



**DIS-CONNECTED:  
DISABILITY-BASED CONNECTED  
FACILITIES AND PROGRAMMES  
FOR PREVENTION OF VIOLENCE  
AGAINST WOMEN AND CHILDREN  
IN BULGARIA**

**101049690- DIS-CONNECTED**

**National Findings Report: BULGARIA**

**DATE: 31.01.2024**

**PARTNER ORGANISATION**

Kera Foundation - <https://www.kerafoundation.com/>

VALIDITY



FORUM  
Human Rights



MENTAL  
HEALTH  
PERSPECTIVES

## **Acknowledgments**

We are grateful to all the persons with disabilities and the professionals who shared their stories and experiences with us. It is their contributions which make this report so valuable.

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## **Publication date**

28.02.2024

## **Disclaimer**



**Co-funded by  
the European Union**

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## **Dis-Connected: Disability-based Connected Facilities and Programmes for Prevention of Violence against Women and Children**

Gender-based violence and violence against children in vulnerable situations is both overlooked and under-reported, and the recent COVID-19 pandemic further aggravated these issues. The global report of the COVID-19 Disability Rights Monitor recorded numerous testimonies suggesting a dramatic increase in gender-based violence against women and girls with disabilities, including rape, sexual assault, and harassment at the hands of law enforcement authorities and family members.

This project focuses on improving ways that women and children can report violence and abuse, can access support services, and can move to a safer place. The project will create a multi-disciplinary cooperation and response protocol with law enforcement, service providers and victim support workers to enable prevention, early identification, and protection against violence that women and children with psychosocial and/or intellectual disabilities face.

### **Consortium Partners**

Each participating country is represented in the consortium by an experienced NGO involved in the implementation of the project, as follows:

- Validity Foundation – Project coordinator, Hungary
- KERA Foundation, Bulgaria
- Mental Health Perspectives, Lithuania
- Fenacerci – Federação Nacional de Cooperativas de Solidariedade Social, Portugal
- Fórum pro lidská práva, Slovakia

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# EXECUTIVE SUMMARY

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## EXECUTIVE SUMMARY

*„The system was completely indifferent [...] In fact, there is no system, they don't know how to react when there is a case of violence against a person with a disability. They have no idea, not a single institution knows how to proceed in such situations. That's a fact.“<sup>1</sup>*

*“In general judges don't have a lot of knowledge about the rights of persons with disabilities, they don't know what to do. And this gets to the point where when they see a person with disability, they would rather not see them at all.“<sup>2</sup>*

*“Nobody ever told me why am I diagnosed and on what grounds was it [the diagnosis] given to me [...] but I also remember that the second time I was afraid they are going to take my children away from me. The medications were very strong. [...] I was not feeling well, they were yelling, they were screaming, there were new patients arriving constantly, they were screaming, yelling. And all of them women, harassed by men [...] It was disgusting, there are no good conditions [...] in these hospitals. And there is no respect, they treat you like cattle.“<sup>3</sup>*

*„Well, they [the police investigators] asked me if understand and I said “yes” because I was embarrassed to say “no” [...] I was very nervous. [...] I was not going to say anything” [if her therapist was not with her during the interrogations].<sup>4</sup>*

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<sup>1</sup> From an interview with a parent of a child with disability, who experienced sexual violence.

<sup>2</sup> From an interview with a district judge.

<sup>3</sup> From an interview with a woman with disability, who experienced domestic violence.

<sup>4</sup> From an interview with a child who experienced human trafficking.

## National context

In Bulgaria, the issue of gender-based violence against individuals with disabilities is acknowledged and unavoidable. Yet victims continue to be invisible, seldom receive justice, and struggle to get protection. The implementation of international standards pertaining to the rights of individuals with disabilities and victims of gender-based violence in national legislation and policies is still lacking.

Nonetheless, recent legislative changes have been made, particularly in 2023, with the aim of improving protection for individuals with disabilities and guaranteeing their access to justice if they become victims of violence. However, as of the time this report was written, there were still misconceptions and outdated practices in place, in addition to a lack of infrastructure, resources, and expertise to enable the required changes to happen swiftly enough.<sup>5</sup>

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<sup>5</sup> Paragraph 1, point 1 from the Concluding provisions of the Persons with Disabilities Act, available in Bulgarian here: <https://lex.bg/bg/laws/ldoc/2137189213>.



## Key findings

- Because of the obstacles they face, women and children with disabilities are particularly vulnerable to particular types of gender-based violence.
- Protection from certain types of gender-based violence, such as those that target victims with disabilities, is not offered by the law.
- There are no specific methods in place for monitoring social and health services to identify gender-based violence against persons with intellectual and psychosocial disabilities.
- Non-governmental organisations dedicated to human rights are not guaranteed access to the health and social services system for efficient external monitoring.
- It is not acknowledged, nor adequately implemented that victims with psychosocial and intellectual disabilities can receive procedural accommodations.
- Inadequate support services are available for victims of gender-based violence, and victims with disabilities typically cannot access them.
- The lack of community-based services for people with disabilities leads to the institutionalisation of victims of gender-based violence.
- Institutionalisation of victims who have intellectual or psychosocial disabilities is considered as a protective measure.
- Victims are prohibited by law and in practice from testifying about the violence perpetrated against them on the ground of their psychosocial or intellectual disability.
- Disabilities follow when the impacts of gender-based violence are not addressed

promptly.

- Gender-based violence against women and children with psychosocial and intellectual disabilities continues to remain hidden and invisible.

