

My Home, My Choice in Bulgaria

The right to community living for
people with mental disabilities in 2014



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Contents

Introduction.....	4
Acknowledgments.....	5
Recommendations to the Bulgarian government	6
A. Community living and choice	6
B. Access to individualised support services.....	6
C. Access to mainstream services	6
D. Transition from institutions to the community	6
E. Access to justice, monitoring and public awareness.....	7
Scorecard	8
Cluster 1: Community living and choice	12
Indicator 1(A): How many people with mental disabilities live in institutions?.....	12
Indicator 1(B): What housing options are available for people with mental disabilities?.....	13
Indicator 1(C): Are there limits or a moratorium on new admissions to institutions?	14
Indicator 1(D): Does the law respect the choices of people with disabilities about where and with whom they live and which services they receive?	14
Indicator 1(E): Can people with mental disabilities enter into contracts and agreements for disability-related supports, credit agreements to purchase housing, rental or other housing agreements?	15
Indicator 1(F): Do people with disabilities have access to support to enable them to make decisions about where and with whom to live or what support services to access?	15
Indicator 1(G): Can people with mental disabilities access effective mechanisms if they want to complain about their right to live in the community?	16
Cluster 2: Access to individualised support services	17
Indicator 2(A): Are personal budgets available which enable people with mental disabilities to choose the appropriate support they need to live in the community?	17
Indicator 2(B): Is personal assistance available that can support people with mental disabilities to remain and live in the community?	18
Indicator 2(C): Is assistance available to people with mental disabilities to access funding or other support services?	18
Indicator 2(D): Is support available to families of people with mental disabilities? Examples include benefits, remuneration of family members for providing personal assistance, and day care.	19
Indicator 2(E): Are day services provided that can support people with mental disabilities to stay in the community?	19
Indicator 2(F): Does the government manage its budget in a way which advances the right of people with disabilities to live in the community?	19
Cluster 3: Access to mainstream services	21
Indicator 3(A): Do people with mental disabilities get access to mainstream education? Is it inclusive and responsive to their individual needs?	21
Indicator 3(B): Do people with mental disabilities get access to mainstream employment? Is the employment system sufficiently inclusive?	21
Cluster 4: Transition from institutions to the community	23
Indicator 4(A): Is there a satisfactory national community living strategy?.....	23
Indicator 4(B): Are there pilot projects on community living? Are they effective and inclusive enough?	24
Glossary	26

Introduction

Rapid and ongoing transformations have taken place in Bulgaria over the last twenty five years, a process which was accelerated when the country acceded to the European Union in 2007, making it one of Europe's newest and easternmost Member States. In 2012, Bulgaria ratified the United Nations Convention on the Rights of Persons with Disabilities (UN CRPD). The country's ratification took place five years after the country's accession to the European Union.

Despite significant transformations in Bulgarian society, and some promising commitments to advancing the right of people with disabilities to live in the community, over 7,000 people with mental disabilities are still required to live in long-stay institutions. A slow pace of development of community-based services and little support to develop community networks means that large numbers of Bulgarians with mental disabilities continue to be segregated from society, and are more likely to be the victims of exploitation and abuse.¹

The social exclusion of people with mental disabilities reflects an old, paternalistic model of care and restriction, rather than rights and autonomy. This is clearly characterised through the system of guardianship which operates in the country, removing the legal recognition and right to choose for many people with mental disabilities. The Constitutional Court of Bulgaria recently decided not to declare guardianship unconstitutional,² again highlighting the need for legislative reform to bring the country into compliance with Article 12 of the CRPD.

Rhetorically, the Bulgarian Government has made numerous commitments to securing the right of people with mental disabilities to live independently in the community, adopting a number of national strategies on deinstitutionalisation since 2006. However, concrete action has been minimal and slow. Only a tiny number of people have moved out of large institutions into smaller protected homes or family-type centres. Even these models, which the Bulgarian government presents as community-based residential services, continue to reflect institutional models where people with disabilities are separated from the rest of society.³

The level of investment into community-based services, which are vital in securing inclusion, are significantly lower than the large sums still spent on maintaining and establishing new institutions. Instead of using European Union structural funding to transition people with disabilities from institutions to the community, the Bulgarian government continues to invest in institutions. It is this basic choice of priorities which must change for the government to come into line with its obligations under Article 19 of the CRPD.

This briefing aims to provide concrete and detailed information about the Bulgarian government's implementation of Article 19, based on a number of indicators and reflecting the three limbs of the right to independent living in the community. The intention is to provide civil society with evidence of the gap between the rhetoric and the reality for thousands of people with mental disabilities in the country. The briefing clearly shows that while there have been positive moves in a number of areas – including a number of impressive pilot programmes – the changes have been too little, too slow and have benefitted too few. The final part of the briefing provides concrete recommendations to the Bulgarian government and should serve as a basis for future assessment.

¹ Manfred Nowak, Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/63/175, 28 July 2008, para. 38.

² The Constitutional Court of the Republic of Bulgaria, Constitutional case 10/2014, available in Bulgarian at <http://constcourt.bg/contentframe/contentid/2807> (last accessed: 23 September 2014).

³ European Network on Independent Living – European Coalition for Community Living, *Briefing on Structural Funds Investments for People with Disabilities: Achieving the Transition from Institutional Care to Community Living*, 2013, 15, available at <http://www.enil.eu/wp-content/uploads/2013/11/Structural-Fund-Briefing-final-WEB.pdf> (last accessed: 23 September 2014).

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Recommendations to the Bulgarian government

A. Community living and choice

1. Adopt an immediate moratorium on new admissions to social care institutions in order to stop filling up vacancies. Instead, local governments should be required to find alternatives for each person on the waiting list.
2. Adopt legislation without further delay to abolish all forms of guardianship in line with Article 12, CRPD. Legislation should also provide recognition for supported decision-making models based on relationships of trust and giving primacy to the will and preferences of persons supported.
3. Coordinate national and regional action on deinstitutionalisation and the abolition of guardianship through the designated Article 33(1) government focal point, and publish annual reports on progress made.
4. Abandon plans which use Bulgarian and EU financing to maintain, renovate or expanding existing institutions. Instead, use available funding to develop individualised community-based support services to the maximum extent possible.

B. Access to individualised support services

1. Ensure that people with mental disabilities have equal access to a range of individualised services, including in-home support and assistance, and community mental health teams, which are in reach of all people with mental disabilities across Bulgaria. This should inform national budgetary priorities, moving resources from institutions to the development of individualised support services.
2. Ensure that all people with mental disabilities and their families can access specialised support and funding, including personal budgets, to purchase professional, individualised support where such services are not provided by government.

C. Access to mainstream services

1. Conduct accessibility assessments of mainstream public services (including schools, healthcare and employment support) with a specific view to identifying barriers for people with mental disabilities. The assessments should inform budgeted plans for reform which should be published.
2. Develop a plan to ensure that people with mental disabilities can access mainstream community services, including health, education and employment, on an equal basis with others. In achieving this goal, the government should prioritise the accessibility of all services to people with mental disabilities. The government should also adopt a programme to increase the employment rate of people with mental disabilities and facilitate their access to the labour market.
3. Have a clear strategy on providing for inclusive education which is responsive of the needs of children with mental disabilities, including through the provision of supports which enable them to access mainstream educational settings.

