office of the High Commissioner for Human Rights (OHCHR), on good practices in access to justice for people with disabilities

The equality of all citizens before the law is guaranteed by the Constitution of the Republic of Bulgaria. By a decision of the Constitutional Court of the Republic of Bulgaria since 1992, a mandatory interpretation of the equality of all citizens before the law has been given within the meaning of Art. 6, para. 2 of the Constitution. This is a constitutional principle, which is the basis of the civil society and the state as well as of the whole legal system of the Republic of Bulgaria. The equality of all citizens before the law is also a fundamental right which is specified in a number of constitutional provisions.

In Bulgarian practice there is a case in which the Sofia City Court has ruled and dismissed a claim for incapacity of a person with a mental disorder (schizophrenia paranoid form) and has accepted that the person can take care of his work and interests, provided that he receives assistance and support from his parents in connection with property management, and authorizes both parents to accompany and support their son in making financial decisions.

Non-governmental organizations of and for people with disabilities as well as human rights organizations work together with state institutions. Supporting decision-making projects for persons with intellectual disabilities have been implemented in order to ensure compliance with Art. 12 of the Convention on the Rights of Persons with Disabilities, a brochure in easy-to-read format "You Have the Right to Decide" has been printed in which basic rights guaranteed by the Convention and a brochure "Supported Decision Making for People with Intellectual Disabilities - a path to independence ". A manual for decision-making for people with intellectual disabilities and mental disorders has been developed, a methodology for implementing the decision-making activities that includes the preparation of a personal profile, the creation of support networks for 19 people with intellectual disabilities and the preparation of personal life plans for each of them. Non-governmental organizations of and for people with disabilities implement advocacy and self-advocacy projects at local level to improve the quality of life of people with intellectual disabilities, guarantee their rights and equality, and conduct local information campaigns to promote the support model of decision making as an alternative to incapacity.

In the first Action Plan covering the period 2013-2014, actions were taken to bring legislation and policies in the field of people with disabilities in compliance with the provisions of the UN Convention on the Rights of Persons with Disabilities. In this connection, concepts for changes in the legal framework for the implementation of Article 12 of the Equal Status Convention by the Ministry of Justice were drafted and adopted, which presented specific legislative texts.

As of 1 January 2019, a new Disability Act has entered into force which regulates public relations related to the exercise of the rights of people with disabilities and their support for social inclusion and outlines the horizontal state policy on the rights of people with disabilities, whereby the responsibilities of central government and local government authorities to coordinating policy in this area are broaden. It aims to:

- encourage, protect and guarantee the full and equal exercising of the rights and freedoms of persons with disabilities;

- create conditions for social inclusion of people with disabilities;

- promote respect for the inherent human dignity of people with disabilities;

- provide support for people with disabilities and their families.

The law guarantees the rights of people with disabilities in a way that ensures respect for their human dignity and equal treatment in personal, social and political life, applying an individual approach and an individual assessment of needs, and its basic principles are:

- Personal choice and independence of people with disabilities and their families;

- Equality and non-discrimination;

- Social inclusion and full and effective participation of people with disabilities and their families in public life;

- Accessibility.

Among the areas of support for people with disabilities are public and political life; justice; healthcare; education; employment; housing; accessible environment in urbanized areas and public buildings; transport; culture; sport; personal life and more.

Section V of the Disability Act concerns "Access to justice and legal protection" and states that any person with a disability who suffers serious difficulty in independently exercising his/her rights when performing specific legal actions, is entitled to a supported decision making which will be determined by the law, by providing support measures. Supported decision-making is a combination of social interventions that aim to support decision-making that has legal consequences and results in concrete results for the disabled person, and as serious difficulties are determined the cases in which the person with a disability:

- does not understand the information on which the decision to implement the specific legal action is based;

- does not evaluate the nature and consequences of possible decisions to the specific legal effect;

- cannot link the information under item 1 and the assessment under item 2 in the process of making a specific decision.

It is not considered as a serious difficulty the person's inability to express independently his/her desires and preferences through commonly accepted means of communication, provided that he/she uses ways and means appropriate to his/her condition, including non-verbal forms of communication, visual representation, and others.

Support measures are designed to facilitate the personal exercising of individual human rights of the person that seeks support, the support to this excludes any undue influence of the supporting person, as well as the replacement of the will of the supported person with the will of the supporting person. Support measures are social interventions and include:

- Consultations with a trained specialist;

- Providing specialized decision-making support services;

- Providing a mentor to decision-making support;

- Preparing an anti-crisis plan;

- Supported decision-making through support networks;

- Application of protection measures.

Support measures consist of:

- Clarifying the meaning of legal action and its consequences;

- Helping the supported person to understand the other actors involved in the legal act or the persons affected by it;

- Helping the supported person to express his/her desires and preferences in a way that is understandable to others;

- Providing other assistance related to the implementation of the legal act.

Support measures shall be determined in accordance with the following principles:

- Need for any measure;

- Respect for the desires and preferences of the supported person;

- Proportionality, timeliness and flexibility;

- Avoidance of conflict of interest and undue influence;

- Comprehensiveness of support measures to the application of protection measures.

Only a person with whom the supported person has relation of confidence can be selected as a supporting person, and the body of the judiciary and all state institutions provide disabled people with effective access to justice on an equal basis with all others, including by providing procedural and appropriate to their age support measures in view of their role in all phases of the process. The programmes of the National Institute of Justice and the Academy of the Ministry of Interior include training programs for working with people with disabilities.

In addition, an expert working group was set up to prepare a comprehensive ex-ante impact assessment under the draft Law on Individuals and Implementation Support Measures to the Ministry of Justice.