## **Recommendations**

- Legislators ought to involve individuals with psychosocial and intellectual disabilities who have been victims of gender-based violence in the process of enhancing the relevant laws, regulations, and procedures.
- The CRPD/C/5: Guidelines on deinstitutionalization, including in emergencies (2022) should be implemented by competent authorities (such as Parliament and Ministries) in national laws and policies.
- The Criminal Code and the Protection from Domestic Violence Act should be reviewed by the Council of Ministers and the Ministry of Justice in order to fully address gender-based violence and domestic abuse, take into consideration incidents of violence against individuals with disabilities, and propose legislative changes.
- Victims with psychosocial and intellectual disabilities should be able to report gender-based violence against themselves through the implementation of reasonable and procedural accommodations by institutions that deal with reports of violence, such as the Ministry of Labour and Social Policy, police, public prosecutor's office, and Ombudsman.
- In order to detect gender-based violence against individuals with psychosocial and intellectual disabilities, the Ministries of Labour and Social Policy as well as Health should establish monitoring protocols for social and health services.
- The Council of Ministers, in collaboration with the Ministry of Labour and Social

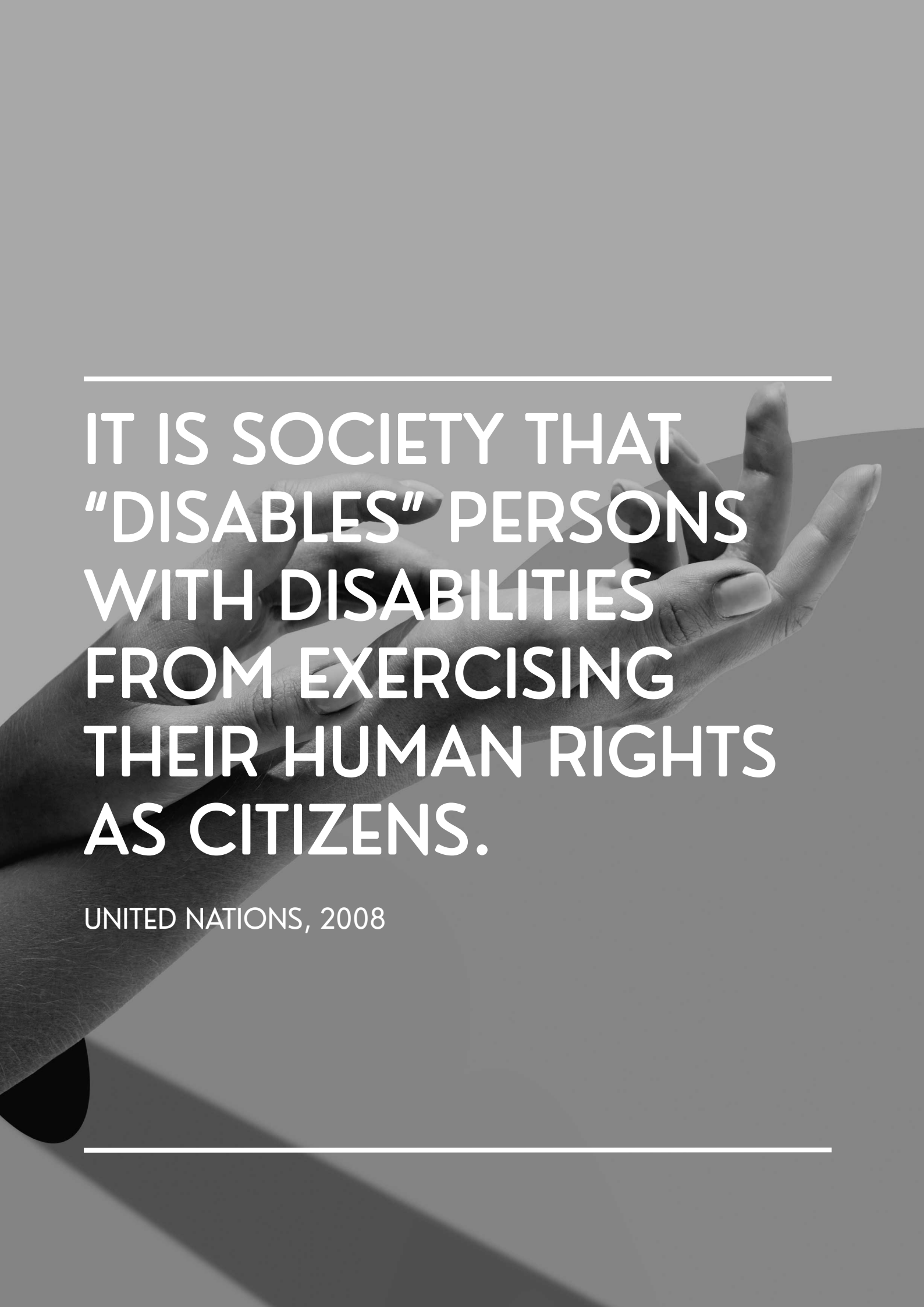
Policy, the Ombudsman should revise legislation to ensure effective monitoring on social and health services from civic society organisations.

- The Ministry of Justice and the Council of Ministers should examine national laws in the context of Article 13 of the CRPD and propose amendments to guarantee procedural accommodations in procedural laws, such as the roles of supported decision-making specialists and intermediaries.
- In order to eliminate the problematic requirement of "witness capacity" and the concept of incapacity to testify in relation to disability, the Ministry of Justice should analyse the current criminal legislation in light of the CRPD and should begin a revision of the procedural laws.
- Competent authorities, such as the Council of Ministers, Ministry of Justice, Ministry of Labour and Social Policy should ensure the development of additional services for victims of gender-based violence and that victims with psychosocial and intellectual disabilities can access these services.
- A mechanism for coordinating efforts on cases of gender-based violence against persons with psychosocial and intellectual disabilities should be established by the Council of Ministers.

## Conclusions

While Bulgaria has begun to introduce changes that promise to improve the situation of persons with disabilities, the experiences of victims with disabilities remain mostly negative. There is still work to be done before national practices start to match international standards. The medical model of care, which is de facto contributing to abuse rather than reducing it, is still prevalent.

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IT IS SOCIETY THAT  
"DISABLES" PERSONS  
WITH DISABILITIES  
FROM EXERCISING  
THEIR HUMAN RIGHTS  
AS CITIZENS.

