

ACTIVITY REPORT

OFFICE OF THE COMMISSIONER FOR
ADMINISTRATION AND THE PROTECTION OF
HUMAN RIGHTS (OMBUDSMAN)
WITHIN THE FRAMEWORK OF OMBUDSMAN'S
JURISDICTION AS AN
INDEPENDENT MECHANISM FOR THE PROMOTION,
PROTECTION AND MONITORING UN CONVENTION
ON THE RIGHTS OF PERSONS WITH DISABILITIES

2017-2018-2019





contents

CONTENTS

| | Page |
|---|------------|
| Contents | 3 |
| Introduction | 7 |
| Numerical Evaluation / Subjects | 13 |
| Concluding Observations of the UN Committee on the Rights of Persons with Disabilities | 17 |
| Reports, Interventions, Arbitrary Action | 23 |
| Indicative Cases of Compliance | 85 |
| Discussion of Issues in the House of Representatives | 95 |
| Participation in Activities/Seminars/Trainings | 103 |
| Information Campaigns | 111 |
| Contacts with Organizations for Persons with Disabilities and Other Institutions | 119 |
| Targets for 2020 | 129 |





introduction

INTRODUCTION

The UN Convention on the Rights of Persons with Disabilities together with the Optional Protocol, was ratified by the Republic of Cyprus in 2011, with the Convention on the Rights of Persons with Disabilities and Related Matters (Ratification) Law of 2011 [Law 8 (III)/2011].

With the implementation of article 33 of the Convention, which concerns the designation of an independent mechanism to the member states for the promotion, protection and monitoring of the implementation of the Convention, the Council of Ministers, with decision no. 73.519 dated 9 May 2012, assigned to the Ombudsman, as an Independent Mechanism, the jurisdictions of the promotion, protection and monitoring of the implementation of the Convention.

The Ombudsman, within the framework of her jurisdictions as an Independent Mechanism, proceeds with activities/actions which are related to the promotion, the protection and the monitoring of the Convention.

Bearing this in mind, the activities/actions aim to inform, enlighten and inform about the rights of persons with disabilities, the arbitration for the realization of the mentioned rights and the intervention with recommendations and suggestions with regard to policies, and legislative and other measures which are required for the purposes of compliance to the obligations of the State which arise from the Convention.

Indicatively, the actions/activities of the Ombudsman, as an Independent Mechanism for the Promotion, Protection and Monitoring of the Convention, include, amongst other things, the following:

- Conducting of researches and collection of details, with the aim of monitoring the implementation of the provisions of the Convention and the complete and equal enjoyment of all human rights and fundamental freedoms of the persons with disabilities.
- Investigation of complaints and reports by persons with disabilities or representative organizations of persons with disabilities, as well as self-proclaimed examination of cases of violation of the provisions of the Convention, conducting consultations, within the framework of the applicable legislation, with the involved parties, and the ability of imposing penalties for unequal treatment and violation of the rights of persons with disabilities.
- Submission of reports to the state services and other involved institutions, with recommendations and suggestions regarding the implementation of the provisions of the Convention by them.
- Presides over the Consultative Committee for the Monitoring of the Convention, in which persons with disabilities and representatives of their representative organizations and the Cyprus Confederation of Organizations of the Disabled (CCOD) participate.
- Cooperation with the Coordinating Mechanism (Cyprus Council for People with Disabilities) and the Focal Point (Department of Social Inclusion of People with Disabilities) for the monitoring of the application of the National Action Plan for the implementation of the Convention.
- Enlightenment, awareness and promotion of the protection and realization of the rights of persons with disabilities and the implementation of the Convention, in cooperation with the Focal Point.

In the direction of the promotion and protection of the rights of persons with disabilities, the close cooperation of the Office with the representative Organizations of Persons with Disabilities was pursued, for establishing the problems faced by Persons with Disabilities which concern the violation of their rights, as these arise from the Convention, as well as the intervention of the Office to solve the mentioned problems.

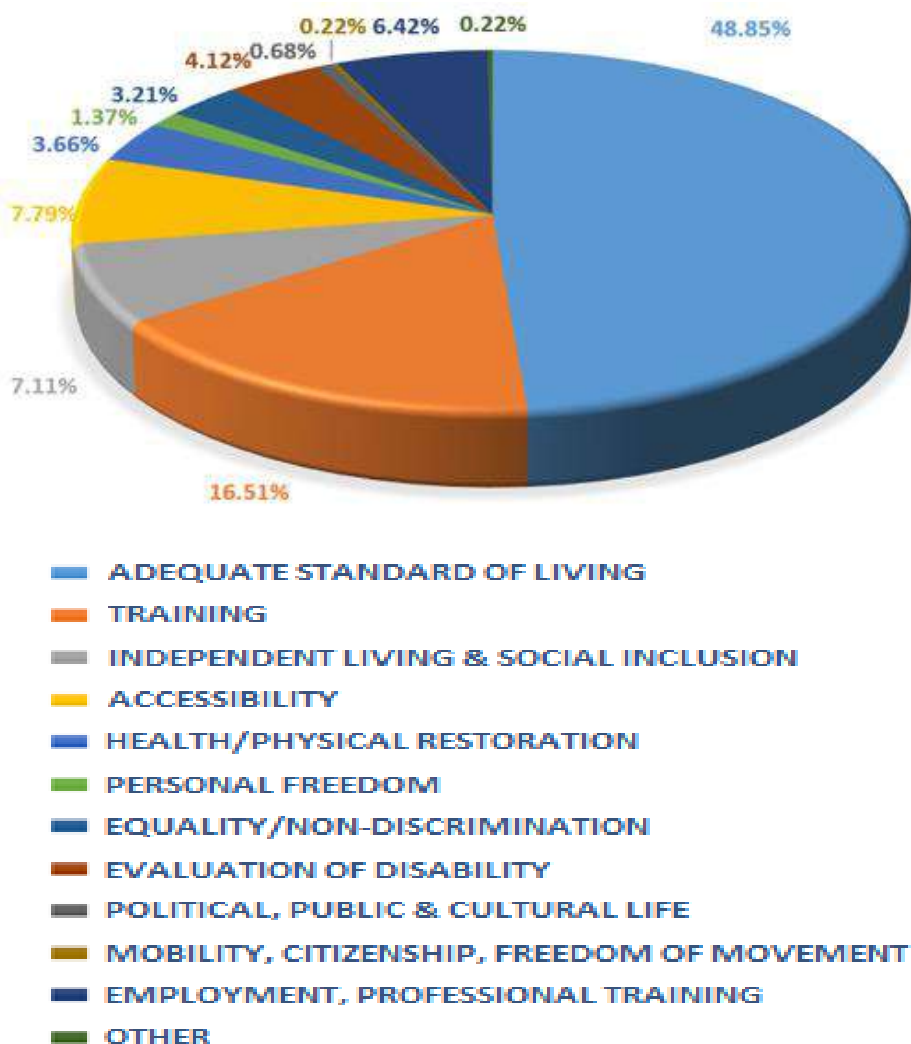




numerical evaluation- subjects

NUMERICAL EVALUATION - SUBJECTS

During the three years 2017-2018-2019, **436** self-proclaimed complaints were submitted and/or examined/investigated. Their subjects are reflected in the following table:







Concluding observations of the un committee for the rights of persons with disabilities

CONCLUDING OBSERVATIONS OF THE UN COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES

2017 was an important milestone regarding the course of the implementation of the Convention in Cyprus, since the UN Committee for Persons with Disabilities published its Concluding Observations in relation to the First Report of Cyprus to the UN for the implementation of the Convention.

In particular, on 23 and 24 March 2017, the Committee examined the First Report of the Republic of Cyprus and on 5 April 2017, approved the Concluding Observations with regard to it, which were published on 12 April 2017.

With its Concluding Observations, the Committee, as noted also in a relevant **Announcement** of our Office in May 2017, *«pointed out the crucial gaps, shortcomings and weaknesses which have to be addressed in time, so that our country responds at the level of securing the rights of persons with disabilities for which it is bound as from 2011, with the ratification of the Convention.*

This development is expected to become the starting point for the formulation of a new, complete state strategy for disability, backed up by adequate and appropriate human, economic and technical resources».

As pointed out in the Announcement, the focal point of the criticism of the Committee was *«the non-adoption of the legal approach to disability, the inadequate implementation by the public sector of the legislation for consultation with the Cyprus Confederation of Organizations of the Disabled (CCOD), and of article 4(3) of the Convention, for full participation of the representative organizations of persons with disabilities in taking decisions which concern them».*

For the purposes of harmonization with the Convention, as well as for the Goals of Sustainable Developments, the Committee recommended to the state *«the review/amendment and or abolition of legislation and practice policies, always in close cooperation with the representative organizations of persons with disabilities»* and stressed that *«the need to strengthen the support, cooperation and influence of the said organizations in all sectors, is urgent»*.

In general, in the Announcement, the recommendations of the Committee to the state were rendered, regarding most sectors of the life of persons with disability, with which the Committee called upon the state:

- To adopt, immediately, the definition *«discrimination based on disability»* of the Convention, where it is recognized that such discrimination also arises from the refusal of granting rational adjustments, in all national legislation in all sectors, including the private sector.
- To adopt legislative and other measures for the prevention and combating of any multiple and interlaced discrimination and, at the same time, to secure an adequate standard of living for any person with disability either Cypriot or non-Cypriot, mainstreaming of disability in all legislation, policies, practices and strategies which concern the equality of the genders and applying policies of legal approach for children with disability.
- To fully replace the existing, segregative system of education, with an inclusive education system based on the standards of the relevant General Comment for inclusive education (no.4) of the Committee.
- To urgently abolish legislation, provisions and practice policies that allow the guardianship of persons with disability and the substitution of taking of their decisions, and adopt in a new legislation, the standards of the

General Comment (No. 1) which the Committee issued, for equal recognition before the law and the right to legal capacity.

- To adopt measures/standards which will secure the right of persons with disabilities to independent living, and to urgently finance a strategy for de-institutionalization, also utilizing resources which it has, for institutionalization, for providing services to the community.
- To abolish the burdening of persons with disability with expenses which are related to their disability and define and secure a minimum limit of social protection, regardless of age, origin or gender, without taking into account the cost of the disability.
- To ban all forms of unintentional detention or hospitalization due to «harm» or hypothetical «harm» (e.g. risk) and adopt other appropriate measures based on the standards of the Guidelines for article 14 of the Convention.
- To secure the access of persons with disabilities to judicial procedures, with the necessary procedural adjustments, the compulsory training of the judges, of the staff of the courts and the security bodies with regard to the universality of human rights.
- To enhance the attempts in the sector of accessibility and to provide additional resources for accessibility to internal and external spaces, information, communications and transportation means.
- To adopt a system of proportions for the access of persons with disability in the private employment sector.

- To secure, on a legislative and practical level, the exercising of the right of voting and being voted, without discrimination due to disability.
- To provide, without any delay, financial resources to the independent mechanism for monitoring the implementation of the Convention.

In a new announcement of our Office regarding the Concluding Observations of the Committee, also in May 2017, there was special reference to paragraph 7 of the Concluding Observations and it was noted that *«the Committee, in addition to its acclamation, for the existing law which foresees the obligation of the Public Services for consultation with the Cyprus Confederation of Organizations of the Disabled (CCOD), is at the same time worried, both as regards the participation of the representative organizations in the taking of decisions that concerns them, as well as for the issue of the “proper” cooperation (of the Public Services) with the representative organizations for disability, for all the issues that concern disability, on a more general level»*.

It is noted that the **Concluding Observations of the Committee**, as well as the General Comments that, from time to time, it has issued for a more complete interpretation of specific articles of the Convention, constitute the main tools of our Office during the investigation of the complaints which are submitted regarding the rights of the Persons with Disabilities, as well as within the framework of the self-proclaimed interventions of the Ombudsman and the wider activity of our Office under the jurisdiction of the Ombudsman as the Independent Mechanism for the Promotion, Protection and Monitoring of the UN Convention on the Rights of Persons with Disabilities.



reports
interventions
arbitrary action

Reports / Interventions / Arbitrary Action

Minimum Guaranteed Income and Disability Benefits

A significant number of complaints that were submitted to our Office during 2017, concerned discrimination against Persons with Disabilities while exercising the socio-economic policy of the State, that is, the rejection of their applications for granting public and disability benefits, as well as the Minimum Guaranteed Income (MGI), in violation of the provisions of the Convention.

In particular, from the investigation of a complaint which was submitted by the mother of a person with mental/social-psychological disability, against the Service for the Administration of Welfare Allowances, regarding the loss of the Minimum Guaranteed Income (MGI) and the Disability Allowance, it was found that the relevant applications had been handled by Administration of Welfare Allowances as applications of a person without disability for a long period of time, during which the applicant received neither GMI nor disability allowance.

Whereas Administration of Welfare Allowances, when after re-examining his application, approved him as a beneficiary of MGI, started the payment of MGI based on the date of the evaluation of his disability by the Evaluation System of Disability which is operated by the Department of Social Inclusion of Persons with Disabilities, instead of basing on the date of submission of the application.

Specifically, the applications of MGI and disability allowance under reference, were submitted on the basis of the form which had to be used for the submission of the applications by new applicants, that is, persons who do not receive public allowance, since the complainer was on the one hand, a person who

received public allowance from the Social Welfare Services, but did not receive a disability allowance, since his relevant application was pending at Social Welfare Service since 2010.

Consequently, the complainer *«as a new applicant of a disability allowance, should have been referred from Administration of Welfare Allowances to the Department of Social Inclusion of Persons with Disabilities, to be evaluated by the System of evaluation, whether he is actually a person with disability»*, however, Administration of Welfare Allowances did not refer him for evaluation, as, according to the General Director of the Ministry of Labour, Welfare and Social Insurance, *«as a person receiving public allowance, he was not approved as a disabled person»*. As a result, Administration of Welfare Allowances examined both the applications as a person without disability, even though, the complainer did not fail to note in the applications that he is a person with disability.

In the relevant Report which was submitted for the specific matter, it was noted that the handling of the applications of the complainer, while he was a receiver of public allowance but did not receive a disability allowance from Social Welfare Services, was incorrect and did not have any legal basis.

Consequently, there was a violation of the right of the complainer *«to claim MGI as a person with disability and to receive, in time, a relevant decision about it, since the evaluation of his disability by the Evaluation System was preceded»* and *«for his second application and appeal against the rejection decision to the first application to be examined, according to the provisions of article 13(b) of the Law,¹ as amended, with effect from 1st August 2015 regarding persons with disability and were less restrictive compared to the initial provisions»*. Furthermore, although the aforementioned amendment was already in effect, the second application of the complainer and his relevant appeal was

¹ The Minimum Guaranteed Income and More on Social Benefits Law of 2014 (Law 109(I)/2014)

rejected, as they were handled as an application and an appeal of a person without disability.

While when the complainer was referred to Department of Social Inclusion of Persons with Disabilities for evaluation for his disability and was evaluated as a person with disability, that is, as a person with long-term issues of mental health, regardless of the fact that he did not receive a disability allowance from Social Welfare Services, and subsequently Administration of Welfare Allowances decided that he is a beneficiary of MGI and a disability allowance, their payment started on the basis of the date of evaluation of the disability of the complainer, instead of on the basis of the date of the submission of his application.