D. Transition from institutions to the community

1. Rationalise the various plans and proposals on deinstitutionalisation of services into an overarching and inclusive programme of action for all people with disabilities. Place a clear, five year time limit for completing the process, linked to annual quantitative and qualitative indicators including closure of institutions, developing specialised community-based services and accommodation, and improving access to mainstream services.
2. The consolidated strategy should contain a detailed analysis of the way in which government funding is currently spend on disability-based services (including institutions), and reallocate future funds away from financing institutions and towards funding community-based services. Annual reports should be made public on the way in which public finances are spent.
3. Develop individualised transition plans for all people with mental disabilities currently living in institutions. The plans must be clearly and explicitly based on the will and preferences of the person concerned. The plans should provide genuine options for living in the community, including private or

family accommodation, identify individualised supports required (and how they will be provided), and should have clear timeframes.

E. Access to justice, monitoring and public awareness

1. Establish a legal right for people with disabilities to live independently in the community.
2. Ensure that effective and independent complaints mechanisms are made directly available to people with mental disabilities where their right to independent living in the community has been breached. This includes complaints about the failure to provide individualised services or community-living options, and failure to make mainstream services accessible.
3. Ensure that legal remedies are available directly to people with mental disabilities where independent complaints mechanisms have failed. The initiation of legal proceedings must never be determined by guardians or other substitute decision-makers.
4. Collect comprehensive disaggregated data - including statistical and research data - to ensure evidence-based policy and action by government authorities in advancing independent living in the community. The data collected should comply with the requirements of Article 31 of the CRPD and should be published on an annual basis, and identify:
 - a. Numbers of people with mental disabilities, including people with intellectual disabilities, people with mental health issues (psycho-social disabilities), age and gender breakdowns, etc.;
 - b. The numbers and types of accommodation they live in (institutional and community-based);
 - c. Full list of institutions, their size and capacity, breakdown of funding (including funding sources), admissions, and lengths of admissions and discharges;
 - d. The types of individualised services available, their geographical scope, funding, and how many people access them; and
 - e. Analysis of the numbers of people with mental disabilities who access mainstream services (including education, healthcare and employment assistance), and analysis of the funding of reasonable accommodations.
5. Implement a strategy to raise public awareness about the human rights of people with mental disabilities in conformity with Article 8, CRPD. The strategy must be clear on the concrete steps the government is going to take to reduce stigma and combat discrimination.
6. The criminal law should be amended to classify the targeting of a victim on the basis of their disability as a hate crime, and holding perpetrators accountable. Crime statistics should be reported annually on the prevalence of hate crime against people with disabilities, the investigation of allegations and their disposal.

Scorecard

Article 19 of the UN Convention on the Rights of Persons with Disabilities (CRPD) guarantees the right of all persons with disabilities to live independently in the community. In turning this right into reality, Article 19 requires government to take action in four key areas:

1. To recognise and give real effect to the choices of people with disabilities about where and with whom they choose to live;
2. To ensure access to individualised support services for people with disabilities;
3. To ensure that mainstream services are accessible to people with disabilities;
4. To take concrete actions to close institutions which segregate people with disabilities.

The following table sets out four clusters of indicators which reflect these obligations.⁴ Each indicator breaks down different elements to the right to community living, followed by a 'measure' in the form of a question. A conclusion for each indicator is provided, based on all the information made available. Indicators shaded red show that insufficient steps have been taken; those shaded orange show that there have been some promising steps but that more effort is required; green rows show that substantial and comprehensive action has been taken. More detailed explanations are provided for each indicator in the sections which follow.

⁴ The indicators have been drawn from: Commissioner for Human Rights of the Council of Europe, "The right of people with disabilities to live independently and be included in the community", 12 March 2012, CommDH/IssuePaper(2012)3, available at <https://wcd.coe.int/com.intranet.InstraServlet?command=com.intranet.CmdBlobGet&IntranetImage=2397433&SecMode=1&DocId=2076280&Usage=2> (last accessed: 23 September 2014).

Cluster One: Community living and choice

The indicators in this cluster reflect the requirements of Article 19(a) of the CRPD which states:

Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement.

No.	Indicator	Measure	Conclusion
1(A)	People with mental disabilities are not required to live in institutions.	<i>How many people with mental disabilities live in institutions?</i>	Over 7,000 people with mental disabilities live in institutions. There has been no significant decrease in people living in institutions in recent years.
1(B)	People with mental disabilities must get access to the same housing options that are available to the general population.	<i>What housing options are available to people with mental disabilities?</i>	For many people with mental disabilities, institutionalisation continues to remain the main form of housing made available. New 'community-based' residential services can be within the grounds of larger social care or psychiatric institutions.
1(C)	There should be a moratorium on new admissions to social care institutions.	<i>Are there limits or a moratorium on new admissions to institutions?</i>	No, there is no limit on new admissions to Bulgaria's residential institutions.
1(D)	The choices of people mental disabilities about where and with whom they live are recognised and validated by the law.	<i>Does the law respect the choices of people with disabilities about where and with whom they live and which services they receive?</i>	People under full or partial guardianship are denied the right to decide about where or with whom they live.
1(E)	The law recognises the right of people with mental disabilities to enter contracts for accommodation and the use of social services.	<i>Can people with mental disabilities enter into contracts and agreements for disability-related supports, credit agreements to purchase housing, rental or other housing agreements?</i>	People under guardianship cannot enter into contracts.
1(F)	People with mental disabilities can access support to choose where and with whom they live.	<i>Do people with disabilities have access to support to enable them to make decisions about where and with whom to live or what support services to access?</i>	No such support is provided.
1(G)	People with mental disabilities can challenge decisions made by others about where and with whom they live.	<i>Can people with mental disabilities access effective mechanisms if they want to complain about their right to live in the community?</i>	No, there are no mechanisms available to people with mental disabilities to challenge a denial of their right to live in the community.

Cluster Two: Access to individualised support services

The indicators in this cluster reflect the requirements of Article 19(b) of the CRPD which states:

Persons with disabilities have access to a range of in-home, residential and other support services, including personal assistance where necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community.

No.	Indicator	Measure	Conclusion
2(A)	People with mental disabilities have a personal budget enabling them to choose the support they need.	<i>Are personal budgets available which enable people with mental disabilities to choose the appropriate support they need to live in the community?</i>	No, people with disabilities are not provided with personal budgets.
2(B)	Personal assistance is provided to people with mental disabilities to support them to live in the community.	<i>Is personal assistance available to support people with mental disabilities to remain and live in the community?</i>	The government funds personal assistance, but primarily as a way of reducing unemployment. In practice, relatives are 'employed' as personal assistants.
2(C)	People with mental disabilities receive support to access funding or specialised support services.	<i>Is assistance available to people with mental disabilities to access funding or other support services?</i>	No such support is available.
2(D)	Financial and practical support is available to families and carers of people with mental disabilities.	<i>Is support available to families/carers of people with mental disabilities? Examples include benefits, remuneration of family members for providing personal assistance, and day care.</i>	Day care and respite services exist for some people. No specific financial support is provided to relatives or carers, unless they are 'employed' as personal assistants (see 2(B) above).
2(E)	Day services are provided for people with mental disabilities in a way which supports their inclusion in the community.	<i>Are day services provided that can support people with mental disabilities to stay in the community?</i>	Day care services exist, but there is no official information on the geographical scope or accessibility of these services.
2(F)	Government funding is used to develop community-based services rather than funding residential institutions.	<i>Does the government manage its budget in a way which advances the right of people with disabilities to live in the community?</i>	The Bulgarian government spends significantly more money on the maintenance of institutions than on the development of individualised community-based services, including substantial amounts of EU funding.