UNITED NATIONS, 2008

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# 01

**INTRODUCTION**

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## INTRODUCTION

Women experience gender-based violence in any and all locations – in residential institutions including psychiatric hospitals, within community-based services, in the community including in the street and on public transport, and in domestic settings. The purpose of this project is to find ways to identify and respond to violence wherever it has occurred and to help improve the systems and processes for prevention, reporting and responding. In that sense, detecting and reporting abuse and violence may take place in a completely different setting to where it occurred. Community-based services, including healthcare and daycare facilities, may be particularly important for the identification of domestic abuse and violence.

Violence against women and children is often overlooked, and in many cases these violations are not recognised as crimes either by the authorities or the victims themselves. The intention is to help victims understand better what they are experiencing, what it means, and what their rights are. Similarly public authorities and services for women and children with intellectual and psychosocial disabilities will better understand the extent and forms of violence taking place, and will have the tools they need to prevent, detect, report and respond to violence, as well as provide support to the women and children.



## INTRODUCTION

Persons with disabilities are defined as "persons with physical, mental, intellectual, or sensory impairments which, in interaction with the environment, may hinder their full and effective participation in society" under the Persons with Disabilities Act (PDA). In practical terms, there is a certain hesitation and difficulty in recognising disability status when it is not documented, according to the conducted interviews, particularly with representatives of the authorities, although it is not necessary to have such a document to meet the definition. This is most likely influenced by the way the term "disability" has historically developed in Bulgaria's legal system and because the shift from a medical model to a rights-based model of disability has not yet been fully completed.

The issue with statistical data is also a part of this transitional problem. Scarce and uninformative data in Bulgaria results in ill-informed policies and practices.<sup>6</sup> For example, there are no reliable statistics on the number of persons with disabilities in Bulgaria, including women and children, as of the time this report was written.<sup>7</sup> According to the 2021 census, 381 805 persons reported being restricted but not severely so from engaging in activities that are common to most people due to health issues that have existed for at least six months; 153 242 people reported being severely restricted from doing these activities.<sup>8</sup> As of 2021, 654 547 individuals—including 22 248 children and 632 299 over the age of 16—were recognised as having a permanent reduced work capacity or some other type of disability.<sup>9</sup> The number of women and children with permanent disabilities in 2023 is 26 801 children and 401 086 women, according to the Agency for Persons with Disabilities (APD).<sup>10</sup> The APD reports that

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<sup>6</sup> According to the Social Services Act (SSA), the creation of a network of social services (social services maps) is linked to the collection of statistical data. It is specified that the maps are updated after each population census (Article 36 of the Social Services Act).

<sup>7</sup> This is due to the fact that there is no uniform approach to collecting this data. As of 31 December 2022, the population of Bulgaria is 6 447 710. Compared to 2021, the country's population decreases by 34 774 people, or 0.5%. Males are 3 099 503 (48.1%) and females are 3 348 207 (51.9%). In this regard, see "Population and demographic process through 2022", National Statistical Institute, p. 1 [https://nsi.bg/sites/default/files/files/pressreleases/Population2022\\_3C3NKZP.pdf](https://nsi.bg/sites/default/files/files/pressreleases/Population2022_3C3NKZP.pdf).

<sup>8</sup> Information of the National Statistical Institute, available in Bulgarian here: <https://shorturl.at/mvGJK>

<sup>9</sup> Ibid.

<sup>10</sup> Decision on granting access to public information No 81/0023-7471/29.09.2023 of the Executive Director of the Agency for Persons with Disabilities.

27 162 students with special needs are enrolled in kindergartens and schools for the 2022–2023 academic year.<sup>11</sup>

Furthermore, there is insufficient data on individuals with intellectual or psychosocial disabilities. The Bulgarian National Strategy for Mental Health (2021 – 2030)<sup>12</sup> states that in 2018, 25 849 patients were under observation for severe psychosocial conditions.<sup>13</sup> Within this group, two thousand to three thousand individuals need community support; one thousand are placed in long-term care facilities; and the remaining two hundred and thirty are long-term residents of state mental hospitals.<sup>14</sup> A further 28 293 individuals with the diagnosis of "mental retardation" are under observation; approximately 400 of them are categorised as "unable to cope independently in everyday life."<sup>15</sup> There is no data on individuals who are not under long-term supervision by mental health facilities, nor is there any data collected on them.

Moreover, gender-based violence statistics are not officially collected in Bulgaria. The Ministry of Interior and the "Social Assistance" Directorates compile statistics on domestic violence, but it is unclear whether the victims have a disability or not. The recently formed National Council for Prevention and Protection against Domestic Violence also keeps statistics on incidents of domestic abuse.<sup>16</sup> Based on a final conviction, the National Statistical Institute (NSI) keeps statistics on the quantity and kinds of crimes committed. Nevertheless, it is unclear as to the victims' gender and whether or not they are disabled. The Ministry of Interior and the prosecution office are in charge of maintaining statistics on investigations.<sup>17</sup> Furthermore,

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<sup>11</sup> Ibid.

<sup>12</sup> The Strategy is available in Bulgarian here:

[https://www.mh.government.bg/media/filer\\_public/2021/11/02/21rh388pr1.pdf](https://www.mh.government.bg/media/filer_public/2021/11/02/21rh388pr1.pdf). There is no information on gender distribution.

<sup>13</sup> Ibid; See page 7.

<sup>14</sup> Ibid. It should be noted that we cannot consider these figures to be strictly reliable since, although it is not stated implicitly, in the document "institutions" refers to institutions of the type "Home for Adults with Mental Disorders" or "Home for Adults with Mental Retardation", but not to smaller institutions such as "Residential Centres" or "Care Centres" (the names vary), which residential services are traditionally accepted by the authorities as "community-based services", regardless of whether they reveal the characteristics of an institution.

<sup>15</sup> Ibid.

<sup>16</sup> Art. 66, para. 1, point. 8 from the Protection Against Domestic Violence Act, available in Bulgarian here <https://lex.bg/laws/ldoc/2135501151>.

<sup>17</sup> See more details in: Annual Report of the Prosecution Office of the Republic of Bulgaria for 2022, available in Bulgarian here: <https://prb.bg/upload/72208/%D0%93%D0%94+2022+%D0%9F%D0%A0%D0%91.pdf>.



there are no official statistics on violent crimes committed within the system of disability care.