And as it was noted, *«the delay in the evaluation of his disability (of the complainer) is not because of him, but because of Administration of Welfare Allowances, which considered, until the intervention of my Office, that his application was not an application of a person with disabilities»*, and that for the complainer to be evaluated as a person with disabilities by the Evaluation System, *«it means that a specific long-term situation was found, which existed, at least, during the time of the submission of his application...and did not arise on the date of his evaluation»* nor when the GMI and disability allowance started to be paid to him.

On the basis of the above, a recommendation was made to Administration of Welfare Allowances for the re-examination of its decision regarding the date of starting of the payment of MGI and the disability allowance to the applicant, bearing in mind the date of submission of his applications.

Deduction of part of a public allowance from a person with disabilities

In another case, the Social Welfare Services, rejected a request for returning to a child with disabilities, part of the public allowance that they had deducted, as during the determination of the amount of the public allowance which was being paid to the daughter of the complainer, they were counting also the child allowance which he was receiving, even though from 2014 onwards, he was not receiving the said allowance.

In particular, while based on a relevant confirmation that the complainer had secured from the Ministry of Labour, Welfare and Social Insurance, a child allowance was granted to him until December 2013, but not for the years 2014 and 2015, as he had not submitted a relevant application, Social Welfare Services continued to deduct part of the public allowance of his daughter, taking as for granted, the receipt of the child allowance.

Social Welfare Services confirmed that *«for the determination of the amount of the public allowance of the daughter of the complainer, for the years 2014 and 2015, the child allowance was taken into account, regardless ... of the fact that the complainer is claiming that he did not submit an application ... the failure of the complainer to present adequate information which document his position that he was no longer a beneficiary of a child allowance before the expiry of the deadline for submission of the applications for a child allowance, burdens the interested party»*.

In view of the above position of Social Welfare Services, in 2016 the complainer submitted an application for child allowance, which was rejected by the Ministry, however, until February 2017, Social Welfare Services continued to deduct a part of the public allowance of his daughter.

In our relevant Report for the above matter, it was pointed out that Social Welfare Services approached the request of the complainer for the return of the amount which was deducted from the public allowance of the daughter, giving emphasis to the fact *«(a) that he did not present supportive information to his application at the crucial time, before the expiry of the deadline for the submission of the application for a child allowance and (b) that he failed to proceed, in time, with actions so that Social Welfare Services would have before them a rejection decision regarding the child allowance, so as to determine whether actually, he was not a beneficiary of the allowance».*

As regards the above issues, it was stressed that the request of the complainer *«was supported by an undisputed evidence, the confirmation of the Ministry that he did not receive a child allowance for the years 2014 and 2015 and the non-submission of the said confirmation to Social Welfare Services before the expiry of the deadline for the submission of applications for the year 2014 ... in no way affects the legal basis of the request».*

While with the second issue above, it was noted that *«no one is obliged to submit an application for child allowance according to the Child Care Benefit Law and especially when he speculates, knowing his family income and his assets, that he is not a beneficiary of this allowance».*

As was furthermore underlined, the Public Aid and Services Law does not foresee that *«parents of children with disabilities who receive public allowance are obliged to present to YKE a rejection decision of their application for a child allowance, so that no deduction of a corresponding amount is made from the public allowance of their children».*

The absence of payment of a child allowance became, in this case, an indisputable and actual fact that could be established with a simple research by Social Welfare Services. Any failure of research or delusion about the existence of objective information

by the Administration (in this case, the absence of payment of the allowance) does not burden the administered, who, in any case, presented a relevant confirmation, but it burdens the Administration ... The Principle of Good Faith which should govern all the actions of the Administration imposes that the administered does not suffer without reason. (A.51(1)/158(I)/99). Also, according to art. 51(2) of the General Principles of Administrative Law (158(I)/99), the Administration is not entitled, citing its own failures for which the administered is not to blame, to ignore a situation which is favourable for him which has lasted for enough time, and to refuse the gathering in favour of the administered, of the benefits and the legal consequences that arise from this situation.

It is clear that Social Welfare Services was ignoring as a result of their failure, the fact that the complainer was not receiving a child allowance, and this unpaid amount was being deducted during the calculation for the payment of the Public Aid. A substantial error of the Administration, that, on its own, results in the cancellation of its actions».

And Social Welfare Services, in addition to the fact that they had rejected the request of the complainer for the return of part of the public allowance of his daughter that they were deducting, «they continued to deduct an amount from the public allowance of his daughter all through 2016 and even during the first two months of 2017, while the application that the complainer had submitted for a child allowance for the year 2016 had been rejected».

Therefore, it was noted that «the handling of the whole matter by Social Welfare Services, was obviously out of the context of legality, since: (a) they deprived from the daughter of the complainer for three years, a public allowance which she was entitled to, according to the Public Aids and Services Law, violating for three and more years, article 9(1) of this Law and (b) they made the complainer suffer without any legal reason, and as an extension, violated the principles of good administration, good faith and correct behaviour against the administered».

The suggestion which was submitted to Social Welfare Services was for the return to the daughter of the complainer, immediately after the re-examination of the matter, of the total amount of the deduction, as well as for the updating of the information regarding the essential data for the exercise of their jurisdictions and especially for the purpose of the implementation of article 9(1) of the Law, to be briefed every year by the Service for the Administration of Welfare Allowances for the beneficiaries of child allowance.

Rejection of the application of a person with mental disability for the acquisition of Cypriot citizenship

From the investigation of a complaint which was submitted by a Cypriot citizen, on behalf of her son who is an adult person with mental disability, regarding the rejection of his request for the acquisition of Cypriot citizenship with naturalization, as it was considered that he did not fulfill the pre-condition which is set by the Law on Population Archive to have «full capability», it appeared that the said Law constitutes a representative example of a legislation which obstructs equal treatment and favours discrimination against persons with disabilities, in violation of the UN Convention on the Rights of Persons with Disabilities.

In particular, the Civil Registry and Migration Department informed the son of the complainer that his application for the acquisition of Cypriot citizenship was examined, but it was not possible to be approved, because *«the Republic of Cyprus, exercising its sovereignty rights and having taken into account that the provisions of article 111 of the Law on Population Archive is not fulfilled ... according to which, an essential pre-condition for*

naturalization is to be of full capability, decided that there is no substantial reason for your Naturalization as a Cypriot citizen».

As a consequence, the son of the complainer continued to be the only member of his family without Cypriot citizenship, without «access to rights and facilities which concern the Cypriot citizens, contrary to his mother and sister, in the country which he grew up and lives for the last 28 years, that is, for the biggest part of his life, for the sole reason that he is a person with mental disability».

In article 111 of the above Law which determines the criteria and the procedure for the acquisition of the capacity of the Cypriot citizen, it is foreseen that, with regards to the acquisition of Cypriot citizenship on the basis of naturalization, the Minister of Interior *«when an application is submitted to him ... by any alien adult with full capability, who satisfies the Minister that he has the qualifications for naturalization, according to the provisions of the Third Table (of the Law), he may grant him a certificate of naturalization».*

A corresponding pre-condition for full capability is also determined in the provisions of the Law, which govern the granting of Cypriot citizenship through other procedures, apart from naturalization, such as registration due to origin and registration due to marriage with a Cypriot citizen.

However, on the basis of the provisions of the UN Convention on the Rights of Persons with Disabilities *«the right of freedom of movement, acquisition of citizenship, as well as of the wider use of «migration procedures» which apply in a country, has to be secured for persons with disabilities on an equal basis with persons without disabilities, that is, without any discrimination due to disability, as this meaning is defined above. In other words, any disability cannot become a reason for unfavourable treatment and exclusion of a person who applies to the immigration authorities, submits applications or is evaluated within the framework of a procedure related to migration and acquisition of citizenship in a country».*

Furthermore, it appears from the Convention, that *«any disability cannot become a reason for unfavourable treatment and exclusion of any person who applies to the immigration authorities, submits applications or is evaluated within the framework of a procedure related to migration and acquisition of citizenship in a country»*. And this, because with the Convention, the right of the persons with disabilities, including mental disability, is recognized *«for self-determination, their equal value and their equal right to have and to exercise their rights like every other person. It gives emphasis to their capabilities to develop skills and abilities, with the proper support, as well as to be fully integrated in society, as long as all the obstacles that make this integration and equality impossible, are constantly removed»*.

In its full extent, the Convention constitutes an obligation to remove all legal and behavioural obstacles, *«it bans the stereotypes, the prejudices and any practice which is harmful for the disability, calling upon states to undertake to combat them»* and *«recognizes every person as equal before the law and as having the capability of legal action»*.

In view of the above, in the relevant Report which was submitted, it was noted that the aforementioned provision of the Population Archive Law favours the discrimination against persons with disabilities, as *«access of the complainer, as well as of each applicant with mental disability, to the right of acquisition of Cypriot citizenship with naturalization, becomes not only unequal, but also impossible»*.

As a result, an obvious discrimination on the basis of disability is substantiated, in the form of exclusion and full obstruction of the recognition and exercising of the right of freedom of movement and citizenship, on an equal basis with other applicants». At the same time, there also exists *«multiple discrimination against the complainer, because his disability and his origin are interlaced and inter-react in the above discrimination»*, while the reference to the Law about *«full capability»* which is in disagreement with

the provisions of the Convention, permits that every person with mental disability «is automatically considered as incapable, perpetuating one of the most common stereotypes against persons with disabilities».

A suggestion in the Report was the harmonization of the Population Archive Law with the Convention, to remove the discrimination due to disability, together with all the other violations that arise, with the pre-condition of acquisition of Cypriot citizenship with «full capability» of the applicants, as well as, that subsequent to the submission of an application by the complainer for acquisition of Cypriot citizenship, this was examined on the basis of what had been analyzed in the Report.

Status of employment of escorts/assistants of children with disabilities who attend public schools

A significant parameter for securing the participation and access of children with disabilities in joint education, as foreseen also by the Convention, is the issue of the status of employment of the school assistants, so that the State responds to its obligations with regard to the students with disabilities, as they arise from the Convention and the Special Education Laws.

On the occasion of a complaint which was submitted by parents, of a child who was attending a Public School to whom a school assistant/escort was granted, it was demonstrated that although the specific school assistant/escort was not responding adequately to her duties, she continued to be kept in her position.

In the relevant Position about the above matter, it was noted that the services of the school escort/assistant *«constitute a form of rational adjustment and personalized measure for the facilitation of education of students with disabilities, the usefulness of which,*

differs according to the student and his/her needs, as well as according to the school environment in which he/she is found. Consequently, the role of the school escorts is especially important for the integration course of the students in the education system, while they can also play a pedagogical role² ... the granting of personal support and rational adjustments should be set as a priority. The support should be on-going, adequate and personalized, while the granting of rational adjustments should be based on the evaluation of the social obstacles in education. In the case of rational adjustments not being granted, this constitutes discrimination due to disability».

On the basis of the Laws on Education and Training of Children with Special Needs, *«each child with special needs is entitled to free attendance at a public school, while the Council of Ministers caters for the hiring of the necessary staff, scientific and other ... the responsibility of employment of the school assistants was assigned, initially, to the parents' associations»* and later, the responsibility was assigned to the school boards.

With regards to this case, it was noted that although all the persons involved, amongst whom the parents too, raised the issue of the unsuitability of the escort, since she did not respond adequately to her duties, the references/reports against her *«were removed from the relevant file, when the need to terminate the services of an assistant/escort emerged, so that, in this way, these would not be evaluated, as an element to judge her unsuitability to keep her position».*

Consequently, while in the specific school a problematic situation existed and was preserved, which did not contribute to the *«unhindered exercise on behalf of the students with disabilities, of their right to education in a way which is equivalent to the rest of the students»*, no one was willing to end it. This stance, was equivalent *«to the failure of the State to respond to the obligations*

² Kleanthous A., Papalexandri T., Ftiaka E. «The role of the escort in the context of integrational education», 12th Conference of the Pedagogical Company of Cyprus.

which are imposed on it by the Convention» since the children with disabilities who attended the specific school enjoyed «unequal treatment due to disability and, consequently, forbidden discrimination».

As was pointed out in the Position, the “par excellence” problem in the selection of the suitable persons for employment in the positions of school assistants/escorts, is the omnipotence of the School Boards, that is, of the employer, during the procedure of selection for the purposes of employment, since the members of the Boards have a majority on the Selection Committees. Consequently, if they agree in the employment/keeping of a position for a person who is not even suitable for the job, taking such a decision cannot be prevented, even if all the remaining members of the Committee, in which a representative of the Ministry of Education participates, disagree.

The suggestion in the Position was that, within the framework of the obligations of the State for granting equal opportunities for learning to all children, the involved School Board should examine the situation in the school which involved the reporting of the complainers with regards to the issue of the school assistants/escorts, and should take measures.

And the Ministry of Education had to conduct its own research, to establish whether the rights of the children with disabilities were secured in the specific school, as well as in every other school, and if not, it should, under the circumstances, proceed with the appropriate actions.

With regards to the wider issue of the school escorts/assistants, a suggestion was made for the Ministry of Education, Culture, Sport and Youth to start those procedures *«which could allow the changing of the composition of the Selection Committees of the school assistants/escorts, bearing in mind while configuring its suggestion, the Observations of the UN Committee on the Rights of Persons with Disabilities in states that it evaluated, like the substantial participation of parents in the said Committees, as well*

as the consideration by the Committees of the opinions/wishes and preferences of the children themselves.

The seriousness of the role that they play in the procedure of learning of the children with disabilities, combined with the obligations of the State towards these children, do not permit the procedure of hiring of the former and their employment, to be, in essence, a matter for the School Boards».

A further suggestion concerned the question posed by the Ministry «with regards to the qualifications and the selection criteria of the school assistants/escorts, so that their suitability and the harmonization of exercising their duties, with the provisions of the Convention, is safeguarded from the beginning».

To this end, «the service programmes should be amended, and also, at least, initially, a systematic and compulsory education/training of the school escorts/assistants on matters of disability, according to the Convention, should be established».

Lack of accessibility to the «Spyros Kyprianou» sports centre

A complaint that was submitted to the Ombudsman by the Limassol District Committee of the Pancyprian Organization for the Rehabilitation of the Disabled concerned the lack of accessibility to the «Spyros Kyprianou» sports centre in Limassol. The «Spyros Kyprianou» sports centre is under the administration of the Cyprus Sport Organization (CSO) and includes, amongst other things, a central hall for sports – group sports, journalists' boxes, medical centre and canteen.

As was found during the investigation of the complaint, the said sports centre has sufficient vehicle parking spaces for persons with disabilities, and spaces for transportation of persons with disabilities, however, the access of persons with disabilities to the stands with the seats, to watch the activities equally with every other person, was not easy, due to the existence of stairs. As a consequence, persons with disabilities were driven to the arena of the stadium, where the playing field is located, and as a result, they were being exposed to danger as far as their physical integrity was concerned and, consequently, they were undergoing an unequal treatment due to the absence of a rational adjustment for the needs of their diversity.