Cluster Three: Access to mainstream services

The indicators in this cluster reflect the requirements of Article 19(c) of the CRPD which states:

Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

No.	Indicator	Measure	Conclusion
3(A)	People with mental disabilities are guaranteed access to education in mainstream and inclusive settings.	<i>Do people with mental disabilities get access to mainstream education? Is it inclusive and responsive to their individual needs?</i>	Although the right to inclusive education for children with disabilities is enshrined in law, many children with mental disabilities are educated in segregated or institutional environments.
3(B)	People with mental disabilities are supported to access the open labour market.	<i>Do people with mental disabilities get access to mainstream employment? Is the employment system sufficiently inclusive?</i>	No. The majority of people with mental disabilities are excluded from the labour market.

Cluster Four: Transition from institutions to the community

The indicators in this cluster reflect the obligation of governments to take concrete steps to move away from congregate, institutional models of accommodating people with mental disabilities, towards supporting them to live independently in the community within a reasonable timeframe.

No.	Indicator	Measure	Conclusion
4(A)	The government has adopted a national community living strategy that effectively advances the right to live in the community for all people with mental disabilities.	<i>Is there a satisfactory national community living strategy?</i>	No, and progress is extremely slow. While there is a national deinstitutionalisation strategy, very small numbers of people with mental disabilities have left institutions.
4(B)	The government has undertaken pilot projects to develop models for moving people out of institutions and into the community.	<i>Are there pilot projects on community living? Are they effective and inclusive enough?</i>	Yes, however the number of projects are small and promising practices have not been scaled up to benefit more people with mental disabilities.

Cluster 1: Community living and choice

Most people take for granted their right to choose where and with whom they live. This right, however, is frequently denied to people with disabilities, and particularly those who have been placed under guardianship. Providing choice for people with disabilities in the living arrangements and the types of services provided is essential in empowering them to remain the masters of their lives. Living in the community means that people with disabilities can exercise autonomy in their lives just like other people. It means that they can have friends, go to the shops, and get a job – again, just like other people.

Indicators 1(A) and 1(B) identify where people with mental disabilities are required to live and the options currently made available to them in Bulgaria. Indicator 1(C) looks at legal barriers to living in the community. Indicators 1(D), 1(E) and 1(F) look at whether the Bulgarian legal and policy framework enables and supports people to choose where to live and what services they use. Indicator 1(G) looks at how people can complain about being in institutions or inadequate community services.

Indicator 1(A): How many people with mental disabilities live in institutions?

Conclusion:

Over 7,000 people with mental disabilities are required to live in institutions in Bulgaria.⁵ There has been very little change in this figure since Bulgaria ratified the CRPD.

Explanation:

According to data made available by the Agency for Social Assistance, as of June 2014 more than 5,000 adults and children with mental disabilities live in institutions. An annual report of the Agency for Social Assistance from 2013 also noted that 2,137 adults lived in 27 homes for adults with intellectual disabilities,⁶ 825 people lived in 14 homes for adults with dementia,⁷ and 1,036 people with mental health issues were placed in 13 homes for adults with psycho-social disabilities.⁸ There were 1,372 children with intellectual disabilities and physical disabilities placed in 24 homes, of which 1,302 children lived in social care homes for children with intellectual disabilities and 70 children lived in homes for children with physical disabilities.⁹ According to the Bulgarian National Statistical Institute, a further 1,204 children lived in 29 homes for medical and social care for children.¹⁰

⁵ Agency for Social Assistance, Bulgaria, available at http://www.asp.government.bg/ASP_Client/ClientServlet?cmd=add_content&lng=1§id=24&s1=22&selid=22 (last accessed: 1 September 2014).

⁶ Agency for Social Assistance, 2013 Annual Report, Bulgaria, 20, available at http://www.asp.government.bg/ASP_Files/APP/GODISHEN%20OTCHET%20ASP%20-%202013-.pdf (last accessed: 1 September 2014).

⁷ Ibid, 21.

⁸ Ibid.

⁹ Ibid, 15. See also the Agency for Social Assistance, Bulgaria, available at http://www.asp.government.bg/ASP_Client/ClientServlet?cmd=add_content&lng=1§id=24&s1=22&selid=22 (last accessed: 1 September 2014).

¹⁰ These homes accommodate children up to the age of three years, or up to the age of 8 years in the case of children with severe disabilities.

The overall numbers of people with mental disabilities placed in institutions has not changed substantially in recent years.¹¹ The number of children placed in homes for medical and social care is an exception, with the population of these homes halving between 2008 and 2013 as a result of deinstitutionalisation programmes.¹²

In 2013, there were 11 transitional homes for adults with the capacity of 100 places.¹³ Protected homes (see *Glossary*) also provided accommodation for a significant number of adults with mental disabilities: the total capacity of 119 sheltered homes in 2013 was 1,061 places.¹⁴ In addition, the number of community-based residential services is growing.¹⁵ As of 2013, 677 people with intellectual disabilities and people with mental health issues lived in 53 family-type accommodation centres,¹⁶ and 1,201 children lived in 104 family-type accommodation centres for children¹⁷ (see *Glossary*).

Indicator 1(B): What housing options are available for people with mental disabilities?

Conclusion:

Social care institutions remain the predominant housing option provided by the government to people with mental disabilities. Many 'community-based' residential services reflect an institutional model, and some are within the grounds of larger social care or psychiatric institutions.

Explanation:

The main forms of accommodation made available to people with mental disabilities are various forms of social care institutions. The types of institutions include homes for adults and children with intellectual disabilities, homes for adults with psycho-social disabilities, homes for adults with dementia and homes for medical and social care for children (see *Glossary*). These institutions are funded by the Ministry of Labour and Social Policy or directly by the Ministry of Finance, and managed at the municipal level. Homes for medical and social care for children are funded and managed by the Ministry of Health.

Bulgarian law also recognises family-type residential centres, transitional homes and protected homes as other forms of residential services (see *Glossary*). Whilst these are presented as 'community-based services'¹⁸ and the capacity of each is between 6 and 10 places, they represent an institutional model of congregate accommodation. They are usually full and there are

¹¹ In 2009 the capacity of homes for people with intellectual disabilities was 2,379 beds, the capacity of homes for adults with dementia was 843 beds and the capacity of homes for adults with psycho-social disabilities was 1,549 beds. The capacity of homes for children with intellectual disabilities was 1,457 in 2009. However in the case of homes for children, this number was slightly higher in the preceding years: 1,612 in 2008 and 1,991 in 2005. Report on the activities of the Agency for Social Assistance for 2009, 15, available at http://www.asp.government.bg/ASP_Client/ClientServlet?cmd=add_content&lng=1§id=12&s1=207&selid=207 (last accessed: 23 September 2014).

¹² National statistical institute, Homes for medical and social care for children in 2013, 1.

¹³ *Ibid*, 21.

¹⁴ *Ibid*.

¹⁵ Bulgarian Helsinki Committee, *Human Rights in Bulgaria in 2011, Annual report of the BHC* (Sofia, March 2012), 54-55, available at http://www.bghelsinki.org/media/uploads/annual_reports/2011-en.pdf (last accessed: 23 September 2014). Bulgarian Helsinki Committee, *Human Rights in Bulgaria in 2012, Annual report of the Bulgarian Helsinki Committee*, 42, available at http://www.bghelsinki.org/media/uploads/annual_reports/2012_bhc_annual_report_en.pdf (last accessed: 23 September 2014).

¹⁶ Agency for Social Assistance, 2013 Annual Report, Bulgaria, 21-22.

¹⁷ *Ibid*, 14.