Domestic violence increased in Bulgaria during the COVID-19 pandemic and the restrictive measures put in place.<sup>18</sup> Children who were placed in residential services suffered psychologically from their isolation.<sup>19</sup> Furthermore, data from the Ministry of Interior over the previous three years indicates a consistent pattern of an increasing number of victims of domestic abuse requesting aid and acquiring protection orders.<sup>20</sup>

In general, services for victims of violence are not sufficiently numerous, they are not evenly distributed throughout the nation, and they are not adapted for people with psychosocial and intellectual disabilities. Services for people with disabilities and those for victims of gender-based violence are kept separated.

The purpose of this report is to provide a starting point for discussions about improving the lives of individuals with intellectual and psychosocial disabilities who have been victims of gender-based violence. It is directed towards both the people who have experienced violence and professionals working in the field. The report includes an analysis of relevant legislation and policies, information shared by experts and victims, as well as recommendations for improving current procedures and regulatory frameworks.

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<sup>18</sup> See for example the Annual Report for the Ombudsman Activities for 2020, page 228, available in Bulgarian at: [https://www.ombudsman.bg/pictures/ANNUAL%20REPORT%202020\(1\).pdf](https://www.ombudsman.bg/pictures/ANNUAL%20REPORT%202020(1).pdf); Information from the Prosecutor's office to the medias, available in Bulgarian at: <https://www.segabg.com/hot/category-bulgaria/pandemiyata-uvelichi-3-puti-slucaite-na-domashno-nasilie-sofiya>.

<sup>19</sup> See the detailed Impact Assessment Report on Measures against the Spread of COVID-19 on the Rights of Vulnerable Groups of Children in Bulgaria, available in Bulgarian at: <https://enoc.eu/wp-content/uploads/2022/04/CRAI-report-BG-2021.pdf>.

<sup>20</sup> In 2020 they were 3 057, in 2021 - 3 244, in 2022 - 3 654, and for the first 8 months of 2023 they were 2 828 - See more information in Bulgarian language here: <https://shorturl.at/eipFM>

# 02

**RESEARCH AIMS AND  
METHODOLOGY**

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## RESEARCH AIMS AND METHODOLOGY

The research design was a mixed methodology, using both quantitative and qualitative data drawn from a range of sources. A mixed methodology was used to ensure richness and variety of data relating to policy, practices, and experiences, and in order to substantiate and triangulate findings and provide a strong basis for recommendations. It also provided the flexibility for application in all five partner countries and was tailored as necessary to the particular national context and the focus of the partner organisations in that country. Quantitative data was collected from existing data sets and sources, whereas qualitative data was collected through field work including interviews and focus groups.

### **The research was designed to address the following aims:**

- To hear from women and children about their experiences, how existing monitoring, reporting and support systems serve or fail them, and what is required for their rights to be fully respected and violence to be identified and addressed. The idea is to inform project implementation and create a safe platform for participants which can support self-advocacy in all five countries as well as internationally;
- To analyse national legal framework regarding responses to gender-based and disability-based violence against women and children with psycho-social and intellectual disabilities. To assess how these align with international human rights legislation/standards and recognised best practices, particularly the Victims' Rights Directive, UNCRPD and UNCRC; CEDAW and Istanbul Convention
- To identify types and estimates of existing victim support services and community-based services which target or are accessible to women and children with disabilities. These services may be specialist or generic, must be accessible and

may be used by those living in institutions, group homes, or domestic settings. If lists already exist, feel free to refer to them. Feel also free to refer to networks.

- To make recommendations and directly inform the development of a monitoring methodology, monitoring tools and cross-disciplinary protocols for identifying, reporting and responding to gender based and disability-based violence in residential institutions, community-based services and domestic settings.

The present report was written in the period between June 2023 and January 2024. It is based on desk research of the current legislation and the existing literature on the subject, information obtained under the Access to Public Information Act<sup>21</sup>, as well as interviews and focus groups with survivors and professionals. For the purpose of this report, 24 interviews were conducted (6 with victims<sup>22</sup>, 7 with supporting specialists/representatives of NGOs, and 11 with lawyers, police investigators, judges and more, all public authorities representatives), along with two focus groups involving 14 social workers/ psychologists/ directors from the social assistance directorates at the Agency for Social Assistance. While working on this report, we encountered several difficulties, such as the lack of reliable statistics and unresponsiveness to invitations for interviews. Additionally, it proved to be significantly challenging to access children with disabilities who had been victims of gender-based violence. At the same time, the relevant legislation has undergone several amendments during the research process, with implementation yet to be assessed.

### **Ethical considerations and personal data protection**

To ensure privacy protection, the names of the interviewees are not disclosed in this report. Names of individuals mentioned by interviewees during conversations have been omitted from

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<sup>21</sup> In the research process 10 request were made.

<sup>22</sup> 6 interviews with victims were conducted – 4 of them were with women between the ages of 30 to 45 (1 of which shared experience of violence while she was a child), 1 of them was with a child (a girl), and 1 of them was with a man.

the quotes provided in this report. In accordance with the child protection policies we follow, the interview with the child was conducted by a psychologist in an environment familiar to the child, in the presence of his trusted professional. No actual cases of violence were identified during the interviews, consequently, no reporting action was taken by Kera Foundation or the coordinating organisation.

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# 03

**LEGAL AND POLICY  
FRAMEWORK**

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## 01 Legal and policy obligations

*"[...] If there is a mental health difficulty, it's absolutely impossible [the reporting] because they have both physical and psychological dependency on the abuser. It's a matter of survival. Our people are terribly poor, they depend on the perpetrator, sometimes they are not able to articulate what is happening to them. [...] When they are subjected to violence, there is no independent mechanism to check whether there is violence, especially when the victim and the abuser are living together."*<sup>23</sup>

### International standards

Many international acts introduce requirements for the prevention of gender-based violence and violence against children. Due to the report's limited length, international standards are briefly noted.<sup>24</sup> Applicable to Bulgaria are:

- **Convention on the Elimination of All Forms of Discrimination**

<sup>23</sup> From an interview with a manager of services for persons with psychosocial and intellectual disabilities.