In particular, on the basis of the social consideration of disability, *«the accessibility, amongst other things, to the natural and structural environment»*, is of central importance, on the basis of the UN Convention on the Rights of Persons with Disabilities, *«and it is one of its general principles, because it is the beginning of the assistance of persons with disabilities, to exercise and enjoy indiscriminately, the human rights and the fundamental freedoms»*.

Accessibility to the structured environment, *«can offer to every citizen, the opportunity for autonomy, freedom and unhindered mobility with safety, in every space for social and other activities»*, while article 9 of the Convention determines indicatively, the minimum obligations of the Party States for taking appropriate steps so that persons with disabilities live independently and participate in all aspects of life.

With article 30 of the Convention, *«the right of participation in cultural life, entertainment, leisure activities and sports»* is safeguarded, and to this end, the States are called upon *«to safeguard, furthermore, that persons with disabilities have access to sports and entertainment installations»*.

For exercising the aforementioned right, *«the installations for conducting the activities concerned, will have to be fully accessible for all persons with disabilities and, regardless of the type of their disability, exempt from obstacles which obstruct their arrival to the place they are situated, the parking, the entry, the exit, the safe transportation to any of their internal areas, the use of any internal area»*.

The absence of a rational adjustment, like in this case, leads to the exclusion of the persons with disabilities and to the absence of the possibility of exercising their recognized right for participation in cultural life, entertainment, leisure activities and sports. However, the exclusion of the persons with disabilities from the exercising of any right, in the absence of accessibility, constitutes a forbidden discrimination against them, according to the UN Convention on the Rights for Persons with Disabilities, and a violation of the principles of non-discrimination and equal opportunities.

On the basis of the above, the suggestion to CSO was that *«it plans and implements immediately, the procedure of taking corrective steps for the elimination of the obstacles that deprive or limit the persons with disabilities to watch in an unhindered way,*

and on an equal basis with the persons without disabilities, sports activities of their choice, without running any danger».

Handling of an application of an archery athlete with disabilities for his participation in an international event

A complaint which was directed against the Cyprus Archery Federation (CAF) concerned the inadequate support, over time, that it provided to an athlete of archery who is a person with disabilities, so that he can participate in international games abroad for persons with disabilities and, through his participation, to be able to be classified, to secure participation in the Paralympic games.

As it was found, due to incorrect handling by CAF, the participation of the athlete in a sports event abroad was excluded, since it had indicated an incorrect deadline to him, for the submission of his application, with the consequence of undergoing financial loss, since he had already bought the airplane tickets and had pre-paid the cost of his participation in the games.

The right of persons with disabilities to cultural life, entertainment, leisure activities and sports, is guaranteed in article 30 of the UN Convention on the Rights for Persons with Disabilities. Basic aim of the said article *«is the facilitation of the access of persons with disabilities to cultural, entertainment and sports activities and through this, the encouragement, enhancement and consolidation of their integration in all manifestations of cultural life, in an equivalent way with the remaining population».*

Especially with regards to sports, in paragraph 5 of the said article, the following are foreseen:

« With a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures:

(a) To encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;

(b) To ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;

(c) To ensure that persons with disabilities have access to sporting, recreational and tourism venues;

(d) To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;

(e) To ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities.».

The more specialized obligations for the state which arise from paragraph (5) of article 30 of the Convention, *«intend to secure the right of the persons with disabilities to participate in sports on the basis of equality of opportunities, to receive state support and to be treated as equal with all of the rest. In this context, the athletes with disabilities have the right to be considered as a central and integral part of sports and have to be facilitated to participate in all sports and at all levels, according to their choices. Consequently, the state is obliged, for this purpose, to*

promote the appropriate instructions and to provide relevant guidance, to organize the necessary training for those who are involved and to provide sufficient resources».

In the case under examination, it was found that the exclusion from participation of the athlete in the athletic event in the Czech Republic in June 2017, was due to incorrect handling by CAF and hence, in the Report of the Ombudsman there was a suggestion for the examination of the possibility of the replacement of the participation, either by CAF or directly by CSO.

Other than the above suggestion and for the purpose of improving and enhancing the protection of the right of persons with disabilities to sports, a suggestion was made, so that *«CSO, in consultation with the representative organizations of persons with disabilities, proceeds by adopting in its strategy and actions, a holistic and rightful approach, which will be compatible with the UN Convention on the Rights for Persons with Disabilities. In particular, it must become clear that the equivalent access and participation of persons with disabilities to sports constitutes their human right and not simply a social contribution of the state».*

In particular CSO, as the "par excellence" state body responsible for sports, *«will, on the one hand, have to promote the participations of athletes with disabilities in sports activities and events, and, on the other, secure this participation, in practice, through the enactment of clear procedures, the provision of adequate guidance to the sports federations and to the athletes themselves, and the provision of sufficient resources».*

Accessibility of persons with disabilities to beaches

The Ombudsman, within her jurisdictions as Independent Mechanism for the Promotion, Protection and Monitoring of the Implementation of the UN Convention on the Rights of Persons with Disabilities, proceeded with a self-proclaimed investigation of the issue of the accessibility of persons with disabilities to the beaches.

From the investigation, it was found that the number of the accessible beaches is increasing every year and important steps have been taken for broadening the accessibility of the beaches by persons with disabilities, since in the said beaches there appears to be a chain of accessibility and facilities, which starts from the parking space for persons with disabilities, continues with their access to the beach and then to the sea, as well as to the lavatories for persons with disabilities.

However, a large number of beaches continue not to be accessible and/or their accessibility is partial, as they only have access ramps until the beach, but not until the sea.

From the UN Convention on the Rights of Persons with Disabilities and, in particular, from article 9 of the Convention, the obligation of the State to secure accessibility for persons with disabilities, on an equal basis with the others, to the natural environment and to outdoor installations arises, and also *«for the purposes of promoting equality and elimination of discrimination against persons with disabilities, states should take all the appropriate measures for rational adjustments to be granted to them. The refusal to provide rational adjustments to persons with disabilities constitutes, according to the Convention, to forbidden discrimination, since it contributes to the exclusion and/or restriction of the right of persons with disabilities to enjoy and/or exercise their human rights on an equal basis»*.

On this specific point, the Committee on the Rights of Persons with Disabilities, in its Concluding Observations in April 2017, with regards to the initial Report of Cyprus, *«expressed its concern, for the inadequate, completed and compulsory measures which should ensure that persons with disabilities have access on an equal basis with others, to the outdoor environment and to other goods and services»*. It also recommended that *«the State, in close cooperation with the representative organizations of persons with disabilities, enhances its attempts for improving the accessibility and the application of an internationally recognized standardization, so as to ensure accessibility to the outdoor environment»*.

As a consequence, in the case where *«the forbidding, on the basis of the Law on the Protection of the Beach, of the passage of motor vehicles or other wheeled vehicles on the beach, also includes wheel-chairs (automatic or hand-driven), as is the position of the Cyprus Paraplegic Organization, creates, according also to the provisions of the Convention and the remarks of the Committee in General comment no. 2 (2014), discrimination against persons with disabilities»*.

Similarly, *«the complete ban of the passage of animals on the beach, without any exception for guide-dogs for persons with visual disability, also constitutes discrimination against persons with disabilities, since it deprives or constitutes an obstacle for the persons who move with the help of guide-dogs, to go to the beach independently, and, by extension, to have full and equal access to the natural environment»*.

As was also revealed by the investigation of the matter, the ramps/access passageways of the persons with disabilities and persons with reduced mobility to the beach, most probably do not fulfill any standards of accessibility and, consequently, the chain of accessibility of the persons with disabilities and reduced mobility from the parking space upto the sea is not adequately secured.

For the specific issue, the obligation on the basis of the UN Convention on the Rights for Persons with Disabilities was pointed out *«for the introduction of universally designed products (in the case under examination, ramps/passageways) that can be used, without any exception, by all persons, including persons with disabilities, as well as the necessity which was pointed out in the General Comment of the Committee, for the determination of accessibility standards which will take into account the diversity of the persons with disabilities»* since in this way *«no discrimination will take place against persons with disabilities whose disability is not in their mobility, since they will not be deprived from the luxury of autonomous and decent access to the natural environment»*.

For the purpose of a more complete implementation of the obligations of the State which are defined by the Convention for the realization of the rights of all persons with disabilities, so that the beaches are completely accessible, the Ombudsman, in her relevant Report submitted specific suggestions, both to CTO (presently, Deputy Ministry of Tourism) and the Central Beach Committee, as well as the coastal local authorities.

The suggestions of the Ombudsman concerned, on the one hand, the improvement, where necessary, of the accessibility of the persons with disabilities to the beaches, so that they become fully accessible up to the sea, as well as the continuation of actions to increase the accessible beaches, and to safeguard that the existing accessibility chains are complete and full and, on the other hand, the safeguarding of existing parking spaces available for persons with disabilities next to the access ramp/passageway and that at any point in time, the access of persons with disabilities from the parking space up to the beach and the sea, as well as to the lavatories for persons with disabilities, will be feasible.

The Ombudsman further suggested the examination of adopting international standards for the manufacturing of ramps/passageways on the beaches, as well as the amendment of the

Law on the Protection of the Beach, «so that the ban on the use of wheel-chairs on the beach is excluded, as well as for the passage of guide-dogs on the beach to be permitted, when they are acting as guides for persons with disabilities, always within the context of the relevant provisions which are defined in the Animal Protection and Welfare Law».

In conclusion, the suggestion of the Ombudsman to the coastal local authorities was «to proceed with necessary actions, if they have not done it already, (a) for educating the persons who are employed on the beaches within their administrative boundaries, so that they can provide, where and when necessary, the required help and assistance to persons with disabilities and reduced mobility who go to the beaches and (b) for ensuring that the accessibility of the persons with disabilities and reduced mobility to the beach is, at any point in time, uninterrupted and without any obstacles».

Delay in the examination of applications of persons with disabilities for granting Minimum Guaranteed Income and disability allowance

Complaints which were submitted to our Office concerned the delay on behalf of the Social Welfare Services and the Service for the Administration of Welfare Allowances, during the examination of applications by persons with disabilities for granting either a disability allowance or the said allowance and Minimum Guaranteed Income (MGI).

In particular, on the basis of the Minimum Guaranteed Income and Social Services in General Law, to every beneficiary of MGI who is a person with disabilities, a disability allowance is also granted. For this reason, the applicants of MGI and disability allowance, are referred from Administration of Welfare Allowances to the Department of Social Integration of Persons with Disabilities, where the System for the Evaluation of Disability operates, for the evaluation of their disability, before taking a decision on their application, to decide whether they fall under the meaning of the term «person with disabilities», as this is defined in article 2 of the Law.

As regards especially, the date of starting of the payment of MGI to the applicants who are judged by Administration of Welfare Allowances as beneficiaries, article 8 (3) (b) of the Law is relevant, which foresees, that MGI *«is paid to a beneficiary from the first day of the second month which follows each month during which he/she submitted an application for minimum guaranteed income, regardless of the fact whether he has become a beneficiary at a time later than the first day of the second month that follows each month during which he/she submitted an application for the granting of minimum guaranteed income: It is understood that, the above provisions are applied only under the*

pre-condition that the applicant was a beneficiary for the entire period for which the minimum guaranteed income is paid».

However, when persons with disabilities wait for the examination of their applications for a long period of time, while most of them do not have their own income, it implies their deprivation from basic benefits for their living, as well as their dependence on their families and/or worsening of the economic conditions of their families, whereas the UN Convention on the Rights of Persons with Disabilities also aims for the protection of the standard of living of their families.

In particular, with article 28 of the Convention, «the right of persons with disabilities for an adequate standard of living for themselves and their families is guaranteed, including, adequate clothing and housing and continuous improvement of their living conditions. The party states should take appropriate measures so that they safeguard and promote the realization of the specific right».

Special mention is made in the same article to the persons with disabilities and their families, who live under conditions of poverty, with regards to whom, the party states *«should take measures so that these persons have access to assistance from the state for the expenses which are related to their disability, including adequate training, guidance, economic assistance and provision of care».*

The Committee for Persons with Disabilities of the UN, in the Concluding Observations of April 2017, with regards to the first Report of Cyprus after the ratification of the Convention, noted the MGI and its concern *«for the fact that a large number of persons with disabilities has an especially low income, as well for the fact, that regardless of their income, persons with disabilities do not have a satisfactory standard living compared to other persons with similar living conditions, due to the fact that, amongst other things, they are obliged to pay in part, for the necessary expenses which are related to the disability...».*

For this reason, the Committee recommended to Cyprus «to apply gradual measures for securing a satisfactory income for persons with disabilities, so that the gap between the expenses between persons with disabilities and persons without disabilities is reduced», as well as «to set a minimum limit of social protection which is not affected by expenses related to the disability and the auxiliary devices and payments by the users for social services and support, so as to mitigate the socio-economic disadvantages which arise from the exclusion which the persons with disabilities face».

In view of the above, and after the delays in the processing of the applications of the complainers were pointed out, the Ombudsman, in her relevant Reports suggested the promotion of the examination of the issue of the retrospective payment to the complainers, of the disability allowance, based on the date of submission of their relevant applications.

Stagnation of a student with ADHD due to incomplete attendance because of unexcused absences

A specific student, due to Attention Deficit Hyperactivity Disorder (ADHD), showed impulsiveness and hyperactivity, as well as cognitive weaknesses and learning difficulties – issues that were known to the school which he attended in Nicosia. Much of his behaviour, for which he was either punished as a disciplinary measure with excused absences, or he left the class, therefore he was charged with unexcused absences, «was due to the chronic and serious problems, as described by the Educational Psychologist who monitored him».

Furthermore, the student, until the end of the first school semester had nearly completed the maximum limit of unexcused absences, a fact which seems that his parents were aware of. It is possible then *«that the attempts both of the parents, and of the student himself were intensified, so that other unexcused absences were not made, however, this was something which became impossible»*.

The Educational Psychologist, who monitored the student, in a relevant note of hers, pointed out *«the serious attempt that he made and stressed the need for the issue of his absences to be evaluated by the teachers' association with leniency, so that the possibility is given to him, to sit for the exams of the second examination period and not remain stagnant, so that further difficulties are prevented»*.

However, this suggestion, was either ignored, or was not evaluated adequately during the procedure of taking the relevant decision by the Teachers' Association. This fact, *«in combination with the fact that no milder, more lenient and more appropriate solutions were sought by the school, for the case of the student, ... makes the final decision which was taken disproportionate»*.

On the basis of the Regulations on the Operation of Public Secondary Schools of 1990 until 2016, which applied at the time crucial for the case, *«students who had a number of unexcused absences larger than 51 remained stagnant, without having the right to be referred to promotion examinations. However, in special cases which are properly justified, of students who have serious health problems, with the presentation of a medical certificate, the teachers' association had the discretion to decide otherwise from what has been previously mentioned»*.

In this case however, the Teachers' Association *«strictly applied the above Regulation, judging that the number of absences of the student, given that it was larger than 51, did not permit it to*

take any decision, other than repeating the same class, without the right to sit for exams».