¹⁸ Bulgaria, Regulations for Implementation of Social Assistance Act, Art. 36, para.2, item 7, available in Bulgarian at <http://lex.bg/laws/ldoc/-13038592> (last accessed: 23 September 2014).

substantial waiting lists. Some of the residential services are located in the yards of social care homes or psychiatric hospitals.¹⁹

Monitoring conducted by the Bulgarian Helsinki Committee revealed the institutional nature of some protected homes. They found that new walls were inserted into rooms and corridors in some social care institutions, with the newly constructed spaces being designated as 'protected homes'.²⁰ The home for persons with intellectual disabilities in Goren Chiflik illustrates this. The institution, which has some ninety residents, incorporates a so-called 'Centre for Placement – Family-type residential centre', which accommodates 15 persons.²¹ It is part of the larger institution.

Indicator 1(C): Are there limits or a moratorium on new admissions to institutions?

Conclusion:

No.

Explanation:

There are no legal limits or caps on new admissions to institutions for children and adults which are administered by the Ministry of Health.²² Homes for adults with mental disabilities are managed by municipalities and in practice they are granted discretion to determine the capacities of the institutions within their territories. In some regions the capacities were reduced by 20-30 places during the last 5 or 6 years. The Agency for Social Assistance can also decide to reduce capacity of institutions where they discover, after investigation, that the number of residents placed in the institution is lower than the designated capacity.

The Ministry of Education, Science and Youth closed down 27 special boarding schools between 2002 and 2012.²³ The number of children in special schools was 9,163 during the academic year 2003-2004 and this reduced to 3,234 during the academic year 2012-2013, of which 1,980 students lived in boarding houses at schools during the academic year.²⁴

Indicator 1(D): Does the law respect the choices of people with disabilities about where and with whom they live and which services they receive?

Conclusion:

The law does not recognise the choices of people with mental disabilities placed under full or partial guardianship.

¹⁹ Bulgarian Helsinki Committee, *Human Rights in Bulgaria in 2011, Annual report of the BHC* (Sofia, March 2012), 55, available at http://www.bghelsinki.org/media/uploads/annual_reports/2011-en.pdf (last accessed: 23 September 2014).

²⁰ Slavka Kukova, "Fundamental Rights situation of persons with mental health problems and persons with intellectual disabilities: desk report Bulgaria", Fundamental Rights Agency (FRA), 31 August 2012, 50, available at http://www.humanconsultancy.com/_layouts/15/WopiFrame.aspx?sourcedoc={0303D8AA-C1B3-4AF1-BEC5-D412AFE1BF6D}&file=BG_FRA_MH%20-%20final.doc&action=default (last accessed: 23 September 2014).

²¹ See the findings of monitoring conducted by the Bulgarian Helsinki Committee between 2008 and 2009: Bulgarian Helsinki Committee, *Needs assessment of the structures involved in the process of deinstitutionalisation, Monitoring Report: August 2008 - August 2009*, 133, available in Bulgarian at http://issuu.com/bghelsinki/docs/needs_assessment_2009-1-/133 (last accessed: 23 September 2014).

²² Confirmed by the Ministry of Healthcare in a letter No. 94-1790 of 5 November 2012, 2.

²³ Letter from the Ministry of Education, Science and Youth, 94-21499/14 November 2012, 2.

²⁴ Ibid.

Explanation:

Article 35 of the Bulgarian Constitution provides that every person is entitled to choose his or her place of living. However, if a person is placed under guardianship, it is the guardian who decides where the person must live.²⁵ Where a person has been placed under partial guardianship, they must have the consent of their guardian to validate choices about where and with whom they live.²⁶ At present, people with mental disabilities who are placed under full or partial guardianship are not recognised as persons before the law and their choices are not recognised as legally valid decisions. Almost 7,000 people with mental disabilities are under guardianship in Bulgaria, the majority under full or plenary guardianship.²⁷

Indicator 1(E): Can people with mental disabilities enter into contracts and agreements for disability-related supports, credit agreements to purchase housing, rental or other housing agreements?

Conclusion:

No. In particular, people under guardianship cannot conclude contracts.

Explanation:

People with disabilities can enter into necessary contracts and agreements if they are not placed under guardianship. Where they have been placed under guardianship, the power to conclude contracts is vested in the guardian.²⁸ Where a person is placed under partial guardianship, the guardian has to give his or her consent to any contract or agreement made by the person concerned.²⁹

Indicator 1(F): Do people with disabilities have access to support to enable them to make decisions about where and with whom to live or what support services to access?

Conclusion:

No such supports exist.

Explanation:

Bulgarian legislation does not provide for additional or specialist assistance to people with disabilities in exercising their rights to decide about where and with whom they live. The Ministry of Justice has developed a concept on introducing supported decision-making and on legislative amendments to bring Bulgarian legislation into compliance with Article 12 of the CRPD (the right

²⁵ Article 163, para 1 of the Bulgarian Family Code. According to this article, a person placed under plenary guardianship is required to live with his or her guardian unless any important reason bars it. According to paragraph 2 of the same article, when a person under plenary guardianship escapes from the place of residence determined for him or her, the guardian may ask the district court to bring the person back after the court hears the person. The court decision can be appealed before a regional court, but the appeal does not preclude implementation of the decision. The person with a disability can be brought back according to an administrative order.

²⁶ Article 5, paragraph 3 in relation to Article 4, paragraph 2 of the Bulgarian Persons and Family Act. According to Article 167 of the Family Code, a person under partial guardianship lives with his or her guardian unless he or she is placed elsewhere in a lawful manner.

²⁷ Mental Disability Advocacy Center, *Legal Capacity in Europe*, (Budapest: MDAC, 2013), 44-6, available at: http://mdac.org/sites/mdac.info/files/legal_capacity_in_europe.pdf (last accessed: 23 September 2014).

²⁸ Article 5 para 3 in relation to Article 3 para 2 of the Persons and Family Act.

²⁹ Article 5 para 3 in relation to Article 4 para 2 of the Persons and Family Act.

to legal capacity).³⁰ An action plan for implementation of the CRPD in Bulgaria for 2013 and 2014 was accepted by the Council of Ministers in October 2012.³¹ The Ministry of Justice prepared amendments to the Civil Procedure Code which were announced for public discussion. However, with the recent resignation of the government, this process has been halted.

Indicator 1(G): Can people with mental disabilities access effective mechanisms if they want to complain about their right to live in the community?

Conclusion:

No. Complaints and legal avenues are not available to people with mental disabilities under guardianship.

Explanation:

Where admission to a social care institution is denied, the decision can be appealed under the Administrative Procedure Code.³² Where the person is under plenary guardianship, only the guardian can challenge the non-provision of services to the person.³³ Where the person is under partial guardianship, he or she can challenge the failure to provide services, but only with the consent of the guardian.³⁴

The same mechanisms apply when a person under guardianship seeks to terminate a contract for their placement in an institution. Only the guardian who can terminate such contracts, and their consent is required in the cases of people placed under partial guardianship.³⁵ Often there is an inherent financial conflict of interest between the guardian and the person under guardianship, as relatives and directors of institutions can be appointed as guardians. The Bulgarian system of guardianship grants guardians the power to control the property of people under their guardianship. Indeed, gaining control of property has been identified as a form of exploitation linked to guardianship.³⁶ This situations means that justice is not directly available to people with mental disabilities under guardianship, and can be denied by exploitative guardians.

³⁰ Draft Concept on the Amendment of the National Legislation Regarding the Implementation of the Standards Set in Article 12 of the CRPD, published on 11 October 2012 on the website of the Ministry of Justice.