<sup>24</sup> See Analysis and evaluation of the national legislation in relation to prevention, identification, reporting and response interventions by the institutions towards child victims of violence in Bulgaria Report, prepared by UNICEF, available in Bulgarian here:

<https://www.unicef.org/bulgaria/media/601/file/%D0%90%D0%BD%D0%B0%D0%BB%D0%B8%D0%B7%20%D0%BD%D0%B0%20%D0%B7%D0%B0%BA%D0%BE%D0%BD%D0%BE%D0%B4%D0%B0%D1%82%D0%B5%D0%BB%D1%81%D1%82%D0%B2%D0%BE%D1%82%D0%BE%20%D0%B7%D0%B0%20%D0%BF%D1%80%D0%B5%D0%B2%D0%B5%D0%BD%D1%86%D0%B8%D1%8F%20%D0%B8%20%D0%BE%D1%82%D0%B3%D0%BE%D0%B2%D0%BE%D1%80%20%D0%BD%D0%B0%20%D0%BD%D0%B0%D1%81%D0%B8%D0%BB%D0%B8%D0%B5%D1%82%D0%BE%20%D1%81%D1%80%D0%B5%D1%89%D1%83%20%D0%B4%D0%B5%D1%86%D0%B0.pdf>. See also Victims of crime with disabilities in Bulgaria Report, available in English here: [https://validity.ngo/wp-content/uploads/2022/04/National-finding-report-Bulgaria\\_en-220426-1.pdf](https://validity.ngo/wp-content/uploads/2022/04/National-finding-report-Bulgaria_en-220426-1.pdf), pages 19-20.

**Against Women (CEDAW)**, ratified by Bulgaria in 1981<sup>25</sup>, requires State Parties to take all necessary measures to protect women from all forms of violence (Articles 2, 5, 11, 12, and 16). General Recommendation No. 19 of the Committee on the Elimination of All Forms of Discrimination against Women<sup>26</sup> calls for improved legislation, the provision of services for women victims of violence, and the collection of reliable statistical data.<sup>27</sup>

- **UN Convention on the Rights of Persons with Disabilities (CRPD)**, ratified by Bulgaria in 2012<sup>28</sup>, also requires authorities to take special measures for the prevention and protection against violence targeting people with disabilities, including gender-based violence.<sup>29</sup> Of great importance is also the UN CRPD/C/5: Guidelines on deinstitutionalisation, including in emergencies (2022).<sup>30</sup>

- **UN Convention on the Rights of the Child** was ratified by Bulgaria in 1989.<sup>31</sup> It also requires State Parties to take all necessary legislative, administrative, social, and educational measures to protect children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual offenses, while under the care of their parents or one of the parents, legal guardians, or any other person to

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<sup>25</sup> Convention on the Elimination of All Forms of Discrimination Against Woman is available in English here: <https://www.un.org/women-watch/daw/cedaw/text/econvention.htm>.

<sup>26</sup> The Recommendations, including the one that was quoted, are available in English here: <https://www.mlsp.government.bg/uploads/1/konventsii-i-protokoli-na-oon/genrec-cedaw.pdf>.

<sup>27</sup> In several of its Recommendations, the Committee suggests that State Parties should implement special measures for women and girls with disabilities. These measures include ensuring that elderly women have access to health services that address the challenges and disabilities associated with aging, and that health services are tailored to meet the needs of women with disabilities while respecting their human rights and dignity.

<sup>28</sup> Convention on the Rights of Persons with Disabilities is available in English here: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>. The Optional Protocol to the Convention on the Rights of Persons with Disabilities is not ratified by Bulgaria.

<sup>29</sup> Some examples of recommendations include: introducing appropriate legislative, administrative, social, and educational measures; ensuring support sensitive to the gender and disability, and training measures for people with disabilities, their families, and those assisting them, including how to recognise and report such violence; introducing supportive services appropriate to gender, age, and disability; effective monitoring by independent bodies of all services and programs for people with disabilities; providing measures for protection, recovery, rehabilitation, and integration into an environment that promotes health, well-being, self-respect, dignity, and independence based on the individual's specific needs in terms of gender and age; implementing effective legislation and policies, including specific measures for women and children, to identify, investigate, and, when necessary, prosecute any manifestations of exploitation, violence, and harassment towards people with disabilities; and collecting statistical data.

<sup>30</sup> CRPD/C/5: Guidelines on deinstitutionalization, including in emergencies (2022), available in Bulgarian and English here: <https://www.ohchr.org/en/documents/legal-standards-and-guidelines/crpd5-guidelines-deinstitutionalization-including>.

<sup>31</sup> The Convention on the Rights of Children is available in English here: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.



whom the child is entrusted.<sup>32</sup>

• **Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA** (hereinafter referred to as "the Victims' Rights Directive" or "the Directive")<sup>33</sup> It aims to ensure that all victims of crimes receive appropriate information, support, and protection and can effectively participate in criminal proceedings. It establishes a set of rules for crime victims, as well as the corresponding obligations of State Parties. Several other Directives related to the subject of this report also address the specific needs of victims of certain types of crimes (such as victims of human trafficking<sup>34</sup> or children victims of sexual exploitation).<sup>35</sup>

In addition, it should be noted that according to Article 5, paragraph 4 from the Constitution of the Republic of Bulgaria, international acts ratified by Bulgaria automatically become part of national legislation, and when applied, they take precedence over any conflicting national act. As will be evident subsequently, this clause is insufficient to guarantee that Bulgaria's obligations under international treaties will take precedence over and conflicting domestic legal standards and customs.

## Overview of the national legislation

*"It goes as far as one forensic expertise for witness capacity and that's it. If the woman is a victim of gender-based violence, no court will consider her testimony if there aren't any other*

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<sup>32</sup> Such protective measures include, as appropriate, effective procedures for establishing social programs to provide the necessary support to the child and the individuals caring for them. Additionally, these measures encompass all other forms of prevention and detection, reporting, referral, investigation, handling, and follow-up of cases of child maltreatment as described above. Moreover, as appropriate, judicial intervention should be considered.