However, and based on the problems that the student faced, the Teachers' Association could, within the context of its discretion, either regard some of the absences of the student as excused, or could regard the suggestions and recommendations of the Educational Psychologist who monitored the student and had pointed out the need of the issue of the absences to be evaluated with leniency, as sufficient proof that his absences were related to the problems he faced and that they should be judged with strictness, since there was a special issue which differentiated the situation with regard to the others.

In 2017, the new Regulations on the Operation of Public Secondary Schools were applied, with which *«it became clear that the serious health problems included problems of mental health too, and that monitoring by the Educational Psychology Service is enough to prove their existence»*. The said development *«is positive, although possibly, the problems which are related to ADHD should also be explicitly included in this provision»*.

The above Regulations, to the extent that they are affected by issues that can be included in the definition of «disability» as foreseen in the UN Convention on the Rights of Persons with Disability, should be interpreted and applied in agreement with the Convention.

Although in the said Regulations explicit references have not been included regarding issues of disability, and especially regarding the obligation of the state to take all the necessary measures to secure the full enjoyment by children with disabilities, of all human rights and fundamental freedoms, including the right of education, on an equal basis with the other children, however, the competent Ministry, in each case, should secure, that the application of the Regulations to students with disabilities should be done in light of the Convention.

In particular, and for the full and correct application of the new Regulations, the competent Ministry *«should combat both, possible issues of ignorance of teachers, regarding special behavioural issues related to mental health problems, as well as stereotypes or prejudices which are possibly found in the correct assessment and evaluation of these issues».*

The education system and teaching, should be *«able to be adjusted, to be in a position to include the various requirements of each student and to remove the obstacles which make this possibility difficult».*

Integration of children with disabilities in infant and child nurseries

A complaint which was submitted concerned the refusal of an Infant Nursery to register the child of the complainers, who is a person with Down Syndrome.

In particular, the parents of a three-year-old child with Down Syndrome had applied to a private infant/child nursery for their child to attend, and received the answer that this could happen only under the condition of the child being escorted by a caregiver. The parents argued that this condition was exclusively as a consequence of the fact that their child has Down Syndrome and is due to the stereotype perception that a child with Down Syndrome must have a special and/or «segregated» treatment and considered that the requirement which was set by the Nursery constituted an unexcused, unfavourable treatment and indirect rejection of the application for the registration of the child at the said Nursery. On the other hand, the Nursery argued that the aforementioned condition had been set because of the fact that the child did not walk and was overweight. However, the reasoning of the Management of the Nursery was not convincing

and this is why it could not be excluded, that the position which it had expressed was due to an incorrect and/or prejudiced perception with regards to Down Syndrome or, more broadly, disability.

In the legislation in force, which governs the terms of operation of the Nurseries, *«no provisions are included, which implement the obligation of the state, which arises from the relevant UN Convention, for taking all the necessary measures to secure the full enjoyment by children with disabilities, of all human rights and fundamental freedoms, including also the right of education, on an equal basis with the other children. As a consequence, no adjustments are foreseen for the evaluation of the needs of preschoolers and infants with disabilities, so that the provision, according to the case, of the necessary, reasonable adjustments and their corresponding financial coverage, where required, is decided by the co-responsible state authorities, in cooperation with the parents and the private Nurseries».*

However, the enactment of such a holistic education framework secured by legislation *«is essential, so as to secure in each case, the personalized granting of appropriate care and total inclusion without discrimination, of children with disabilities in preschool structures and communities. In this way, the smooth transition of children with disabilities to pre-primary and primary education will be achieved and facilitated, also their total integration in society, as well as the prevention and combating of phenomena of segregation, exclusion and stereotypes».*

The suggestion of the Ombudsman in her Report to the Director General of the Ministry of Labour, Welfare and Social Insurance, in the jurisdictions of whom falls the operation of Infants' and Childrens' Nurseries, was to proceed with taking all the necessary measures, so that the relevant legislation (the Law on Children) is amended as soon as possible.

Memorandum regarding the Legislation titled «Law which amends the General Health System Laws of 2001 until 2005»

On the occasion of the discussion before the Parliamentary Health Committee regarding the modernization of the legal framework for the introduction of the General Health System and, in particular, the General Health System (Amendment) Law of 2016, a relevant Memorandum was submitted to the competent Parliamentary Committee, in which, amongst other things, the following was pointed out:

During the preparation of the bill, it appears that the general principles (article 3), the general obligations (article 4) and more specific rights of the Convention (articles 5, 25, 26, 9, 12) were not taken into account, since the bill does not include provisions which guarantee/safeguard for persons with disabilities:

- The right, of equal enjoyment, and without discrimination due to disability, of the highest possible level of health (articles 25, 2 and 5).
- Access to free or economically accessible health care and to relevant programmes (article 25).
- Access to health services sensitive to gender (article 25).
- The availability and access to services of early diagnosis and intervention and to services which minimize and prevent further disabilities (article 25).
- The granting by the professionals of the health sector, of care with equal quality with persons without disabilities, with respect to free and informed consent, regardless of

disability (mental, physical or other), dignity, autonomy and their needs, through training and the publishing of rules of ethics for public and private health care (articles 25 and 12).

- The development of services and rehabilitation programmes in the health sector (article 26).
- The availability and full access to installations, equipment, services, information and technologies which are used in the health sector (e.g. building installations, ambulances, medical machinery, printed and electronic material) (articles 25 and 9).
- The application of the principle of consultation and active involvement/participation in the decisions which concern the application of the General Health System (GHS), through their representative organizations (article 4).

In the same Memorandum, specific indicative remarks were included, concerning certain provisions of the bill.

Memorandum regarding the formulation of a new legislation for the services and benefits towards persons with disabilities

For the purpose of formulating a new legislation for the services and benefits towards persons with disabilities, the Ministry of Labour, Welfare and Social Insurance called citizens and organized bodies to a public consultation, through the completion of a relevant questionnaire.

The above issue concerns the rights, which are regulated by the UN Convention on the Rights of Persons with Disabilities and therefore, the Ombudsman, within the context of her jurisdictions as Independent Mechanism for the Promotion, Protection and Monitoring of the UN Convention on the Rights of Persons with Disabilities, proceeded with a relevant Intervention to the Ministry.

In her Intervention, the Ombudsman noted that the formulation by the Ministry, of a new legislation for the services and benefits to persons with disabilities *«has to be absolutely compatible with everything that is foreseen by the UN Convention on the Rights of Persons with Disabilities and aim for the complete realization of all human rights for all persons with disabilities without discrimination of any kind on the basis of disability»*.

In particular, while the Convention guarantees rights for all persons with disabilities, regardless of the type and degree of their disability, *«with the regulation which is now being followed on a national level, the persons with a milder damage than some others, are deprived of the economic support which is essential so that they can partially fulfill their rights which arise from the Convention»*.

Furthermore, the Convention introduces to the international system of protection of human rights, the social model of disability, however *«with the practice which is followed, which arises from the various definitions of disability which are applied, as well as from the method of evaluation of the disability, we have an exclusive application of the medical model of disability, which ignores the needs of the persons, which arise due to social and other obstacles»*.

Consequently, a person with a milder damage may have exactly the same disability with another person with a more serious damage, *«as the obstacles that they face and the needs that they have are the same (e.g. need for occupational therapy, speech therapy etc.). However, the person with a milder damage does not receive any economic support to have access to the*

therapeutic interventions he/she requires, while the person with the more serious damage receives it. Therefore, on the one hand, the violation of the Convention on the Rights of Persons with Disabilities is established, and on the other, the discrimination against one group of persons with disabilities against others».

More specifically, groups of persons with disabilities with chronic diseases and illnesses, or of elderly persons who may have serious disorders and may not be able to serve themselves completely or may barely do so, who face a number of environmental obstacles in their equal treatment as regards their daily living and have an absolute need for specialized and personalized care, practical help and service, are excluded from significant allowances or other economic and social support.

Therefore, «the above principles and findings should be taken adequately into account within the framework of the formulation of the new legislation and policy by the Ministry. At the same time, the positions of the Organizations ... as well as of KYΣOA (Confederation of Disability Organizations), have to be considered to the maximum extent, which on the basis of the Counseling of State and other Services in Issues concerning Persons with Disabilities Law of 2006, is established as a social partner of the state in issues that concern persons with disability».

Memorandum with regard to the consultation for the formulation of a new policy for the service of the needs of children with disabilities or other educational needs

In view of the consultation for the formulation of a new policy for the service of the needs of children with disabilities or other educational needs, the Ministry of Education, Culture, Sport and Youth asked for the opinion of the Ombudsman, in the framework of her jurisdictions as Independent Mechanism for the Promotion,

Protection and Monitoring of the UN Convention on the Rights of Persons with Disabilities.

In her corresponding memorandum to the Ministry, the Ombudsman made special reference to article 24 of the Convention, with which *«the right to education, of persons with disabilities, with the aim of realizing this right without discrimination and on the basis of equal opportunities is recognized, the obligation of the states to secure a comprehensive education system at all levels and lifelong education is enacted, which is directed: (a) to the complete development of human capabilities and sense of dignity and self-esteem, and the enhancement of respect for human rights, fundamental freedoms and human diversity, (b) to the development of personality, talents and the creativity of persons with disabilities, as well as their spiritual and physical capabilities, to the maximum possible level, and (c) to the facilitation of persons with disabilities to participate effectively in a free society».*

As is further analyzed in the said article, *«with the realization of the right to education, the states secure that (a) Persons with Disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education or from secondary education, on the basis of disability, (b) Persons with disabilities can have access to comprehensive, quality and free primary education and secondary education on an equal basis with others, in the communities they live, (c) Reasonable facilities are provided for the needs of the individual, (d) Persons with disabilities receive the required support, within the general education system, to facilitate their effective education, and (e) Effective measures of personalized support are provided to the surroundings which maximize the academic and social evolution, which is in agreement with the target of full integration».*

In the General Comment with no. 4(2016), on article 24 of the Convention, the UN Committee on the Rights of Persons with Disabilities noted that *«the right to joint/inclusive education*

includes a transformation of culture, of policy and of practice in all the structures of a formal and informal education so that it is in a position to include the different requirements and identities of each student, together with a commitment for the removal of all the obstacles which make this possibility difficult». Based also on the General Comment of the Committee, «the placement of students with disabilities in general classes, which is not accompanied by structural changes in organization, analytical programme, educational and learning strategies and others, does not constitute inclusion...the right to non-discrimination...includes the right of non-segregation and the right for the provision of reasonable adjustments and must be perceived in the context of the duty to secure an accessible learning environment and reasonable adjustments».

The UN Committee on the Rights of Persons with Disabilities, in its Concluding Observations, with regard to the initial Report of Cyprus, mentioned with regard to article 24 and the right to education, that *«it is deeply concerned about the absence in the national legislation of a clear and applied meaning of joint education in the general education system. It notes with concern, that the meaning of segregation in education continues to remain deeply rooted in the education system, a fact that is also frequently reflected in the stances of teachers and other relevant professionals».*

Therefore, it recommended to the Republic of Cyprus to *«(a) Decide upon a clear legislative scope of inclusive education and monitor its implementation with a view to fully replacing segregated education by inclusive education; (b) Adopt a clear, targeted and adequately funded plan of action that includes access to reasonable accommodation and adequate teacher education and training, and progressively ensure that children and adult learners with disabilities are able to exercise their right to inclusive education; (c) Be guided by general comment No. 4 (2016) and targets 4.5 and 4 (a) of the Sustainable Development Goals in ensuring equal access to all levels and types of*

education, education facilities and vocational training by persons with disabilities. ».

On the basis of the above, the Ombudsman noted in her Memorandum that she expects that the formulation by the Ministry of Education, Culture, Sport and Youth «*of a new policy for servicing the needs of children with disabilities or other educational needs has to be absolutely compatible with all that is foreseen by the UN Convention on the Rights of Persons with Disabilities and aims to the complete realization of all human rights of all persons with disabilities without discrimination of any kind on the basis of disability. It should, in particular, introduce a new, clear legislative framework of inclusive education, which at least, gradually and progressively, however within a reasonable period of time, will replace that which today is defined as «special education», so as to secure that all children with disabilities can enjoy their right to joint/inclusive education*».

Draft Bill which regulates the rules that govern the accessibility of websites and applications for portable devices of the organizations of the public sector

The Department of Information Technology Services invited the Ombudsman, within the framework of her jurisdictions as Independent Mechanism for the Promotion, Protection and Monitoring of the UN Convention on the Rights of Persons with Disabilities, to participate in a public consultation regarding the preparation of a draft Bill which regulates the rules that govern the accessibility of websites and applications for portable devices of the organizations of the public sector.

Therefore, the Ombudsman submitted to the Department the positions on the proposed Bill, on the basis of a combined interpretation of the provisions of the UN Convention on the Rights

of Persons with Disabilities and the provisions of (EU) Directive 2016/2012, in the Preamble of which (section 12-13) reference is made to the Convention.

In particular, it was noted that the Bill should include a provision, corresponding to the one which is foreseen by the Law of Persons with Disabilities (article 9C: Out of Court Protection), which will provide that *«Each person that considers that he/she is affected by a violation of the Law is entitled to submit a relevant complaint to the Ombudsman»*, since such a thing *«safeguards a more complete compliance with the relevant Directive, a better application of the legislation after its voting, and an enhanced protection of the rights of Persons with Disabilities, as foreseen by the relevant UN Convention»*.

Furthermore, the need was underlined, with regards to the draft Bill, for the existence of *«an active involvement and participation of organizations which represent the interests of persons with disabilities and of the elderly, further to the submission of comments through Public Consultation»*.

In particular, *«participation and involvement of organizations which represent persons with disabilities and the elderly has to be safeguarded, not only during the preparation of the relevant legislative framework, but also in the monitoring of the application of the legislation»*.

For the purposes of fulfilling the obligation, based on the Directive, for the submission to the European Commission every three years, of a report *«regarding the results of the monitoring of the compliance of websites and applications for portable devices of organizations of the public sector to the requirements of accessibility»*, the draft Bill under discussion should *«perceive that a Monitoring Committee will be set up, which will monitor and submit reports to the European Commission. Given that all that concerns the setting up and operation of the Monitoring Committee will be included in Regulations which will be issued by the Council of Ministers, the Ombudsman mentioned to the*

Department of Information Technology Services that according to her opinion *«for the preparation of the said Regulations there should be a close consultation with the disability and other involved organizations. The possibility should also be examined, that in the composition of the Monitoring Committee itself, representatives of the said Organizations also participate»*.

Accessibility of persons with disabilities to places where theatrical performances are conducted

After the submission of complaints regarding the inadequate accessibility of specific places in which theatrical performances are conducted, which are managed by the Cyprus Theater Organization (THOC), the Ombudsman, within the context of her jurisdictions as Independent Mechanism for the Promotion, Protection and Monitoring of the UN Convention on the Rights for Persons with Disabilities, proceeded self-proclaimed, to the investigation of the broader issue of accessibility of persons with disabilities to places where theatrical performances are conducted. For establishing the level of accessibility of the said places by persons with disabilities and, in particular, whether an adequate chain of accessibility is secured in them, from the parking space up to the place where the performances/events are conducted, as well as whether within the said places, the persons with disabilities can watch comfortably and safely watch the performances/events which are conducted, the opinions of the institutions which manage them were asked, and on-site visits were conducted.