³¹ See more about decision 868 issued by the Council of Ministers on 19 October 2012 at <http://www.strategy.bg/StrategicDocuments/View.aspx?lang=bg-BG&Id=784> (last accessed: 23 September 2014).

³² Article 40 b of the Regulations for Implementation of Social Assistance Act.

³³ Article 28(4) of the Civil Procedure Code. According to Article 18(1) of the Administrative Procedure Code in issues related to representation the provisions of the Civil Procedure Code are applicable.

³⁴ Article 28(2) of the Civil Procedure Code. According to Article 18(1) of the Administrative Procedure Code in issues related to representation the provisions of the Civil Procedure Code are applicable.

³⁵ Article 4 of the Persons and Family Act.

³⁶ Slavka Kukova, "Fundamental Rights situation of persons with mental health problems and persons with intellectual disabilities: desk report Bulgaria", FRA, 2011, p 8.

Cluster 2: Access to individualised support services

The purpose of providing individualised support services to people with mental disabilities is to bridge the gap between mainstream services (health, education, employment, finance, etc.) and the individual needs of people with mental disabilities. These services are essential to prevent the isolation of people with disabilities in community settings. Indicators 2(A)-(E) map the range of support services available to people with mental disabilities in Bulgaria. Indicator 2(F) assesses the Bulgarian government's finance and budgetary priorities.

Indicator 2(A): Are personal budgets available which enable people with mental disabilities to choose the appropriate support they need to live in the community?

Conclusion:

No. General disability benefits based on needs assessments are provided to people with mental disabilities, but the levels are very low.

Explanation:

Personal budgets are not provided to people with disabilities. Disability benefits do exist and are supposed to cover all kind of expenses, including medicines, transportation, access to information and rehabilitation. The levels of this benefit are very low and do not provide most people with the opportunity of accessing individualised services. The size of the disability benefit is determined following a social assessment of the needs of the person concerned, which depends on a medical assessment of the reduction of the person's capacity to work.³⁷

The social assessment aims at estimating the needs of a person concerned and their capacity for rehabilitation, education, employment, social services and social inclusion.³⁸ It results in recommendations for measures to support the person's social inclusion and proposals for the use of rehabilitation, education, training or other social services.³⁹ It also contains a proposal for a monthly allowance for social integration (covering transport, communication, education, physical rehabilitation, renting a house, accessible information, food or medicines for people with permanent disabilities) and a proposal for one-time financial assistance for auxiliary means.⁴⁰ The assessment is carried out under the authority of Social Assistance Departments.⁴¹

One pilot scheme entitled "Alternatives" operates under a national programme for providing assistants to persons with disabilities. The scheme is sponsored by the Social Assistance Agency and covers 260 municipalities and 23 regions of metropolitan municipalities. The project introduced an "individual budget for a personal assistant" for the purpose of accessing services in the family environment. As of the end of 2013, this scheme provided more than 11,300 people with permanent disabilities access to 10,800 personal assistants.⁴²

³⁷ Article 12 of the Integration of Persons with Disabilities Act (1 January 2005).

³⁸ Article 12 para. 2 of the Integration of Persons with Disabilities Act.

³⁹ Article 13, items 2, 3, 4 and 5 of the Integration of Persons with Disabilities Act.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Council of Ministers of the Republic of Bulgaria, National Social Report of the Republic of Bulgaria 2013-2014, 30 April 2014, 12.

Indicator 2(B): Is personal assistance available that can support people with mental disabilities to remain and live in the community?

Conclusion:

Some forms of assistance – personal assistance, social assistance and domestic (home) assistance (see *Glossary*) – are available to people with mental disabilities. However, the purpose of these are mainly to reduce unemployment rather than to provide individualised support to people with mental disabilities.

Explanation:

A national ‘Assistants to People with Disabilities’ programme was introduced in 2003 with the aim of providing care in the family environment to people with permanent disabilities and people with severe diseases. This programme allows service users to hire unemployed people to provide personal or social assistance. According to the National Social Report 2013-14, personal assistants provided support to more than 4,500 users in 2013.⁴³

‘Help At Home’ operates under the national programme with the aim of expanding or improving existing domestic assistance services – personal, social and domestic assistance. At the end of 2013, this scheme had reportedly provided domestic assistance to 11,560 people, hiring approximately 5,400 unemployed people.⁴⁴ Often, family members are employed as assistants – with the aim of reducing their unemployment.⁴⁵

An NGO report pointed out that these schemes failed to enhance the independence or autonomy of people with disabilities or their families. In some cases it was noted that the scheme forced people with disabilities into passivity and dependence.⁴⁶ The emphasis of the scheme, therefore, is more about providing employment for unemployed family members/carers than about supporting people with mental disabilities to live independently. It also presupposes that people with disabilities prefer to employ their family members as assistants and does not allow for free choice.⁴⁷

Assistant often lack sufficient training and knowledge about the needs of people with mental disabilities,⁴⁸ personal assistants are not regulated, and the eligibility criteria are different to disability benefits.⁴⁹ Funding is provided for a maximum of ten hours per day.⁵⁰

Indicator 2(C): Is assistance available to people with mental disabilities to access funding or other support services?

Conclusion:

No such schemes exists.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Slavka Kukova, “Fundamental Rights situation of persons with mental health problems and persons with intellectual disabilities: desk report Bulgaria”, 18.

⁴⁶ Ibid, 27.

⁴⁷ European Network on Independent Living – European Coalition for Community Living, *Briefing on Structural Funds Investments for People with Disabilities: Achieving the Transition from Institutional Care to Community Living*, 2013, 10.

⁴⁸ Ibid, 31.

⁴⁹ Ibid, 30.

⁵⁰ Article 53a of the Regulations for Implementation of the Social Assistance Act.

Indicator 2(D): Is support available to families of people with mental disabilities? Examples include benefits, remuneration of family members for providing personal assistance, and day care.

Conclusion:

Some day care and respite services are available, and carers or family members may gain employment as personal assistants.

Explanation:

Day care is provided in day care centres and centres for social rehabilitation and integration for adults (see *Indicator 2(E)*). Carers are remunerated if they provide personal or social assistance. In 2009, the Centre for Independent Living recommended that the remuneration of assistants should be increased to gain parity with market labour rates.⁵¹

Indicator 2(E): Are day services provided that can support people with mental disabilities to stay in the community?

Conclusion:

Yes, day care centres and centres for social rehabilitation and integration for adults (see *Definitions*) provide day services for people with mental disabilities.

Explanation:

There were 65 day care centres for adults with disabilities with the capacity of 1,740 places in 2013. In addition, there were 50 day care centres for elderly people with 1,304 places.⁵² 74 day care centres for children with disabilities had a total capacity of 1,947 places.⁵³ In addition to these centres, daytime support was also provided for 2,277 adults in 71 centres for social rehabilitation and integration for adults.⁵⁴ 1,205 children received day services in 33 centres for social rehabilitation and integration for children in 2013.⁵⁵

Indicator 2(F): Does the government manage its budget in a way which advances the right of people with disabilities to live in the community?

Conclusion:

The Bulgarian government continues to spend significantly more money on institutions than on supporting people to live in the community.

Explanation:

In 2012, 71% of government funding for disability services went to specialised institutions, and only 29% was spent on community-based services. In total, the Ministry of Social and Labour Policy spent 102,189,000 BGN (approximately 51 million EUR) on specialised institutions for adults and

⁵¹ Slavka Kukova, "Fundamental Rights situation of persons with mental health problems and persons with intellectual disabilities: desk report Bulgaria", 27.