<sup>33</sup> Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, available in English here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32012L0029>.

<sup>34</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, available in English and Bulgarian here: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32011L0036>.

<sup>35</sup> Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, available in English and Bulgarian here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0093>.

witnesses, because it all depends on the forensic expertise. There are no trained professionals to support both the court and the woman, in a proceeding where she is a victim of gender based violence, so that the court can hear her arguments, understand them, interpret them, validate them, there are none. We rely mainly on psychiatric expertise, which often says that the witness does not have the capacity to testify [...]. And there are no procedural accommodations regarding the fair trial. There are no trained people to support a person during the legal proceedings.”<sup>36</sup>

Bulgarian legislation does not employ the term "gender based violence." According to the generally accepted definition of gender based violence (violence directed against a person because of their gender or violence that disproportionately affects individuals of a specific gender)<sup>37</sup>, protection against it is regulated in the Criminal Code (CC)<sup>38</sup> and the Protection Against Domestic Violence Act.<sup>39</sup>

### **Criminal aspects of the victims’ rights protection**

Only the Criminal Code defines what behaviors are considered crimes in the national legal system and are prosecuted and punished accordingly. Nevertheless, there are no provisions in the Code that provide complete protection against gender-based violence.

First and foremost, domestic abuse is not automatically considered a crime. Rather, when certain crimes are committed "under the conditions of domestic violence" - murder, bodily harm, kidnapping and unlawful deprivation of liberty, coercion, threatening, or stalking, harsher penalties are applied.<sup>40</sup> Certain other offenses that are frequently committed in the context of

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<sup>36</sup> From an interview with a manager of a social services for persons with psychosocial and intellectual disabilities.

<sup>37</sup> See: [https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/gender-equality/gender-based-violence/what-gender-based-violence\\_en#:~:text=gender%2Dbased%20violence-.Gender%2Dbased%20violence%20\(GBV\)%20by%20definition,of%20a%20particular%20gender%20disproportionately.](https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/gender-equality/gender-based-violence/what-gender-based-violence_en#:~:text=gender%2Dbased%20violence-.Gender%2Dbased%20violence%20(GBV)%20by%20definition,of%20a%20particular%20gender%20disproportionately.)

<sup>38</sup> The Criminal Code (1968) is available in English here: <https://www.mlsp.government.bg/uploads/1/blgarsko-zakonodatelstvo/en/criminal-code.pdf>.

<sup>39</sup> Protection Against Domestic Violence Act (2005) Is available in English here:

<https://www.mlsp.government.bg/uploads/1/blgarsko-zakonodatelstvo/en/protection-against-domestic-violence-act-title-amended-sg-no-1022009-effective-22122009.pdf> The Protection Against Discrimination Act is also relevant, but it is not effective for protection of victims of gender-based violence.

<sup>40</sup> Art. 116, par. 1, item 6a, Art. 131, par. 1(5a), Art. 142(2)(5a), Art. 142a(4), Art. 143(2)(5a), Art. 3(1), Art. 144 para. 144a, para. 3 of the Criminal Code.

domestic violence, such as forcing someone into a marriage against their will, sexual offenses, causing suicide by cruel treatment, human trafficking, etc., are not covered by these qualifying provisions.

In the Criminal Code, the very definition for a crime committed "under the conditions of domestic violence" was revised in 2023, yet it remains incomplete. This definition does not include members of the lateral branch of the family, members related by affinity, guardians and caregivers, people in intimate relationships but not living together, and people who work in the social services industry, like personal assistants or employees of residential care facilities.<sup>41</sup> Crimes against sexual integrity pose critical issues in Bulgarian legislation. For example, rape is legally defined only in the case of penile-vaginal penetration.<sup>42</sup>

The act of "stalking" (which may also be a form of gender-based violence) was criminalised in 2019, but it is recognised as a crime only when at least three actions are committed by the same perpetrator against the same victim. Furthermore, criminal prosecution doesn't start until the victim formally reports the incident to the authorities (unless the crime occurs in the conditions of domestic violence or is motivated by homophobia or racism).<sup>43</sup> Genital mutilation and honour crimes are also not explicitly criminalised.

**Crimes against persons with disabilities also lack adequate regulation in the Criminal Code, which does not even use the term "person with disability."** However, it should be noted that there are higher sanctions for certain crimes when committed against a person who *"is unable to understand the nature or meaning of the act,"*<sup>44</sup> when the victim is *"insane/incompetent"*<sup>45</sup>, or when the victim is in *"helpless condition"*.<sup>46</sup> It is apparent that the

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<sup>41</sup> Art. 93, par 31 from the Criminal Code.

<sup>42</sup> See Art. 152 of the Criminal Code; Penetrations with something else or in another bodily orifice cannot be qualified as rape, and accordingly, the sanctions for them are less higher. Moreover, for rape to be present, it is necessary for the victim to have been deprived of the possibility of self-defense, and the intercourse must have occurred without her consent, either through force or threat, or she must have been rendered helpless.

<sup>43</sup> Art. 144a and Art. 161, para. 2 of the Criminal Code.

<sup>44</sup> Art. 127, para. 2, p. 149, para. 4, item 2, p. 150, para. 3, p. 151, para. 4, p. 157, para. 6, item 159, para. 4, item 2 of the Criminal Code.

<sup>45</sup> Art. 155, para. 5, item 2, art. 193, art. 354b, para. 2, item 2 of the Criminal Code.

<sup>46</sup> Art. 116, par. 1, item 5, Art. 149, para. 2, item 3 of the Criminal Code.

law uses archaic and derogatory terms to refer to these victims with disabilities.