From the on-site visits which were conducted in places and installations where theatrical performances are conducted all over Cyprus, it was established that in most of the cases, the chain

of access to the said places is directed exclusively and is focused to the needs of persons with disabilities in mobility and that adjustments are absent, which would broaden the accessibility to persons with disabilities beyond mobility.

The importance of accessibility of persons with disabilities to the social, economic and cultural environment is pointed out in article 9 of the UN Convention on the Rights of Persons with Disabilities, on the basis of which the States are obliged to take appropriate steps which will secure the accessibility of persons with disabilities, on an equal basis with others, to installations and services which are open or provided to the public. The issue of accessibility is, according to the Convention, directly connected to universal designing of products, environments, programmes and services, which could be used by everybody.

Also according to the Convention, the States have to take appropriate steps, to secure that persons with disabilities have access to cultural material, movies, theatre and other cultural activities, in accessible forms, as well as to places for cultural performances or services, such as theatres, cinemas etc.

In the Cypriot legal order, the basic requirements and specifications that the places of gathering have to fulfill, so that their unhindered use by persons with disabilities and persons with reduced mobility is feasible, are defined by the Roads and Buildings Regulations. However, the said Regulations do not have retrospective effect, that is, they do not apply to cases of existing developments, and do apply only when a permit is submitted for additions/modifications or repairs in these developments, where their full or partial adjustment is required, though at the degree which is feasible.

However, the Republic of Cyprus is bound by the provisions of the Convention which are ratified by Law, the Convention on the Rights of Persons with Disabilities and Related Issues (Ratification) Law 8(III)/2011, which has an additional standard effect over the applicable Laws and Regulations.

In view of the above, suggestions were submitted both for the amendment of the above Regulations, since due to the fact that they are not retrospective, they cannot be applied to existing inaccessible developments, and also to the services/authorities/institutions which own or manage places in which theatrical performances are conducted, to safeguard:

- An unhindered chain of access from the parking place up to the said places for all persons with disabilities, regardless of their disability.
- The existence of a satisfactory number of parking spaces for persons with disabilities at a short distance from the entrances of the said places.
- The existence of a satisfactory number of seats for persons with disabilities, as well as for their escorts, within these said places.
- That the said seats are not situated only in a specific spot of the said places, but wherever and whenever it is technically feasible, at different spots and levels.
- That at any point in time, access of the persons with disability to the emergency exits is feasible.
- That both outside and inside their installations, there will be an adequate and satisfactory marking in appropriate forms, for facilitating the orientation and movement of all persons with disabilities, regardless of their disability.
- That the performances in the places that they own and/or manage, in which theatrical performances are conducted, will become fully accessible to persons with disabilities with visual and hearing impairment.

- The provision of clear instructions to all their staff regarding the method of handling persons with disabilities.

Moreover, a suggestion was made that the managers of theatrical performances, in consultation with the representative organizations of persons with disabilities, amongst other things, stop the practice of demanding the in advance informing by persons with disabilities, of their wish to watch their performances and to ensure that at any point in time, even at a time shortly before the beginning of their performances, there is a number of seats for persons with disabilities, available within the theatres, in case the said persons arrive late at the place of the performance, as well as that the benefit which the European Disability Card offers to persons with disabilities, for free entrance to performances of the Cyprus Theater Organization (THOC) is not cancelled.

With regard especially to the Amphitheatre of the School for the Blind (Makarios III), which is managed by THOC, the suggestions to THOC were that, in cooperation with the Ministry of Education, Culture, Sport and Youth and in consultation with the representative organizations of persons with disabilities, they re-examine ways of making seats for persons with disabilities, at another place in the amphitheatre, other than the corridor at the top of the stands and that they proceed with the necessary arrangements so that watching the performances from the said corridor is done in comfort and safety.

Finally, regarding the remaining theatres/places in which theatrical performances are conducted, individual suggestions were made (a) to the Ministry of Education, Culture, Sport and Youth to examine ways, in consultation with the Ministry of Defence, so that the guard post which is located in front of the Pallas Cinema does not obstruct the safe use of the pavement which leads to the theatre and (b) to CyBC to expedite the construction of lavatories for persons with disabilities in its mini-theatre, as well as to the Municipality of Lakatamia, in its Municipal Amphitheatre.

Provisions of the Minimum Guaranteed Income and Social Services in General Law which are connected to the needs of disability

The Ombudsman, in the context of her jurisdictions as Independent Mechanism for the Promotion, Protection and Monitoring of the UN Convention on the Rights of Persons with Disabilities, proceeded with the investigation of relevant complaints regarding the rejection of applications of persons with disabilities for the provision of Minimum Guaranteed Income (MGI), due to the incomes and/or the deposits of their spouses.

In particular, according to the complainers, during the examination of the said applications which are submitted by persons with disabilities, the Service for the Administration of Welfare Allowances of the Ministry of Labour, Welfare and Social Insurance, counts in their income / takes also into account the income of their spouses or also possible bank deposits of their spouses, with the result of rejecting their applications with the rationale that the income of their family unit exceeds that which is determined in the MGI legislation.

From the investigation of the said complaints, it was established that their subject is directly connected with the provisions of the Minimum Guaranteed Income and Social Services in General Law of 2014 (Law 109(I)/2014), which bind both Administration of Welfare Allowances during the examination of every application for MGI, and the Minister of Labour, Welfare and Social Insurance during the examination of every appeal against the rejection decision of Administration of Welfare Allowances to such an application.

In particular, according to the above Law, every married applicant who is a person with disabilities, regardless of his/her age, is considered as a member of the family unit, for

Administration of Welfare Allowances to decide whether he is a beneficiary of MGI and, as an extension, of disability allowance, of additional allowance for the needs of the disability, or also of a subsidy for services of care, bearing in mind all the income, immovable property or monetary/economic information of the family unit.

In the case, that is, (a) of married persons with disabilities who have completed the age of 28 years, like the complainers, (b) of married persons with disabilities who have not completed the age of 28 years and (c) of a single person with disabilities who has completed the age of 28 years, the incomes of the members of his family unit (spouse/child) are counted in the income of the applicant, and also the immovable property of the members of the family unit, as well as their monetary/economic information/deposits are taken into account, according to the case.

Consequently, the person with disabilities becomes a dependent of the family unit, with the visible danger of the downgrading of the quality of his living conditions and of all the remaining members of the unit, since the family unit, without state contribution, is called upon to cover the needs for food, clothing/footwear, services of home maintenance, water/electricity/fuel, health, transport, telecommunications, entertainment of the person with disabilities as well as the needs which arise from his/her disability.

Therefore, while the cost of the needs which arise from the disability are recognized by the Law, since it foresees the provision of a disability allowance to the beneficiaries of MGI, an allowance for the needs of the disability or even a subsidy for the services of caring, however the Law does not include a provision that the person with disabilities who does not become a beneficiary of MGI, will at least become a beneficiary for the benefits which are directly connected to the needs of his/her disability, regardless of the family income.

However, persons with disabilities should not undergo any discrimination and should not have any dependence on their family unit, but should have an autonomous support based on the basic benefit and their needs. An adequate standard of living contributes, as a chain reaction, to the rights of persons with disabilities, which are recognized by the UN Convention on the Rights of Persons with Disabilities, such as their right to independent living, personal choices and decisions, with regards to the place of living, as well as the participation and integration in the community, while at the same time it excludes the danger of their marginalization.

In view of the above findings and especially as the provisions of the same Law, according to which, married persons with disabilities under 28 years old, married persons with disabilities over 28 years old and single persons with disabilities over 28 years old, when they do not become beneficiaries of MGI, they neither receive a disability allowance, nor an allowance for the needs of the disability, and not even an allowance for care, even when it is deemed that they have a need for care, and having taken into account the provisions of article 28 of the Convention on the Rights for Persons with Disabilities, as well as the Concluding Observations of the UN Committee on the Rights for Persons with Disabilities which concern the said Convention, the following suggestions were submitted to the competent Ministry:

- To promote the amendment of the Law in a way, so as to safeguard that the persons with disabilities, regardless of their age, will not be deprived of disability allowance, the allowance for the needs of the disability or the subsidy for the services of care, due to the counting in their income, of the incomes, immovable property, deposits or other monetary/economic information of the members of their family unit.
- To take all proper steps for the implementation of action no. 20 of the National Action Plan for Disability 2018 – 2020, which concerns the formulation of a new policy and

legislation, with a three-month consultation period for this purpose, with persons with disabilities.

Decision of the Special Multidisciplinary Committee with regard to the application of a kindergarten teacher for registering on the Special List of Teachers with Disabilities, according to the Law on the Recruitment of Persons with Disabilities in the Broader Public Sector (Special Provisions) Law

In the case of the complainant, the procedure foreseen by the Law for the purpose of her application to the Education Service Committee for registering on the Special List of Teachers with Disabilities had been observed (specialty of kindergarten teachers). In particular, Education Service Committee conveyed the application under reference to the Department of Social Integration of Persons with Disabilities, which proceeded with the recommendation of the Special Multidisciplinary Committee which evaluated the complainant twice, both within the context of her application and also during the examination of the appeal which she had submitted, against the rejection decision of Education Service Committee to the said application.

Special Multidisciplinary Committee decided that the visual disability of the complainant does not reduce her capability to find suitable employment and therefore, Education Service Committee rejected her application, as well as the appeal which she had submitted against the said rejection decision.

As was noted in the Report, the rationale of Special Multidisciplinary Committee in its second evaluation was inadequate, since reference was being made to general and vague expressions which can be adopted in many dissimilar cases, indiscriminately. The reasoning of each Special

Multidisciplinary Committee will, however, have to be complete, since the concise explanation of its decision is not sufficient, that is, if the applicant for hiring in the broader public sector is or is not a person with disabilities according to the Law.

The Law demands a report which has to include the clear and documented decision of Special Multidisciplinary Committee regarding the preconditions which constitute the meaning of the term «person with disabilities» and bearing in mind the purpose for which the Law was put into force and the purpose for which it aims.

It was suggested that the Department of Social Integration for Persons with Disabilities ensures the immediate re-examination of the decision by Special Multidisciplinary Committee and informs the complainant accordingly, as well as the Office of the Ombudsman.

Representation of Parents in Employment Centres for Persons with Disabilities

In the Report, it was noted that the fact that institutionally, the participation of persons with disabilities in the decisions that concern their daily employment and activity in a specific Centre for the Accommodation and Employment for Persons with Special Needs in Larnaca is not foreseen, causes concern, as well as that the representation of the parents in its Board of Directors is interpreted by the Centre in a very restrictive manner. The creation of a separate Parents' Association is impossible, with the result that the required importance is not given to the role that the parents could potentially play, as supporters of their children, in issues which directly affect their rights, their welfare and their social integration.

A suggestion was made to the Minister of Labour, Welfare and Social Insurance to examine the issue of the amendment of the Law on Adult Centres, so that it agrees with the provisions of the UN Convention on the Rights of Persons with Disabilities, as regards the participation in taking decisions which concern them.

Furthermore, a suggestion was made so that the Board of Directors of the Centre under reference, would examine the possibility of reinstating the issue regarding the participation of the parents, as well as the persons with disabilities themselves who receive its services, where this is possible, in the issues that are affected by the provided services and the protected rights of these persons.

Procedure of compulsory examination and hospitalization of a person

The complaint concerned the procedure which was followed for the purpose of the compulsory examination and hospitalization of the father of the complainers, by the Social Welfare Services.

In the Report, reference was made to the institutional framework relevant to the matter and, in particular, to article 10(1)(g) of the Law on Psychiatric Care, which guarantees the obligation to provide, primarily, to the patient and afterwards, to the personal representatives of the patient, the right to be heard, during the procedures of issuing an order for hospitalization. According to the provision, the opinion of the social worker who gets involved, in each case, is heard in court, when the personal representative of the patient cannot be located.

In this case, it appeared that efforts were not made by the Social Welfare Services to locate and inform the children of the interested party, as it was argued, «due to its urgent situation», with the result that they did not have the opportunity to present their opinion regarding the procedure which their father underwent.

Although, as was noted in the report, the description of urgent is not overlooked, for the intervention and for facing the situation of the complainer, which the Social Welfare Services judged that it needed immediate hospitalization, it was stressed that this does not justify the absence of any communication attempt, if not consultation, with the family of the complainer.

The prerequisite need for one contact with the relatives, in this case, his children, so that they themselves are also heard, as his representatives, right before he is taken to compulsory examination, could, as it was underlined, occur without any delay being caused in the procedure, bearing especially in mind that the supportive framework of the interested party was always his children and his family.

The complete absence of an attempt to inform them, violates both the national legislation, as well as the relevant Recommendation of the Committee of Ministers of the Council of Europe [Rec(2004)10], as well as the relevant case law of the European Court of Human Rights.

Confinement, as an exceptional measure and a form of deprivation and restriction of the freedom of the persons, is not meant to occur without reverently adhering to, all the required procedural pre-conditions and, consequently, the report was submitted to the Director of Social Welfare Services, with the suggestion, that within the framework of her jurisdictions, she takes the appropriate measures to avoid similar handlings in the future.

The Right of independent living

The submission of the specific Position was deemed necessary, since, through the examination of complaints which were submitted to the Ombudsman, in the context of her jurisdictions as Independent Mechanism for the Promotion, Protection and Monitoring of the UN Convention on the Rights of Persons with Disabilities, it appeared that the problem of insufficiency, both on the level of numbers and also on the level of services provided, of the hospitality structures for persons with disabilities and, in particular, serious or multiple disabilities, continues to exist. It was also deemed necessary, for the additional reason that, at this point in time, the assigning and implementation of a co-financed project for the «Creation of New Residences of Supported Living» is pending, and it is required from the Ombudsman, as Independent Mechanism for the Promotion, Protection and Monitoring of the UN Convention on the Rights of Persons with Disabilities, to proceed with specific remarks, suggestions and recommendations.

In the Position, reference was made to the existing Legislation and structures, as well as to the Plan for Creating New Residences of Independent Living. Furthermore, the right of persons with disabilities to supported independent living was noted, as recognized by article 19 of the UN Convention on the Rights of Persons with Disabilities which concerns the independent living and integration in society and as was clarified in the General Comment with no. 5 (2017) of the UN Committee of Rights of Persons with Disabilities.

The promotion of Programmes of Supported Living for the creation of new residences of supported living was welcomed by the Department of Social Inclusion of Persons with Disabilities and the following were pointed out:

- The implementation, operation and monitoring of Programmes of supported living is required to be in agreement with all the provisions of the Convention.
- In the core of the operation of the Programmes, the fundamental principle should dominate, that persons with disabilities are not recipients of charity or subject to decisions which are taken by others, but equal subjects of rights, who enjoy, like everybody, freedom of choice, and exercise the same control over their lives.
- After the integration of persons with disabilities into a structure of supported living, they have to enjoy autonomy and independence in their choices.
- Supported living should not cancel independent living, but it should promote it, facilitate it and evolve it.
- At the same time, the social integration of persons with disabilities who are included in Programmes of supported living should be promoted, interacting and developing relations with other people.
- On the basis of the Convention, the legislation, policies and programmes have to include all persons with disabilities, regardless of the type and seriousness of their disability.
- Although the new Plan appears to cover all persons with serious disabilities, it includes a forecast for the exclusion of persons with «serious behaviour disorders».