⁵² The Agency for Social Assistance, 2013 Annual Report, Sofia, March 2014, 21, available at http://www.asp.government.bg/ASP_Files/APP/GODISHEN%20OTCHET%20ASP%20-%202013-.pdf (last accessed: 23 September 2014).

⁵³ Ibid, 14.

⁵⁴ Ibid, 21.

⁵⁵ Ibid, 14.

children with disabilities,⁵⁶ more than a third of which went to the institutionalisation of people with mental disabilities.⁵⁷ Almost the same amount, 33,406,502 BGN (almost 17 million EUR)⁵⁸ was spent on homes for medico-social care for children and 2,223,300 BGN (over 1 million EUR) went to special schools for children with intellectual disabilities.⁵⁹

EU funds are the most common source of financing,⁶⁰ with approximately 107 million EUR provided for the purpose of 'deinstitutionalisation' (see *Glossary*) from European Structural Funds.⁶¹ They are mostly allocated for the construction of protected homes and family-type centres (see *Glossary*). Community-type services such as personal and social assistance are also financed with EU funding.⁶² EU funding is distributed to municipalities.

⁵⁶ See data on the website of the Council of Ministers at

http://pris.government.bg/prin/file_view.aspx?did=53705&pid=53903 (last accessed 23 September 2014).

⁵⁷ 36,903,700 BGN was spent on institutions for people with mental disabilities (approximately 18,449,850 EUR).
Ibid.

⁵⁸ Data provided by the Ministry of Health in a formal reply to a request of information, No. 94-1790 of 5 November 2012, 2.

⁵⁹ http://pris.government.bg/prin/file_view.aspx?did=53705&pid=53903 (last accessed: 23 September 2014).

⁶⁰ See more on this on the website of the Ministry of Labour and Social Affairs in connection with a seminar about deinstitutionalisation and the provision of community services, and the use of European funds to provide care, 27 February 2014. The information is available in Bulgarian at http://ophrd.government.bg/view_doc.php/6724 (last accessed: 23 September 2014).

⁶¹ European Network on Independent Living – European Coalition for Community Living, *Briefing on Structural Funds Investments for People with Disabilities: Achieving the Transition from Institutional Care to Community Living*, 2013, 13.

⁶² Ibid., p 10

Cluster 3: Access to mainstream services

To be fully included, people with mental disabilities must have access to services which are available to the general public. Indicators 3(A) and 3(B) examine the extent to which people with mental disabilities can access mainstream services and the extent to which these services are responsive to their needs.

Indicator 3(A): Do people with mental disabilities get access to mainstream education? Is it inclusive and responsive to their individual needs?

Conclusion:

Although the right to inclusive education is enshrined in law, many children with intellectual disabilities continue to be educated in special or segregated educational environments.

Explanation:

Under Bulgarian law, children with disabilities have the right to attend mainstream schools.⁶³ These schools have an obligation to accept children with disabilities as their students.⁶⁴ Special schools for children with disabilities are open to students where mainstream education options are exhausted.⁶⁵ In the 2012/2013 academic year there were 49 special schools – of which 28 were residential and 21 were non-residential.⁶⁶ The total number of students attending residential special schools was 1,980.⁶⁷ Only 64 children with intellectual disabilities who finished 8th grade in special schools continued to pursue vocational training.⁶⁸

Indicator 3(B): Do people with mental disabilities get access to mainstream employment? Is the employment system sufficiently inclusive?

Conclusion:

No.

Explanation:

Adults under plenary or partial guardianship are barred from independently entering into employment contracts. Guardians have the authority to consent to the employment of a person under their guardianship. However a number of professions are closed to all people under guardianship,⁶⁹ including practicing law,⁷⁰ working for the civil service,⁷¹ operating as a notary,⁷² academia,⁷³ and in the insurance industry.⁷⁴

⁶³ Article 27 para 1 of the National Education Act, available in Bulgarian at <http://lex.bg/bg/laws/ldoc/2132585473> (last accessed: 23 September 2014).

⁶⁴ Article 27 para 2 of the National Education Act.

⁶⁵ Article 17 paras 3 and 4 of the National Education Act.

⁶⁶ There has been a decrease in the number of special schools recently: in the academic year 2003/2004 there were 76 special schools. Letter from the Ministry of Education and Science No. 94-21499 of 14 November 2012.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Chapter 1, paragraphs 1-5 of the Law for Persons and Families.

⁷⁰ Article 5(1), sentence 2 of the Law for Attorneys at Law, SG 55.

⁷¹ Article 7(1), sentence 3 of the Law for State Servant, SG 67.

⁷² Article 35, sentence 2 of the Law for Notaries and the Notary Activity, SG 104.

⁷³ Article 58(1), sentence 8 of the Law for Tertiary Education, SG 11 2.

There have been initiatives to encourage the inclusion of people with mental disabilities in employment. The 'National Programme for Employment and Vocational Training of persons with permanent disabilities'⁷⁵ was established in 2011. Adults with mental disabilities were one of the target groups. The programmes were sponsored by the Ministry of Labour and Social Policy.⁷⁶ People with disabilities were also identified as a priority group of beneficiaries in the 2014 National Plan for Employment. The number of unemployed people with disabilities registered by labour offices during nine months in 2013 was 15,455. This number is slightly higher than for the same period in 2012, showing no significant change. People with disabilities make up 4.2% of the total number of unemployed people.⁷⁷

⁷⁴ Article 40(1) of the Law for Commodity Exchange and Market Places, SG 93. For more information see Mental Disability Advocacy Center, *Guardianship and Human Rights in Bulgaria* (Budapest: MDAC, 2007), 48, available in English at: http://www.mdac.org/documents/Bulgaria%20report_comprehensive_English.pdf (last accessed: 23 September).

⁷⁵ See more regarding the National Programme on the website of Sofia Municipality, available at http://dsd.sofia.bg/index.php?option=com_content&task=view&id=79 (last accessed: 23 September 2014).

⁷⁶ There was a training phase and an employment phase of the programme. On completion of an educational scheme, persons with disabilities were enlisted with employers who had applied under the "Employment" programme.

⁷⁷ Council of Ministers, National Action Plan for Employment – 2014, 10, available at www.mlsp.government.bg/BG/ministry/Proekt_NPDZ_2014.doc (last accessed: 23 September 2014).

Cluster 4: Transition from institutions to the community

It is crucial that governments have clear plans to implement the right to independent living in the community for people with mental disabilities. These plans need to shift investment away from financing institutions into developing and sustaining community-based support and living arrangements. This process is known as 'deinstitutionalisation', and requires governments to develop clear and comprehensive plans which make the best use of resources available. Indicator 4(A) examines Bulgaria's policy framework in respect of deinstitutionalisation. Indicator 4(B) looks at the development of models for including people with mental disabilities in the community.

Indicator 4(A): Is there a satisfactory national community living strategy?

Conclusion:

No. The national strategies for deinstitutionalisation of adults and children with mental disabilities are insufficiently inclusive and progress has been extremely slow.

Explanation:

Deinstitutionalisation (see *Glossary*) of persons with disabilities was set as a priority in the '2006 National Programme of the Agency for Persons with Disabilities'.⁷⁸ In 2006 and 2007, 28 people left institutions and were provided with assistants.⁷⁹ In 2008 only 19 people left institutions, and in 2009 a further 20 people were released.⁸⁰

The government continued with its deinstitutionalisation plans with the adoption of the 'Vision for the Deinstitutionalisation of People with Intellectual Disabilities, Mental Health Problems and Dementia 2010-2011' and a plan for its implementation. According to this plan, 4,441 people with mental health problems and intellectual disabilities living in institutions should have moved to small group home accommodation and receive day care services,⁸¹ however no further information on this scheme is available.