### **Hate crimes based on gender, disability, or age of the victim are not criminalised at all**

– neither recognised as aggravating elements of certain offenses (such as murder with a homophobic or racist motive, for example) nor in the Special part of the Criminal Code dedicated to crimes against citizens' equality.<sup>47</sup>

### **Civil aspects of the victims' rights protection**

The civil law protection for victims of domestic violence is regulated by **the Protection Against Domestic Violence Act (PADVA)**, under which a victim of domestic violence can obtain protection order (restraining order) from the court. In 2023, The Protection Against Domestic Violence Act was significantly changed and some of the changes came into effect on January 1, 2024. It is important that protection can be sought against perpetrators who are guardians of an individual under guardianship, particularly for individuals with disabilities. In addition, the victim, whether or not they are under limited or full guardianship, may submit a request for protection.<sup>48</sup> **The Social Assistance Directorates** can submit requests for protection when the victim is a child, when they are in a helpless condition due to severe disability, illness, or old age, and when they are placed under guardianship.<sup>49</sup> When the victim cannot protect themselves due to helpless condition or dependence on the perpetrator, the prosecutor can also file a request for protection.<sup>50</sup> For victims who are minors, under guardianship, or in a helpless condition due to severe disability, illness, or old age, the court may provide legal assistance.<sup>51</sup>

As of the time of writing, we cannot assess how these norms will be implemented and whether they will lead to more adequate protection for people with disabilities who are victims of

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<sup>47</sup> Chapter Three of the Special Part of the Criminal Code.

<sup>48</sup> Art. 3, i. 8 and Art. 8, para. 1, item 1 from the PADVA.

<sup>49</sup> Art. 8 para 3 i. 4 from the PADVA.

<sup>50</sup> Art. 8 para 3 from the PADVA. The possibility for the guardian of the person under guardianship to file an application for protection is retained - Art. 8, para 1, item 3 of the PADVA.

<sup>51</sup> Art. 8, para 3 from PADVA.

domestic violence.

However, it should be noted that the Protection Against Domestic Violence Act does not recognise violence occurring within the context of social and health services as domestic violence and does not contain specific rules for supporting victims with disabilities.

**The Child Protection Act (CPA)**<sup>52</sup> contains measures and mechanisms for the protection of children. Among the protective measures are the utilisation of social services, as well as "special care for children with disabilities."<sup>53</sup> **It is not planned to implement special protective measures for children with disabilities who are victims of violence.** The National Coordination Mechanism in Case of Violence against Children is called upon by the social worker handling the case in the event that any child is the victim of violence. This is a team (consisting of a police officer, prosecutor, municipal official, and other specialists at their discretion) that develops a protection plan for the child, encompassing health, social, and educational services for the prevention or recovery from violence.<sup>54</sup> If the violence is perpetrated by a parent or another person responsible for the child, the Social Assistance Directorate may request the court to place the child in a social service for children victims of violence or trafficking, or request the prosecutor to do so. If there is evidence of a crime<sup>55</sup>, the Social Assistance Directorate must inform the prosecutor.<sup>56</sup>

## Reporting crimes

National legislation does not regulate specific mechanisms for filing reports/complaints about crimes that are accommodated for persons with disabilities. The only exception pertains to reporting through the unified European emergency number 112, which should be accessible

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<sup>52</sup> Child Protection Act (2000) is available in English here: <https://www.mlsp.government.bg/uploads/37/politiki/trud/za-konodatelstvo/eng/child-protection-act.pdf>

<sup>53</sup> Article 4 from CPA.

<sup>54</sup> Art.36g, para.2 and 3 and art.36d, para 2 from CPA.

<sup>55</sup> Art. 36d, para 3 and art. 4 from CPA.

<sup>56</sup> Art. 36 d, para 5 from CPA.

to people with hearing and speech impairments.<sup>57</sup> In this regard, there is a mobile application connecting people with hearing and/or speech impairments to the emergency number 112.<sup>58</sup> For children, a 24-hour hotline has been established where they can report violence, and there is also an online chat service with a psychologist, but this has severely limited operating hours.<sup>59</sup> In Bulgaria, victims and other individuals can report crimes and violence by calling one of several free hotlines run by non-governmental organisations. Additionally, victims of domestic abuse can access contacts for institutions and services through a mobile application.<sup>60</sup> To what extent these mechanisms are adapted to the needs of people with disabilities and whether they are accessible to them at all, is still under question, although some steps have been taken in this direction.

## **Procedural Accommodations**

Procedural accommodations for people with disabilities, especially those with psychosocial and intellectual disabilities, are not well developed in national legislation. Requirements for individual assessment of needs and barriers, supported decision-making, and provision of specific procedural accommodations are regulated in the Persons with Disability Act (PDA).<sup>61</sup> However, these provisions are not integrated into procedural laws – neither through referral norms nor by creating specific procedural figures, such as intermediaries or experts in supported decision-making. As a result, the judicial panel has complete discretion over whether to grant procedural accommodations. It may do so by directly applying the rules of ratified Conventions and suggesting procedural accommodations in accordance with the PDA.

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<sup>57</sup> Art. 23 from the National System for Emergency Calls with Unified European Number 112 Act, available in Bulgarian language here: <https://lex.bg/bg/laws/ldoc/2135607842>.

<sup>58</sup> Ministry of the Internal Affairs, National Number 112, information about the access for people with hearing and/or speech problem, available at: <https://shorturl.at/dflU3>.

<sup>59</sup> The webpage of the National Phone Line for children is available there: <https://shorturl.at/dkltJ>.

<sup>60</sup> Ministry of Justice, “Help Me”: Mobile Application Terms of Use, available at: <https://mjs.bg/home/index/7bc52cff-868e-49e8-9a3d-f1166c0fc6c0>.

<sup>61</sup> Chapter Three and Chapter Four, Section V of the PDA, available in Bulgarian here: <https://lex.bg/bg/laws/ldoc/2137189213>.