Therefore a suggestion was made, that the said forecast is interpreted closely, with the help of experts so that persons who could, after-all, co-habit with others, are not excluded in general.

Remarks regarding the provisions of the bill titled «The Unified Education (Support Structures) Law of 2019»

Subsequent to a relevant meeting with the organizations of the parents of children with disabilities, during which their positions and opinions were filed on the proposed bill, the Ombudsman, in a relevant Position of hers to the Ministry of Education, Culture, Sports and Youth, presented her remarks regarding this, with the aim of compatibility with the UN Convention on the Rights of Children and the UN Convention on the Rights of Persons with Disabilities.

The remarks of the Ombudsman, which aimed to consolidate the various opinions of the organized parents on the matter, always on the basis of the provisions of the Convention, include, amongst others, the following:

- The early diagnosis and intervention for children aged 0 – 3, who still attend infant/child nurseries, is of crucial importance for the child, as well as for the subsequent provision of the necessary support to it by the State, in the context of the educational procedure.
- The said bill should secure that all children should have the opportunity to equal access and to then be judged whether they can manage, based on the personalized support programme.
- The teachers should have a holistic education so that they are ready to face persons with disabilities and should not have random education.
- The school assistants/escorts should cease to be hired by the School Boards and specific service plans should be

determined which should demand teachers' qualifications.

- It should be foreseen that the opinion of the child, is not only expressed, but is also adequately taken into account, according to the degree of perception and maturity of the child.
- There is no adequate guarantee of the participation of the parents in the procedure of decision-taking with regard to the type of education which the child will receive and the monitoring of its course, to the opinion of whom, the experts wanted to give an additional weight, with regard to the legal status which applies today.
- To guarantee that differentiated and personalized analytical programmes should be formulated, which will lead to the same result of ordinary education to the degree of capability of everybody. On this specific matter, the issue of the evaluation of the children has to be cleared, mainly with regard to the common examinations at the end of the semesters.
- The existence of compatible structures is necessary for serving the needs of all children without exception, for reducing the number of students per department, as well as for the presence of a second teacher in the classroom, when necessary, for the provision of support to children that need it.
- The parent of the child should from now on become an equal partner with the other institutions, in matters that concern his/her child itself.

Position on the occasion of the World Day of Persons with Disabilities

On the occasion of the World Day of Persons with Disabilities, the Ombudsman issued a relevant Position, in which it was pointed out, amongst other things, that with the UN Convention on the Rights of Persons with Disabilities and its Optional Protocol, from now on, disability constitutes an issue of human rights.

The provisions of the Convention concern the individual, political, economic, social and cultural rights, covering amongst other things, the sectors of employment, accessibility to the natural and structured environment and information technology.

In the Position, indicative reference was made to cases of compliance of the State and the competent Authorities with suggestions and recommendations which the Ombudsman submitted in her respective Reports and, as it was noted, these cases will become a guide and an opinion for the future actions of the State with regard to persons with disabilities, which will have to aim to the adoption and application of policies and practices which will foresee the full integration of persons with disabilities.

In conclusion, it was pointed out, that it must become clear to all, that the removal of the obstacles which inter-react with persons with disabilities and obstruct their full and effective participation in society, on an equal basis with everybody, is an obligation of all of us.

The Decree on Roads and Buildings (Amendment of Annex III) of 2018

A complaint which was submitted to our Office by a representative Organization of persons with disabilities, concerned the publishing, in September 2018, in the Official Gazette of the Republic, of a Decree of the Minister of Interior (Regulatory Administrative Act) with which paragraph 3.191 of Annex III of the above Regulations was replaced by paragraph 3.185.

In particular, with the Decree, amongst other things, the general requirements of accessibility of persons with disabilities to lavatories in buildings of public use were amended, since paragraph 3.191 of Annex III was replaced by paragraph 3.185. Consequently, with the replacement of Table 2 of paragraph 3.191 with Table 2 of paragraph 3.185, the requirements for lavatories for persons with disabilities in buildings of public use were reduced.

The Organization asked from the Ministry of Interior, the restoration of the downgrading of the provisions of the Regulations, as well as, amongst other things, the termination of possible attempts of further amendments of provisions of the Regulations regarding the accessibility in public buildings of persons with disabilities who move on wheelchairs, since the said group of persons with disabilities is not represented in the Consultative Committee of Accessibility.

The Ombudsman, with her letters to the Ministry, drew his attention to the relevant provisions of the UN Convention on the Rights of Persons with Disabilities (Articles 2, 4, 9 and 27), relevant passages from the Concluding Observations of the UN Committee on the Rights of Person with Disabilities, with regard to the initial Report of Cyprus (Paragraphs 7, 8, 25 and 26), as well as the remark of the

Committee, in the General Comment with no. 2 (2014), that the safeguarding of full access to installations which are open to the public constitutes a vital pre-condition for the effective exercise of many rights which are covered by the Convention. She pointed out that the above Decree sets aside and violates the rights of persons with disabilities, especially of those who move with wheelchairs.

A suggestion of the Ombudsman to the Ministry was the revocation of the Decree and the re-examination of its provisions with regard to the accessibility of persons with disabilities to lavatories, after asking and taking also into account the opinions of the representative organizations of persons with disabilities which are directly involved.

Visit to the Psychiatric Clinic of the General Hospital of Limassol

Visit to the Psychiatric Clinic of the General Hospital of Limassol, on the occasion of a complaint which was submitted by a nursing officer who works in the Clinic, with regard to the lavatories, who, as he claims, is not appropriate for persons with disabilities.

The visit is the first which was conducted in the Psychiatric Clinic of the General Hospital of Limassol, and it was chosen that this was done (in combination) both on the basis of the jurisdictions of the Ombudsman as Independent Mechanism for the Promotion, Protection and Monitoring of the Implementation of the UN Convention on the Rights of Persons with Disabilities and in her capacity as National Mechanism for the Prevention of Torture.

The visit had as a main subject, the examination of the material conditions of the hospitality of patients in the Clinic.

In this framework, two Officers visited the Clinic and had a meeting with the Chief Nursing Officer, as well as with the staff which was working during the visit. During the meeting, the wider issues that concern the operation of the clinic were discussed and the spaces of the Clinic were inspected, including the wards of the patients.

It was initially stressed in the Report that the basic aim during the examination of the material conditions in psychiatric institutions is the securing of conditions of respect for human dignity and for the treatment of mental patients. Therefore, the conditions which prevail in places where mental patients stay should contribute to the creation of a therapeutic environment, which does not lead to an inhuman and humiliating treatment.

It was also pointed out, that the quality of the provided services cannot be based only on the attempts of the staff, but is directly connected to the economic resources which the State decides to allot to this sector. For this reason, the State should safeguard a dignified and therapeutic environment for the persons who are treated in psychiatric institutions, in any case, even in periods of suspension of public expenditure.

On the day the visit to the clinic was conducted, 15 persons were being treated, of whom 8 were women and 7 were men. The total official capacity of the clinic is 20 persons.

As it appeared from the visit, even though the wards of the patients were, in general, in a good condition, adhering to the international standards, however, the cupboards for keeping personal items of the patients were few and in several cases, were broken.

In addition, from the visit, it was established that the lavatories, which were 4 (two men's toilets – two women's toilets and two

showers for each sex), were far from the wards of the patients, with the result that often, especially during the night, as the nurses mentioned, patients have difficulty to use them. Also, the use of the toilets and the showers by persons with disabilities is difficult, due to their construction, and despite the attempts to make their use by persons with disabilities possible (placement of a protective bar in the toilets), it was not done to a satisfactory extent.

During the visit, it was established that there is not an enough number of lavatories and showers and their layout is problematic, especially for their use by persons with disabilities.

It was established that the installations provided enough space, light and air, per patient, however, the situation, especially the layout of the building installations was not deemed sufficiently satisfactory, since it reveals in a very clear way, that the spaces of the Clinic are old and non-functional. The wards of the patients, due to the layout of the clinic, (the construction of the place in which it is housed, was initially intended for another purpose and not for a clinic, which arose later, due to needs), are very far from the space where the staff is located, with the result that problems are created with the supervision of the patients, especially during the night, when only two nurses are on duty.

Finally, it was noted that the Psychiatric Clinic of the General Hospital of Limassol needs immediate and substantial improvements, so that it fulfills the pre-conditions of a modern psychiatric institution and submitted the following suggestions:

- The lavatories should be repaired and/or re-constructed so that they are fully functional and their unhindered use by persons with disabilities is secured. It is also required that their number is increased, so that they can serve 20 patients, while the possibility of creating the additional lavatories near the wards of the patients, for being of better service to them, should be examined.

- The cupboards for keeping personal items of the patients should be replaced and, where necessary, should be increased, as well as the cupboards in the kitchen of the patients.
- As regards the issue of the remote distance of the wards of the patients from the location of the staff, a suggestion was made, that all the involved institutions (Mental Health Services, Ministry of Health, Public Works Department) examine it, with the purpose of taking all the necessary measures to confront it.
- Reinforcement of staffing of the wards during evening hours.
- Constant training of the staff and securing a dignified work environment, so that the unfavourable consequences of the difficult task of caring for mental patients are avoided.







indicative cases of compliance

INDICATIVE CASES OF COMPLIANCE

Retrospective payment of Minimum Guaranteed Income to persons with disabilities

After the submission of the relevant Report by our Office, regarding the practice of the Service for the Administration of Welfare Benefits to pay Minimum Guaranteed Income (MGI) to beneficiary persons with disabilities, bearing in mind the date of approval of their relevant applications, instead of the date of their submission, in 2017 the Ministry of Labour, Welfare and Social Insurance informed our Office that they had instructions from Administration of Welfare Benefits that *«the approval and the beginning of the payment of MGI and the disability allowance in the cases of applicants whose disability existed at the time of submission of their relevant applications, is done from the first day of the second month that follows the date of submission of the applications, as foreseen in paragraph 3 of article 8 of the Law on Minimum Guaranteed Income and More on Social Benefits, and not from the date of assessment of their disability»*.

Also according to the Ministry, instructions were given to the Disability Assessment Centre so that *«in the cases, where the doctors, during the assessment and certification of the disability, can, on the basis of the history of the applicant and/or the medical documents which are presented or submitted by the applicant, confirm that the disability existed before the submission of the application for MGI, they should include a relevant reference in the opinion they give, so that Administration of Welfare Benefits applies retrospectively the provisions of the Law on Minimum Guaranteed Income and More on Social Benefits, for*

all the period during which the applicant was a beneficiary of EEE, according to article 8(3) of the Law».

On the basis of the above arrangements, the Ministry, from now on, proceeds with retrospective payment of MGI to persons with disabilities for periods that precede the date of assessment of their disability by the Disability Assessment Centre.

Rejection of a request from a reservist with serious mental disability to hand over arms with which he was charged

A complaint which was submitted against the Ministry of Defence, concerned the rejection, by the military unit in which the complainer serves as a reservist, of his request to hand over the arms with which he was charged.

The complainer is a person with a serious form of mental disability, which was certified by the Disability Assessment Centre of the Department of Social Inclusion for Persons with Disabilities of the Ministry of Labour, Welfare and Social Insurance and based on a relevant medical certificate, suffers from symptoms of chronic anxiety disorder and depression syndrome, follows medical treatment for years and as from February 2016, his condition had deteriorated dramatically.

Furthermore, the complainer is a recipient of Minimum Guaranteed Income and disability allowance.

Subsequent to a relevant intervention of our Office to the Ministry, National Guard General Staff proceeded with the investigation of the case of the complainer and his unit called him and he handed over his arms, while he himself was referred to the Military Hospital (106 MH) for examination by the Committee of

Examination of Physical Capability and he was granted a two-year suspension for health reasons, from the obligation of presenting himself to reservist exercises.

Accessibility of persons with disabilities to beaches

After the submission of the relevant Report of the Ombudsman, a broader meeting was held at the Offices of the Cyprus Tourism Organization (now, Deputy Ministry of Tourism), at which representatives from our Office, of involved Authorities/Services and representative organizations of persons with disabilities were present. In the meeting, the content of her Report was discussed extensively, as well as the steps that had to be taken to broaden the accessibility of persons with disabilities to beaches. It was further decided to establish a Committee for the Accessibility of persons with disabilities to the beaches, in which our Office also participates.

A discussion followed before the Parliamentary Interior Committee for an amendment of the relevant legislation [the Law on the Protection of the Beach (CAP. 59)] for the improvement of accessibility of persons with disabilities to beaches and on 29 May 2019, the Law on the Protection of the Beach (Amendment) Law of 2019 (Law 79(I)/2019) was published in the Official Gazette of the Republic, with which the specific provisions of the Law that concern the accessibility of persons with disabilities to the beach were amended, as a suggestion in the relevant Report of the Ombudsman.

The said amendments which have been made to the Law, are the following:

- a. The banning of driving a motor vehicle or other wheeled vehicle on the beach, does not include the use of a

wheelchair any more, automatic or hand-driven, which is a transportation means for a person with disabilities, as well as automatic-driven means or small vehicles which offer transportation to persons with serious mobility disability, which move on a special passageway with appropriate marking [paragraph (d) of article 5D].

- b. The banning of driving or walking of any animal on the beach or washing of an animal in the sea, except only from areas which are designated by the Central Committee of Beaches as areas for washing of dogs in the sea, does no longer include the driving or walking on the beach or the entering in the sea of trained dogs for the assistance of blind people and persons with disabilities, which are used by them as assistants and/or escorts [section (e) of article 5D].
- c. Paragraph (d) of section (2) of article 5G was replaced by the paragraph *«the local administration authority should create infrastructures, with the corresponding labeling, to safeguard the free and unhindered access of persons with disabilities to the beach and the sea, including the accessible parking spaces and lavatories, as well as the passageways, appropriately transformed for easy and safe entry of persons with wheelchairs into the sea»*.

At the same time, the number of ramps/passageways of access to the beach increased and/or the existing ones were improved, while autonomous systems of sea access (Seatrac) and special amphibious wheelchairs were placed on beaches which did not have and/or were not accessible to persons with disabilities.

Furthermore, a new meeting was held at the Offices of the Deputy Ministry of Tourism, at which our Office also participated, during which the additional actions that had to be taken were examined, for the improvement of accessibility of persons with disabilities to the beaches, as well as the contribution of the Deputy Ministry of Tourism to this direction.

As a result of the meeting, the Deputy Ministry of Tourism announced the beginning of the Plan for subsidizing projects for the organization and safety of beaches with the emphasis on the improvement of infrastructures for persons with disabilities (2019-2020), which is directed to local authorities and, amongst other things, concerns the provision of support for the improvement of existing infrastructures for persons with disabilities which concern mobility difficulties and creation of infrastructures for other groups of persons with disabilities.