The Bulgarian government also adopted a national strategy for the deinstitutionalisation of children, called the "Vision for De-institutionalisation of the children in Bulgaria." Children with mental disabilities were the first group that was targeted to be transferred from institutions to live and receive services in the community in August 2009. An evaluation of the first stage of the programme,⁸² found a number of positive aspects, including an aim to take into account the views and opinions of the children themselves. In practice, however, children were not fully involved in decision-making, and neither were their parents, with final decisions still made by the Agency for

⁷⁸ See in Chapter 2, item 3 and Chapter 3, item 2 of the National Program.

⁷⁹ National Financial Audit Office, *2008 Report on the results of an audit of activities under the National Programme "Assistants for people with disabilities" from the Ministry of Labour and Social Policy, Social Assistance Agency and Employment Agency for the period 1.01.2005 - 31.12.2007*, Sofia, 10, available at http://www.bulnao.government.bg/files/bg/DOK_41_HPAXU_sled_zased.doc (last accessed: 23 September 2014).

⁸⁰ *2008 Annual Report on the Activities of the Social Assistance Agency*, Sofia, 8 and 22, available in Bulgarian at (http://www.asp.government.bg/ASP_Files/OT4ET_ASP_2008.doc (last accessed: 23 September 2014). *2009 Annual Report on the Activities of the Social Assistance Agency*, Sofia, 22.

⁸¹ Vision for the Deinstitutionalisation of People with Intellectual Disabilities, Mental Health Problems and Dementia 2010-2011, 5-7. The reality however is that less than 2,000 adults live in community-based residential services and receive day care services (see *Indicators 1(B) and 2(E) above*).

⁸² The Know-How Centre for Alternative Care for Children, Assessment and analysis of communication and coordination of the various activities in implementing the national strategy "Vision for deinstitutionalisation of children in Bulgaria at the municipal level", available in Bulgarian at <http://bit.ly/1qfH6yC> (last accessed: 23 September 2014).

Social Support.⁸³ No quality standards have been developed to monitor the provision of community-based services to children with mental disabilities.⁸⁴

Various other plans with an element of deinstitutionalisation have been elaborated at various levels of government in recent years, including a 'National Strategy for Long-Term Care',⁸⁵ an Action Plan for Implementation of the CRPD (2013-14)⁸⁶ and a concept on implementing Article 12 of the CRPD. These plans and proposed reforms aimed at strengthening the scope and access to community-based services.⁸⁷ The Action Plan aimed to set a deadline for completing the process of deinstitutionalisation, but was halted due to the resignation of the government. A regulation issued by the government under the Social Assistance Act obliged regional governors and mayors to develop local, five-year strategies about improving institutional and community-based services for persons with disabilities.⁸⁸ No significant steps have been taken to make mainstream services inclusive of children with disabilities.⁸⁹

Indicator 4(B): Are there pilot projects on community living? Are they effective and inclusive enough?

Conclusion:

Yes, however they are few in number. They should be consistently financed and scaled up.

Explanation:

There are several pilot projects run by NGOs and municipalities. One example is a supported home for persons with mental disabilities established by the Chovecolubie Association in Pazardzik.⁹⁰ Supported housing services are provided in two apartments which are owned by people with disabilities and who grant permission to the association to provide social services there. The project was funded by the European Union for one year, but the association faced financial problems when this short period of funding ended, and without other state funding.⁹¹ The local regional council wanted to financially support the services after the expiry of the EU project, but the local mayor vetoed the decision on the basis that the owners of the buildings were people with disabilities.

⁸³ It has been reported that professionals do not have the training or preparation to ascertain and understand the opinions of children.

⁸⁴ The Regulations for enforcement of the Social Assistance Act only provide for quantitative based quality standards, oriented to the buildings and the necessary equipment. There are no measurable criteria regarding the impact of services on a child's quality of life.

⁸⁵ See more at

http://www.asp.government.bg/ASP_Client/ClientServlet?cmd=add_content&lng=1§id=13&s1=1614&selid=1614 (last accessed: 23 September 2014).

⁸⁶ Bulgaria, Action plan on the implementation of the CRPD (2013-2014), uploaded for discussions on 19 September 2012 on the Council of Ministers portal for public debates, available at:

<http://www.strategy.bg/PublicConsultations/View.aspx?lang=bg-BG&Id=677> (last accessed: 23 September 2014).

⁸⁷ Submission of the Bulgarian Parliament, Committee of Employment and Social Affairs Interparliamentary Committee Meeting (ICM), Tuesday 29, January 2013, 7, available at <http://bit.ly/1tus7qs> (last accessed: 23 September 2014)

⁸⁸ Article 36a and Article 36b of the Regulation for Implementation of the Social Assistance Act.

⁸⁹ European Network on Independent Living – European Coalition for Community Living, *Briefing on Structural Funds Investments for People with Disabilities: Achieving the Transition from Institutional Care to Community Living*, 2013, 10.

⁹⁰ See more in Bulgarian at <http://info-call.bg/fp/sdruzhenie-chovekolyubie/sotsialna/6576/8547> (last accessed: 23 September 2014).

⁹¹ Tatyana Obretenova, '2007 – 2013 European fund absorption – lessons learnt' (Radio Bulgaria, Bucharest: 18.02.2014), available at <http://bnr.bg/en/post/100310188/2007-2013-european-fund-absorption-lessons-learnt> (last accessed: 23 September 2014).

There are also five projects running under the Action Plan under the National Strategy 'Vision for deinstitutionalisation of the children of the Republic of Bulgaria'. "Childhood for all" is a project run by the State Agency for Child Protection, targeting 1,800 children and young people with the aim of ensuring their long-term placement in family-type care settings. Besides closing boarding institutions, the project aims to develop family- and community-based services to replace institutions. The plan is to build 149 family-type accommodation centres and 36 protected homes in the territory of 81 municipalities.⁹²

Plans have been developed to secure inclusive education for children with mental disabilities. The Ministry of Education is running a project funded by the European Union with 10 million BGN (approximately 5 million EUR) from January 2011 to October 2014. The aim of the project was to integrate children with special needs in mainstream schools. Under the project several pilot models have been tested on raising the capacity of mainstream schools to provide inclusive education and on reforming residential special schools.⁹³

⁹² Operational Programme Regional Development 2007-2013, Childhood for All, 3, available at http://www.bgregio.eu/media/Info%20materials/English/KIDS_EN.pdf (last accessed: 23 September 2014).

⁹³ Letter from the Ministry of Education and Science No. 94-21499 of the 14 November 2012.

Glossary

Centre for social rehabilitation and integration

A centre for social rehabilitation and integration refers to a set of social services including rehabilitation services, social and legal consultations, educational and professional training and orientation, and the development and implementation of individual programmes for social adaptation.⁹⁴

CRPD

The United Nations Convention on the Rights of Persons with Disabilities (UN CRPD) is an international human rights treaty which is binding law on the governments of countries which have ratified it. The CRPD obliges these countries to “promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities”.⁹⁵ It was adopted in 2006 and entered into force in 2008. To date, it has been ratified by 150 countries. Bulgaria ratified the CRPD on 22 March 2012.

CRPD Committee

The Committee on the Rights of Persons with Disabilities (CRPD Committee) is an 18-person expert body responsible for monitoring the compliance of countries with the provisions set out in the CRPD. The Committee is responsible for offering interpretations about the CRPD, and giving guidance to governments about how to implement it.