Accessibility of persons with disabilities to places where theatrical performances are conducted

After the submission of the relevant Report of the Ombudsman, the Cyprus Theater Organization (THOC):

- a. Proceeded with representations to its Studier to implement, where possible, the suggestions which were included in the Report and concerned the Amphitheatre of the School for the Blind (Makarios III).
- b. Has included in its programming, the over-titling in Greek, of all the productions of the Central and of the New Stage, as well as of Stage 018 and of «Apothikes» Theatre, with the frequency of two over-titled performances per month for each production (information about the said performances are uploaded on the webpage of ΘΟΚ).
- c. For the year 2020, over-titles in Greek are programmed both for the Central and for the New Stage as well as for the Children's Stage of THOC.
- d. Continues the Operation of «Δείτε μας Αλλιώς» [«See us Otherwise»] which offers the possibility to persons with visual

disability to watch the performances of OOK on specific dates.

Provisions of the Law on Minimum Guaranteed Income and More on Social Benefits which are connected to the needs of disability

After the submission of the report of the Ombudsman regarding the specific provisions of the above Law, a discussion began, before the Parliamentary Committee of Labour, Welfare and Social Insurance, for the amendment of the said Law and/or for the preparation of a new legislation, so that persons with disabilities have full access to Minimum Guaranteed Income and to the allowances which are related to their disability and not to be excluded from them, due to the amount of the monetary/economic information of the members of their family units.

The Roads and Buildings (Amendment of Annex III) Decree of 2018

Subsequent to a relevant intervention of the Ombudsman to the Ministry of Interior, regarding the publishing of the above Decree with which the accessibility of persons with disabilities to lavatories in buildings of public use was downgraded, the Ministry proceeded, amongst other things, with the following actions:

- It submitted a proposal to the Consultative Committee of Accessibility for the reviewing of the Roads and Buildings (Amendment of Annex III) Decree of 2018 (Κ.Δ.Π. 262/2018), [Regulatory Administrative Act] on the basis of which, in all categories of development there will always be a place accessible and transformed for persons with disabilities.
- After securing the comments of the members of the Consultative Committee, the issue would be promoted to the Ministry of Interior for information and approval and then the draft of the Decree would be put for public consultation for one month.
- The Ministry of Interior gave instructions to expedite the issuing of a Decree to replace the existing one, to solve the problem which was established regarding the lavatories, with regard to which a public consultation will follow, so that all the interested and affected parties will be able to submit comments and opinions before its finalization and issuing.
- It would promote a proposal before the Consultative Committee for the participation of the Cyprus Paraplegic Organization (Ο.ΠΑ.Κ.) in the Committee, since it has the opinion that the representatives of Ο.ΠΑ.Κ. *«have useful opinions and information about accessibility»*.

Subsequently, and in particular, on 13 Δεκεμβρίου 2019, the Roads and Buildings (Amendment of Annex III) Decree No.1 of 2019 was published in the Official Gazette of the Republic, with which the accessibility of persons with disabilities to lavatories in buildings of public use was improved. In particular:

- In restaurants/cafeterias and developments of similar use with a total area of 65 sq.m., from now on, lavatories accessible to persons with disabilities are required, without discrimination to gender.

- The said provision does not apply to developments which are integrated in joint developments, provided that such a jointly-owned and jointly-used space is determined at the same level and at a distance not bigger than 40 metres.

The minimum number of lavatories and facilities for persons with disabilities per development is determined in a relevant Table which is included in the Decree.



discussion of issues in the house of representatives

DISCUSSION OF ISSUES IN THE HOUSE OF REPRESENTATIVES

All through the year, the Ombudsman is invited and is present at meetings of the Parliamentary Committees of the House of Representatives, to express her opinion with regard to the provisions of legislations or issues related to her jurisdictions.

During the three-year period of 2017 – 2018 - 2019, both the Ombudsman and Officers of our Office participated in the following meetings of the Parliamentary Committees with regard to issues that are affected by the jurisdictions of the Ombudsman as Independent Mechanism for the Promotion, Protection and Monitoring of the Implementation of the UN Convention on the Rights of Persons with Disabilities:

Parliamentary Committee of Labour, Welfare and Social Insurance

- On 17 and 24 January and 14 February 2017, an Officer of the Office participated in meetings of the Parliamentary Committee of Labour, Welfare and Social Insurance, in which the discussion which had started on 6 September 2016, regarding the issues of care for persons with autism and mental disability continued.
- On 13 June 2017, an Officer of the Office who is responsible for issues concerning the Independent Mechanism for the Promotion, Protection and Monitoring of the UN Convention on the Rights of Persons with Disabilities,

participated in a meeting of the Parliamentary Committee of Labour, Welfare and Social Insurance, in which the briefing of the Parliamentary Committee regarding the report of Cyprus to the UN with regard to the application of the Convention on the Rights of Persons with Disabilities continued.

In the same meeting, the problems which are created to persons with disabilities due to the age restriction placed by the Plan for the Provision of an Allowance for Heavy Mobility Disability were also examined.

- On 26 September 2017, Officers of the Office participated in the meeting of the Parliamentary Committee of Labour, Welfare and Social Insurance, during which the following were discussed: (a) the problems which persons with autistic characteristics face, the need to support their families and the creation of appropriated infrastructures for care and training and (b) the need for the creation of Accommodation Centres for Adult Persons with Special Needs or economic enhancement of existing centres for the accommodation of persons with psychiatric problems who have completed the 21st year of their age.
- On 12 February 2018, an Officer of the Office participated in a meeting of the Parliamentary Committee of Labour, Welfare and Social Insurance for the discussion of the draft bill for the amendment of the Law on Mentally Retarded Persons (the Mentally Retarded Persons (Amendment) Law of 2017).
- On 15 May 2018, Officers of the Office participated in a meeting of the Parliamentary Committee of Labour, Welfare and Social Insurance, with the subject of the briefing of the Committee for the report of Cyprus to the UN with regard to the implementation of the Convention on the Rights of Persons with Disabilities.

- On 26 June 2018, an Officer of the Office participated in a meeting of the Parliamentary Committee of Labour, Welfare and Social Insurance, for the discussion of the issue of «the Recruitment of Persons with Disabilities in the Wider Public Sector (Special Provisions) (Amendment) Law of 2018».
- On 18 September 2018, Officers of the Office participated in a meeting of the Parliamentary Committee of Labour, Welfare and Social Insurance, to discuss the following issues (a) the delay which is observed in the examination of the applications for granting an allowance for the care of elderly persons with disabilities and persons with disabilities, the method of calculation of the said allowance and the problems that beneficiaries and caregivers face, due to its method of payment and (b) the need for modernization of the care allowance which is given to quadriplegic persons with the aim of upgrading the quality of life of these persons.
- On 6 November 2018, an Officer of the Office participated in a meeting of the Parliamentary Committee of Labour, Welfare and Social Insurance, during which the Bill with the title «The Accessibility of Websites and Applications for Portable Devices of Public Sector Organizations Law of 2018» was discussed.
- On 19 February 2019, an Officer of the Office participated in a meeting of the Parliamentary Committee of Labour, Welfare and Social Insurance, during which the discussion about the Legislation with the title «The Accessibility of Websites and Applications for Portable Devices of Public Sector Organizations Law of 2018» continued.
- On March 2019, an Officer of the Office participated in a meeting of the Parliamentary Committee of Labour, Welfare and Social Insurance for the discussion of the following issues: (a) The problems that persons with autistic

characteristics face, the need for the support of their families and the creation of appropriate infrastructures for care and training and (b) The need for the creation of Accommodation of Adults with Special Needs or the economic enhancement of existing centres for the accommodation of persons with psychiatric problems who have completed the 21st year of their age.

- On 22 October and 12 November 2019, an Officer of the Office participated in the meetings of the Parliamentary Committee of Labour, Welfare and Social Insurance during which the amendment of the Law on Minimum Guaranteed Income was discussed.

Parliamentary Committee for Human Rights and Equal Opportunities between Men and Women

- On 22 May 2017, an Officer of the Office participated in a meeting of the Parliamentary Committee for Human Rights and Equal Opportunities between Men and Women, for the discussion of the issue of accessibility of audio-visual services to persons with visual or hearing disability.
- On 25 September 2018, the Ombudsman and an Officer of the Office participated in a meeting of the Parliamentary Committee for Human Rights and Equal Opportunities between Men and Women for the discussion of the following matters: (a) the problems that persons with autistic characteristics face, the need for the support of their families and the creation of appropriate infrastructures of care and training and (b) the need for the creation of Accommodation Centres for Adults with Special Needs or economic enhancement of existing centres for the accommodation of persons with psychiatric problems who have completed the 21st year of their age.





participation in activities seminars trainings

PARTICIPATION IN ACTIVITIES/SEMINARS/TRAININGS

The Ombudsman and Officers of the Office took part in meetings, lectures, events and trainings, with regard to the UN Convention on the Rights for Persons with Disabilities, as well as regarding the rights of persons with disabilities in general.

Indicatively, the following are noted:

- An Officer of the Office participated in an all-day event of the Association of Consumers of Paphos and proceeded with a relevant presentation with the subject «Discrimination at work: The examples of gender and Disability».
- The Office of the Ombudsman participated in the event which the Department of Social Inclusion of Persons with Disabilities organized, in cooperation with the European Commission and the European Expert Group on the Transition from institutional Care to Community - Based Care (EEG) with the subject «Transition from institutional care to care in the community».
- The Ombudsman attended and addressed the Electoral General Assembly of the Cyprus Confederation of Organizations of the Disabled (CCOD).
- An Officer of the Office participated with a speech in an all-day event organized by the Learning Core of Nurses in Mental Health with the subject «*The Rights of Mental Patients*».

- An Officer of the Office participated in a discussion of the research centre Promitheas regarding the socialization policy of persons with disabilities.
- An Officer of the Office participated in a two-day meeting of the Working Group of the European Network of National Human Rights Institutions (ENNHRI) for the UN Convention on the Rights of Persons with Disabilities (ENNHRI CRPD Working Group 14th Meeting). The meeting took place on 17 and 18 May 2017, in Brussels.
- An Officer of the Office participated in the meeting of the EU Agency for Fundamental Rights (FRA) with the national monitoring mechanisms for the UN Convention on the Rights of Persons with Disabilities. The meeting took place on 18 May 2017, in the building of the European Parliament in Brussels.
- An Officer of the Office participated in the Work Forum on the Implementation of the UN Convention on the Rights of Persons with Disabilities in the EU and the Member State. The Work Forum was organized by the European Commission on 19 May 2017, in Brussels.
- An Officer of the Office participated in a seminar of the Academy of European Law – ERA with the subject «EU disability law and the UN Convention on the Rights of Persons with Disabilities». The seminar concerned the basic provisions of the UN Convention on the Rights of Persons with Disabilities, while there were separate sections for the monitoring of the Convention, issues of evaluation, accessibility and employment of persons with disabilities, as well as the collection of statistics with regard to persons with disabilities. The seminar took place on 13-14 November 2017, in Trier, Germany.
- An Officer of the Office represented the Office on 15-16 November 2018 in Vienna, in a meeting of the EU

Ombudspersons for Persons with Disabilities, which was organized by the Office of the Austrian Disability Ombudsman within the framework of the Austrian Presidency of the Council of the EU.

- An Officer of the Office attended a Press conference on the occasion of the World Day of Persons with Disabilities and the proclamation of the beginning of the Week of Awareness and Familiarization with Disability at Schools. The event was organized by the Ministry of Education, Culture, Sport and Youth, in cooperation with the Pancyprian Federation of Associations of Parents with Special Needs and took place on 3 December 2018, in the building of the Ministry.
- An Officer of the Office carried out a presentation on 7 March 2019, in the Police Academy about the Social Model of Disability.
- The Ombudsman attended the 39th annual General Meeting of the Pancyprian Blind Organization, which took place on 15 June, 2019, in the School for the Blind, in Nicosia.

Co-organization of an all-day event with the subject «Prospects for the promotion of the rights of persons with disabilities after the Concluding Observations about Cyprus of the UN Committee on the Rights of Persons with Disabilities»

On 12 July 2017 and on the occasion of the publishing of the Concluding Observations of the Committee with regard to the Report of Cyprus for the implementation of the Convention on the Rights of Persons with Disabilities, an all-day event took place with the subject *«Prospects for the promotion of the rights of persons with disabilities after the Concluding Observations about Cyprus of the UN Committee on the Rights of Persons with Disabilities»*.

The all-day event was co-organized by the Office of the Ombudsman, under the capacity of the Ombudsman as Independent Mechanism for the Promotion, Protection and Monitoring of the UN Convention on the Rights of Persons with Disabilities and the Cyprus Confederation of Organizations of the Disabled (CCOD).

In the all-day event, representatives of organizations of persons with disabilities, civil servants and representatives of non-governmental/non-profit organizations participated.

On behalf of the Minister of Labour, Welfare and Social Insurance, the all-day event was addressed by the Director of the Department of Social Inclusion of Persons with Disabilities, Mrs. Christina Flourentzou, which was followed by addresses from the Ombudsman, Mrs. Maria Stylianou - Lottides and the President of CCOD, Mr. Christakis Nikolaides. Messrs. Christakis Nikolaides, Maria Stylianou – Lottides and Christina Flourentzou then proceeded with their interventions.

In her starting remarks at the all-day event, the Ombudsman pointed out, amongst other things, that *«many other steps need to be taken for the equal treatment of persons with disabilities and the elimination of stereotypes and prejudices. Any suspension of actions which will contribute and safeguard the rights of persons with disabilities is no longer excused, with respect to their dignity and to equality. Our Office will continue to remind the standards of rights of the Convention with every opportunity and to intervene where discrimination and violations of rights against persons with disabilities are established»*.

In her intervention in the all-day event, the Ombudsman later noted that *«the Observations of the Committee can only cause questioning and concern as for the level of implementation of the Convention and the attempts made by the State to secure full enjoyment of human rights by persons with disabilities»*.

After making extensive reference to earlier interventions of our Office with regard to most of the high-lightings and recommendations of the Committee, the Ombudsman stressed that the State *«is obliged to implement the Convention and to aim to respect the innate dignity and the individual autonomy of persons with disabilities, their equal treatment, their recognition and acceptance as part of human diversity of humanity»*, as well as that *«it should study the Concluding Observations and proceed with actions for the implementation of all that are recommended by the Committee»*.

To all those that participated in the all-day event, a significant number of documents were handed, relevant to the rights of persons with disabilities and the Concluding Observations of the UN Committee on the Rights of Persons with Disabilities.





awareness campaigns

AWARENESS CAMPAIGNS

Campaign about the 70 years from the signing of the UN Universal Declaration of Human Rights

On the occasion of the 70th anniversary year from the signing of the Universal Declaration, the Ombudsman prepared a relevant Position and organized a relevant campaign of updating and enlightenment.

The starting event of the campaign with the subject «The Protection of Human Rights after 70 years», took place on 5 December 2018, on 10:00 a.m., in the multi-purpose hall of the Ministry of Finance in Nicosia and was also, simultaneously, being translated in the **sign language**.

After the event, a number of briefing events took place in the free cities of Cyprus.

All throughout the campaign, the audio-visual material of the event was projected by the social network media of our Office, as well as from all the TV and radio stations and CyBC.

It is underlined that the audio-visual material which was prepared for the campaign was also available in **forms accessible to persons with disabilities**.

In particular, the short films which were prepared for the purpose of the campaign, were **sub-titled** with Greek and English sub-titles and all the printed material was available in **braille print**, as well

as in **large size font print**, for them to be accessible to persons with audio and visual disability, respectively.

Afterwards, and within the framework of actions for updating and enlightenment of students about human rights, a series of training seminars were carried out in schools, with the subject «*Respect for human rights*», which concerned respect for human rights, without discrimination.

The training seminars were held by Officers of our Office in the period April – May 2019 in private and public secondary schools throughout Cyprus, and some of them concerned **rights of persons with disabilities**, exclusively.

Briefing Campaign for Combating Discrimination and Hate Speech in Election Campaigns

In April 2019, and in view of the upcoming elections for the members of the European Parliament on 26 May, the Ombudsman, as Equality Body, organized a Briefing Campaign for Combating Discrimination and Hate Speech in Election Campaigns.

Within the context of the Campaign, the Ombudsman sent relevant letters to all the political parties/movements who participated with candidates in the Euro-elections, as well as to local news-reporting agencies. With these letters, the Ombudsman:

- a. Informed the recipients about the Campaign which the European Network of Independent Authorities against Discrimination (Equinet) [European Network of Equality

Bodies]) then carried out, with the aim of promoting the principle of equality and non-discrimination, and the Recommendations which it published in March 2019 on Combatting Discrimination and Hate Speech in Election Campaigns).

- b. Invited the political parties and/or other Movements to show zero tolerance to any phenomenon of hate speech and declare publicly that discrimination and phenomena of inducing hatred are unacceptable and will not be tolerated. She also encouraged all the candidates at the Euro-elections, to make use of their right of freedom of expression responsibly, fairly and with respect to each person and to his/her rights.

It is pointed that the Recommendations of Equinet were translated to Greek and were communicated with the aforementioned letters of the Ombudsman, to all the involved parties.

In the Chapter «Banning of Discrimination» of the Recommendations of Equinet, which were translated to Greek and were communicated with the aforementioned letters of the Ombudsman, to all the involved parties, it was noted, with regard to persons with disabilities, that:

«...the political parties and the candidates, as well as those who work for them, in their programmes and their campaigns, should refrain from the use of intolerant speeches or from proposals of policies and laws which introduce discrimination, as well as from the promotion or the support of ideas and theories on the superiority of one group of people on the basis of ...disability...

...The mass media, when covering the election campaigns, should refrain from the use or the encouragement of intolerant speeches or from policies

and ideas or theories on the superiority of one group of people on the basis of ...disability...»

Economic and Social Rights: Practices of NHRI's in Europe

ENNHRI (European Network of National Human Rights Institutions), during the General Assembly and its Annual Convention in November 2019 in Brussels, carried out a presentation report of good practices of the National Human Rights Institutions (NHRI) on the subject of socio-economic rights.

In particular, the report concerned the placement of posters in the foyer of the place where the Annual Convention and General Assembly were taking place, regarding the achievements of the NHRI in the sector of socio-economic rights.

It therefore constituted an opportunity for the NHRI to project their work in the specific sector, allowing the exchange of good practices between the participants of the Annual Convention and the General Assembly.

Our Office, within the context of the capacity of the Ombudsman, both as NHRI, as well as Independent Mechanism for the Promotion, Protection and Monitoring of the UN Convention on the Rights of Persons with Disabilities, chose that during the said report, our Office is projected with a specific issue that is affected by the socio-economic rights of persons with disabilities.

In particular:

- The handling of receiving complaints from persons with disabilities was projected, regarding the decision of the

Ministry of Labour, Welfare and Social Insurance to reject applications of persons with disabilities for granting minimum guaranteed income and/or benefits which are related to their disability, due to the income and/or the bank deposits of members of their families (ESR Issue).

- The submission of a relevant report by the Ombudsman to the Ministry was noted, in which, amongst other things, the obligation of the state to provide an adequate standard of living and social protection to persons with disabilities was underlined, and a suggestion was made for the amendment of the relevant legislation so that persons with disabilities have full access to minimum guaranteed income and to benefits which are related to their disability (NHRI Action).
- As a consequence of the intervention of the Ombudsman, the discussion of the issue in progress was mentioned before the Parliamentary Committee of Labour, Welfare and Social Insurance for the amendment of the relevant legislation (Impact).

It is noted that ENNHRI has formed a special place on its website, with the title «*Economic and Social Rights: Practices of NHRI's in Europe*», where the way with which they contribute in securing socio-economic rights is projected.

Therefore, our Office, by its choice to project the specific issue, which is affected by the said rights of persons with disabilities, intends to make the specialized problem which persons with disabilities face, as well as the actions that have been taken to alleviate it, widely known.





Contacts with organizations of persons with disabilities and other institutions

CONTACTS WITH ORGANIZATIONS OF PERSONS WITH DISABILITIES AND OTHER INSTITUTIONS

The Ombudsman, in the context of her role as defender of human rights, proceeds with the required actions, based on her jurisdictions, to perform her task to the maximum possible degree.

To this end, she seeks a good cooperation with civic society and its organizations, for the joint confrontation of existing problems and challenges, in all fields.

Consequently, during the exercise of her jurisdictions as Independent Mechanism for the Promotion, Protection and Monitoring of the UN Convention on the Rights for Persons with Disabilities, the Ombudsman looks forward to their continuous and mutual cooperation with all the representative organizations of persons with disabilities, without exception, for the promotion, protection and implementation of the provisions of the Convention.

Therefore, she tries to consolidate possible disputes and rivalries that emerge between the representatives of the disability movement and the keeping of equal distances between them with regard to, in several cases, the different approaches on certain issues, on behalf of them, always bearing in mind the promotion and defending of the rights of all persons with disabilities without discrimination, in the context of the guidelines of the Convention and of the Concluding Observations of the Committee. Moreover, polyphony and possible disagreements on specific issues are always confronted with respect, since they constitute basic characteristics of democracy.

It is noted that the contact of our Office, with all representative Organizations of persons with disabilities, without exception, is continuous, while the reports/Interventions of the Ombudsman on issues that affect her jurisdictions as Independent Mechanism for

the Promotion, Protection and Monitoring of the UN Convention on the Rights of Persons with Disabilities, are notified both to the Cyprus Confederation of Organizations of the Disabled (CCOD) and to other representative Organizations of persons with disabilities.

At the same time, through the cooperation of our Office, institutions both in Cyprus and overseas, the further projection and confrontation of the issues that concern persons with disabilities is sought.

Indicative cases of cooperation of our Office with representative organizations of persons with disabilities in Cyprus, as well as overseas, are recorded below.

ADVISORY COMMITTEE FOR THE MONITORING OF THE IMPLEMENTATION OF THE UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

In October 2012, a meeting took place between the Ombudsman and Officers of our Office and the Cyprus Confederation of Organizations of the Disabled (CCOD), during which the establishment of an Advisory Committee for the Monitoring of the Implementation of the UN Convention on the Rights of Persons with Disabilities was decided.

In particular, during the said meeting, amongst other things, the composition of the Advisory Committee, the pre-conditions for enlarging its composition, the procedure of its convergence, as well as the pre-conditions of the presence of other persons at the meetings of the Committee for the provision of advice and opinions, were determined.

The Advisory Committee was established formally on 14 November 2012, after the briefing of the Ombudsman by CCOD, about its members which it appointed as members of the Committee.

The first Meeting of the Committee took place in December 2012 and since then, one to two meetings of the Committee are held each year.

During the three years 2017-2019, the Advisory Committee met five times.

PARTICIPATION IN THE PROCEDURE FOR THE MODERNIZATION OF THE LEGISLATION FOR SPECIAL EDUCATION

Our Office participates in the procedure for the modernization of the legislation for special education in Cyprus.

In particular, in December 2018, our Office attended the presentation of the most basic provisions of the bill «of the Unified Education (Support Structures) Law of 2019», which experts of the European forum on Special and Unified Education prepared, on behalf of the Ministry of Education, Culture, Sport and Youth.

Our Office then had contacts with the directly involved parties, that is, the Organized Parents of persons with disabilities (see below) and submitted a relevant proposal to the Ministry on the particular subject (see above).

Since then, our Office is represented at the regular meetings which are held for the drafting of the final text of the proposed bill.

MEETING WITH THE ORGANIZED PARENTS REGARDING THE BILL «THE UNIFIED EDUCATION (SUPPORT STRUCTURES) LAW OF 2019»

The Ombudsman, in the context of her jurisdictions as Independent Mechanism for the Promotion, Protection and Monitoring of the UN Convention for the Rights of Persons with Disabilities, held a meeting in her Office on 14 March 2019, with the organized parents of persons with disabilities.

At the meeting, the following were invited and attended: representatives of the Pancyprian Organization of Parents and Friends of Children with Brain and Other Paralyzes «Αγκαλιά Ελπίδας» [Hug of Hope], the Pancyprian Association of Down Syndrome, the Pancyprian Federation of Parents' Association of Children with Special Needs, the Association in Support of ADD-ADHD Cyprus, the Evangelismos Special School, the Nicosia Special School, the Initiative Group of Parents for the Rights of Persons with Disabilities, the Association of Relatives and Friends of Persons with Autism «Μαζί» [Together], the Movement Ev'Εργω [At Work] and the Initiative for the Modernization of the Cypriot Legislation.

In the meeting, the organized parents presented to the Ombudsman their comments and opinions regarding the proposed bill, they presented their concerns regarding some of its provisions, as well as the changes that they themselves suggest to the bill of the Ministry, assisted by the opinions of experts on the subject.

After the end of the meeting, the Ombudsman sent a relevant letter to the Ministry of Education, Culture, Sport and Youth, with specific remarks on the basis of the positions of the organized parents, with a suggestion that these are taken into account,

bearing in mind the inclusive education and the well-understood interests of the children.

MEETING WITH THE COMMITTEE OF OSCE FOR THE EVALUATION OF THE PRESIDENTIAL ELECTIONS

On 30 January 2018, the Ombudsman and Officers of our Office had a meeting with the Committee of OSCE for the Evaluation of the Presidential Elections, during which issues of human rights that are affected by the elections were discussed.

In particular, in the meeting the issue of the accessibility of persons with disabilities to the election centres and the election campaign material was discussed and it was stressed that the competent bodies should concentrate on the removal of obstacles which do not allow persons with disabilities to exercise the voting right on an equal basis with the others.

Also, reference was made to complaints about elections which were submitted to our Office in the past.

PARTICIPATION IN THE EUROPEAN NETWORK OF NATIONAL HUMAN RIGHTS INSTITUTIONS – ENNHRI

The Ombudsman, in her capacity as National Human Rights Institute (NHRI), is a member of ENNHRI (European Network of National Human Rights Institutions - ENNHRI). In this Network, more than 40 NHRI's participate from all over Europe and it aims to the promotion and protection of human rights in the region.

In particular, our Office takes part, amongst others, in its Working Group for the UN Convention for the Rights of Persons with Disabilities (ENNHRI CRPD Working Group).

In this context, an Officer of our Office represents the Ombudsman at the annual meetings of the Working Group, while at the same time, information is exchanged between the members of the Working Group, in the form of questionnaires, letters etc., with regard to specific articles of the Convention and/or issues which concern the wider disability movement.

PARTICIPATION IN THE EUROPEAN NETWORK OF EQUALITY BODIES – EQUINET

The Ombudsman, in her capacity as Equality Body, is a member of the European Network of Equality Bodies – Equinet, as from 2007.

In Equinet the independent authorities/organizations which have the jurisdiction of the implementation of the European Directives against discrimination in countries of the European Union (Equality Bodies), participate. The establishment and operation of the Network aims to the cooperation and coordination of the members, for a more effective action and, in this context, opinions are exchanged about issued that are affected by their common jurisdictions, common reports are drafted, specialized conferences and training seminars are organized.

Officers of our Office represent the Ombudsman in the Working Groups of Equinet, amongst which is the Equinet's Legal Working Group.

In the last meeting of the said Working Group, the Officers of our Office that participated, had the opportunity to present to the remaining participants, the intervention (report) of the

Ombudsman, regarding the accessibility of persons with disabilities to the beaches, as well as the positive legislative developments that followed (see above).

It is also noted that during the current year, the specific Working Group of Equinet will concentrate on the issue of discrimination due to disability.

PARTICIPATION IN THE WORK FORUM ON THE IMPLEMENTATION OF THE UN COVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Every year, our Office is represented, subsequent to a relevant invitation of the European Commission, at the Annual Work Forum on the Implementation of the UN Convention on the Rights of Persons with Disabilities in the EU and the Member State.

The Annual Forum is held in Brussels and the Ombudsman is represented at this, by an Officer of our Office.

UN COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES

In view of the evaluation of the Republic of Cyprus by the UN Committee on the Rights of Persons with Disabilities, in March 2017 and subsequent to the publishing of the List of Issues and the Reply of the State to the List of Issues, the Ombudsman, in her capacity as Independent Mechanism for the Promotion, Protection and Monitoring of the UN Convention on the Rights of Persons with

Disabilities, submitted to the Committee the relevant Monitoring Report/ independent written contribution.

VISIT OF THE DELEGATION OF THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

A delegation of the European Economic and Social Committee conducted a visit to Cyprus from 18-20 November 2019, with the aim of preparing an expert opinion, about matters of work and employment of persons with disabilities.

During their stay in Cyprus, the delegation of the Committee had a meeting with the Ombudsman in our Office.



targets for 2020

TARGETS FOR 2020

Just like every year, in 2020 too, the Ombudsman, in cooperation with the Officers of the Office who are involved with issues that affect her capacity as Independent Mechanism for the Promotion, Protection and Monitoring of the UN Convention on the Rights of Persons with Disabilities, has set a number of targets for implementation in 2020.

Indicatively, the following are mentioned:

- **Report/Intervention regarding the securing of accessibility for persons with disabilities to audio-visual media, which secure the exercising of the right of the freedom of expression (already implemented).**
- **Self-proclaimed Position/Intervention regarding the exercising of the right of voting by persons with disabilities.**
- **Position/Intervention regarding the provision of escorts to students with disabilities in tertiary education.**
- **Report/Intervention regarding the Athalassa Mental Hospital.**
- **Report/Intervention regarding persons with disabilities who are held in the Central Prisons and/or in other detention centres.**
- **Submission of Reports regarding individual personal complaints about issues that affect the UN Convention on the Rights of Persons with Disabilities.**

- **Awareness campaign regarding specific articles of the UN Convention on the Rights of Persons with Disabilities.**
- **Continuation of the cooperation, with no exception, with all representative Organizations of Persons with Disabilities, for the joint promotion of the issues that concern persons with disabilities.**
- **Conducting training regarding the provisions of the UN Convention on the Rights of Persons with Disabilities.**
- **Further broadening of the cooperation with international institutions for the exchange of good practices with regard to issues of common interest which affect the provisions of the UN Convention on the Rights of Persons with Disabilities.**







**Office of the Commissioner for Administration and the Protection of Human Rights
(Ombudsman)**

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