Concluding observations

Each country which has ratified the CRPD is required to submit reports to the CRPD Committee two years after ratifying the Convention, and thereafter every four years (Article 35, CRPD). The report must set out how the country is implementing Convention rights. After examining a country’s report, the CRPD Committee makes recommendations to that country, and the document in which it does so are called “concluding observations”.

Day care centre

Day care centre offers services for users during the day, including delivery of meals and satisfying the daily, health, educational and rehabilitation needs of the users. Assistance is provided in organising leisure time activities and in the establishment of social contacts.⁹⁶

Domestic (home) assistant

The domestic assistant is a person providing assistance to the service user in maintaining the household, cooking and personal hygiene.⁹⁷

Family-type residential centre

Family-type residential centres provide social services in a so-called family-type environment for a limited number of persons, but no more than 15.⁹⁸

Guardianship (plenary and partial)

Judges in Bulgaria can place a person with a mental disability under guardianship if the person is assessed as being unable to manage his or her affairs. In Bulgaria, this can be either full (plenary)

⁹⁴ Additional provisions, Para. 1, item 22 of the Regulations for Implementation of Social Assistance Act.

⁹⁵ Article 1, CRPD.

⁹⁶ Additional provisions, Para. 1, item 21 of the Regulations for Implementation of Social Assistance Act.

⁹⁷ Additional provisions, Para. 1, item 19 of the Regulations for Implementation of Social Assistance Act.

⁹⁸ Additional provisions, Para. 1, item 26 of the Regulations for Implementation of Social Assistance Act (came into force on 4 December 2007).

guardianship, where all decision-making rights are removed, or partial, where decision-making is restricted.⁹⁹ In Bulgaria, this means that the person under guardianship can only make decisions with the consent of their guardian.

Homes for adults with intellectual disabilities

Homes for adults with psycho-social disabilities

Homes for adults with dementia

Homes for adults with disabilities are institutions providing social services to people with “moderate, severe or profound mental retardation” based on the diagnosis of an expert.¹⁰⁰ Home for adults with psycho-social disabilities are also institutions providing social services to people with mental health issues on the basis of a diagnosis.¹⁰¹ Likewise, homes for adults with dementia are institutions, with placement being based on an ‘expert decision’.¹⁰²

Homes for children with intellectual disabilities

Homes for children with intellectual disabilities are specialised institutions providing social services to children with “moderate, severe or profound mental retardation” based on an ‘expert’s decision’.¹⁰³

Homes for medical and social care for children

Homes for medical and social care for children are registered under the Hospitals Act as “other hospitals”. In these homes, medical and other specialists carry out continuous medical supervision and provide specific care for children up to 3 years of age with chronic illnesses and medical and social problems. Children with a severe disability children can be placed in such institutions up to the age of 8. The placement of children into such institutions is supposed to occur as a last resort where it is deemed not possible to leave the child in the family environment.¹⁰⁴

Legal capacity

Legal capacity refers to the capacity to bear rights and the capacity to act and have decisions recognised by the law.¹⁰⁵ A person under guardianship does not have their legal capacity. The recognition of the validity of a person’s decisions can cover all areas of life, including financial and property affairs, residence rights, employment, marriage, parenthood, sexual and reproductive rights, inheritance, voting and holding public office.

‘People with mental disabilities’

By ‘people with mental disabilities’ MDAC means people with intellectual, developmental, cognitive, and/or psychosocial disabilities.

‘People with psycho-social (mental health) disabilities’ and ‘people with mental health issues’

People with psycho-social disabilities are those who experience mental health issues or mental illness, and/or who identify as mental health consumers, users of mental health services, survivors of psychiatry, or mad. These are not mutually exclusive groups. People with psycho-social disabilities may also identify, or be identified as, having intellectual, developmental or cognitive disabilities.

⁹⁹ Mental Disability Advocacy Center, *Legal Capacity in Europe*, (Budapest: MDAC, 2013), 23, available at: http://mdac.org/sites/mdac.info/files/legal_capacity_in_europe.pdf (last accessed: 23 September 2014).

¹⁰⁰ Additional provisions, Para. 1, item 39 of the Regulations for Implementation of Social Assistance Act.

¹⁰¹ Additional provisions, Para. 1, item 40 of the Regulations for Implementation of Social Assistance Act.

¹⁰² Additional provisions, Para. 1, item 43 of the Regulations for Implementation of Social Assistance Act.

¹⁰³ Additional provisions, Para. 1, item 36 of the Regulations for Implementation of Social Assistance Act.

¹⁰⁴ National Statistical Institute, Homes for medical and social care for children in 2013, Republic of Bulgaria, 4, available at http://www.nsi.bg/sites/default/files/files/pressreleases/DMSG2013_H8ZODKK.pdf (last accessed: 23 September 2014).

¹⁰⁵ Mental Disability Advocacy Center, *Legal Capacity in Europe*, 9.

‘People with intellectual disabilities’

People with intellectual disabilities generally have greater difficulty than most people with intellectual and adaptive functioning due to a long-term condition that is present at birth or before the age of eighteen. Developmental disability includes intellectual disability, and also people identified as having developmental challenges including cerebral palsy, autism spectrum disorder and fetal alcohol spectrum disorder. Cognitive disability refers to difficulties with learning and processing information and can be associated with acquired brain injury, stroke and dementias including Alzheimer’s disease. These are not mutually exclusive groups. Many people with intellectual, developmental or cognitive disabilities may also identify, or be identified as, having psycho-social disabilities.

Personal assistant

Personal assistants, in Bulgaria, are those providing permanent care services to a child or adult with permanent disability, or to a seriously ill person, for the purposes of satisfying their normal daily needs.¹⁰⁶

Personal budget

A personal budget is an amount of money provided to a person with a disability by the state with the purpose that they can purchase the types of individualised support services they require. The aim of personal budgets are to enable people with mental disabilities to have greater control over the support they get and the way it is provided.

‘Protected home’

Protected homes are forms of group homes for people with disabilities, serviced by professionals.¹⁰⁷ They are presented as alternative housing options to institutions. However, in reality, they often provide no greater opportunities for people with disabilities to live independently in the community and reflect an institutional model of care. Access to community-based services is not guaranteed to all potential users and the quality of care provided has been reported to be low. Users’ opinions on the development of services are not sought or taken into account.

Reasonable accommodation

Reasonable accommodation means the necessary and appropriate adjustments and modifications which should be provided to people with disabilities to ensure they can exercise their rights. For example, this could mean providing support assistants to children with intellectual disabilities so that they can access mainstream, inclusive educational environments. In respect of employment, it could mean providing easy-to-read information to employees. It is a right guaranteed by the CRPD.¹⁰⁸

Social assistant

The social assistant is a person providing a set of services, including social work for users. They can undertake a number of roles, including organising leisure time or working with people with disabilities to establish social contacts.¹⁰⁹

Transitional home

Transitional homes are temporary housing arrangements in which people are supported to develop the skills to live independently with the aid of professionals, with the purpose of transitioning them out of specialised institutions and into the community.¹¹⁰

¹⁰⁶ Additional provisions, Para. 1, item 17 of the Regulations for Implementation of Social Assistance Act.

¹⁰⁷ Additional provisions, Para. 1, item 27 of the Regulations for Implementation of Social Assistance Act.

¹⁰⁸ Article 2, CRPD.

¹⁰⁹ Additional provisions, Para. 1, item 18 of the Regulations for Implementation of Social Assistance Act.

¹¹⁰ Additional provisions, Para. 1, item 32 of the Regulations for Implementation of Social Assistance Act (came into force on 4 Dec 2007).