Upon reviewing the judicial practice, we identified two court decisions<sup>62</sup> related to procedural accommodations for individuals with psychosocial and intellectual disabilities. In one of the cases, the judge terminated the procedure and returned it to the prosecutor due to violation of the rights of the victim - person with psychosocial disabilities who could not effectively participate in the trial, and therefore should have been appointed a lawyer at the pre-trial stage.<sup>63</sup> The Court acknowledged the individual's unique vulnerability, but it did not offer any particular procedural accommodations. Instead, it emphasised the need to guarantee the individual ex officio legal assistance. The decision states: *“Without legal assistance and in the light of the expert's finding that the victim is unable to fully participate in the trial due to both psychological and personality disabilities, all further actions to inform the victim of his rights and to notify him of such rights become purely formal, which, in the Court's view, constitutes a substantial and irreversible procedural violation of the victim's rights.”*<sup>64</sup>

In the second case, the court permitted an eyewitness to be questioned in a secure setting for the purpose of a criminal case (in the so called “blue room” – a room where the victim or witness cannot be seen and directly contacted by the defendant) with the support from an interpreter - speech therapist.<sup>65</sup>

In 2023, changes were made to some laws concerning victims of crimes, which can also be applied to victims with disabilities. Under the Criminal Procedure Code (CPC)<sup>66</sup>, victims now have the right to be accompanied by a person of their choice during the pre-trial phase, unless

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<sup>62</sup> There are certainly more court decisions, but it is our observation that the possibility for some judges to use intermediaries other than sign language interpreters came from a particular project of a social service provider who trained speech therapists and social workers in communication with people with psychosocial and intellectual disabilities.

<sup>63</sup> Order No. 141 of 29.03.2023 in Case No. 110 / 2023 of the District Court - Lovech. Although in the Order access to legal aid is referred to as a form of procedural accommodation, and in the interviews conducted the provision of legal aid is also referred to as a procedural accommodation, the authors of the report find that the provision of legal aid is in itself an element of access to justice, but still cannot be considered as a procedural accommodation if the person with a disability is not provided in parallel with the means to overcome the specific barriers of the environment that create difficulties (such as the provision of intermediary).

<sup>64</sup> Ibid.

<sup>65</sup> Court decision No. 7 of 02.02.2023 in administrative case No. 74 / 2022 of the District Court - Lukovit.

<sup>66</sup> Bulgarian Criminal Procedure Code (2005) is available in Bulgarian language here: <https://lex.bg/laws/ldoc/2135512224>.

it conflicts with their interests or hinders the criminal proceedings.<sup>67</sup>

Changes have also been made regarding victims with specific protection needs. These needs arise when additional measures are necessary to protect people from secondary and repeated victimisation, intimidation, retaliation, emotional, or psychological distress. This includes preserving the dignity of victims during interrogation.<sup>68</sup> If the witness with specific needs is a child, they must be questioned in the presence of a counselor or psychologist and, when necessary, in the presence of a parent or a guardian,<sup>69</sup> who also has the right to ask questions. If it does not interfere with the criminal process, a witness with special needs, particularly one who has been the victim of sexual offense or domestic abuse, may now request that a person of the same gender question them. However, this provision does not apply when the questioning is carried out by a judge or prosecutor.<sup>70</sup>

Specific protection needs are now determined under the Crime Victim Assistance and Financial Compensation Act (CVAFCA)<sup>71</sup>, in addition to the Criminal Procedure Code. Recent modifications to the CVAFCA state that each victim of crime has the right to an individual assessment to determine how the crime has affected their physical and mental health and whether they are eligible for additional protection. eds.<sup>72</sup> The individual assessment should be conducted by the investigators who have established contact with the victim through a conversation. When a victim is unable to provide the required information right away, the evaluation should be based on information from the victim's companions as well as impartial observations of the victim's condition.<sup>73</sup> If it does not delay the procedure, the authorities may

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<sup>67</sup> Art. 75, par. 1 and 4 of the CPC. However, this measure is not implemented when the victim participates in the court phase of the trial. In principle, court hearings are open and other persons, including relatives of the victims, are entitled to be present in the courtroom, but in certain circumstances the court may remove them - Article 20 of the CPC and Article 267 of the CPC.

<sup>68</sup> See in more detail Voices for Justice: People with Disabilities in Bulgaria who are Victims of Crime Report, available in Bulgarian here: <https://nie.expert/dokladi/>.

<sup>69</sup> Art. 139a, para. 1 from CPC.

<sup>70</sup> Art. 139a, para. 2 from CPC.

<sup>71</sup> Additional Provisions, para 1, point 4 of the CPC. The amendment to the law is from September 2023, in force since 1.09.2023. Obviously, at the time of writing, it is difficult to indicate how the above provisions are, or rather will be, applied.

<sup>72</sup> Art. 7a, par. 1 of the CVAFCA, available in Bulgarian here: <https://lex.bg/laws/ldoc/2135540550>.

<sup>73</sup> Art. 7b, par. 2 and 4 of the CVAFCA.



ask a physician, psychologist, or other specialist to assist with the evaluation.<sup>74</sup>

If the victim is a minor, a person with a disabilities, dependent on the perpetrator, or has suffered from any of the explicitly mentioned crimes in the law, including those committed in the context of domestic violence, sexual offenses, or human trafficking, the competent authorities must assume that this person has specific protection needs.<sup>75</sup> In these cases, an extended assessment should be carried out by a team involving representatives from Social Assistance Directorate local administration, and other specialists. The assessing body determines the specific protection measures based on this assessment. An extended assessment should also be conducted when there is doubt that the victim has suffered significant harm from the crime, aiming to identify whether the victim needs specific protection measures.<sup>76</sup>

The mentioned changes in the CPC and the CVAFCA are yet to be applied- - at the time of writing this report it is impossible to evaluate their effectiveness.

Regarding minors, it should be noted that the Child Protection Act explicitly grants them the right to be heard in all court and administrative proceedings if they are 10 years or older and if the hearing will not harm them according to the authority's assessment. For children under 10, a hearing is allowed if their level of development allows it.<sup>77</sup> During the child's hearing, the authority must ensure a suitable environment, provide necessary information, and ensure the presence of a social worker and other specialists if needed. Unless the authorities determine it is not in the best interests of the child, a close relative of the child also attends the hearing.<sup>78</sup>

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<sup>74</sup> Art. 7c, of the CVAFCA.

<sup>75</sup> Art. 7a, par. 2 of the CVAFCA.

<sup>76</sup> 7b, para. 5 and Art. 7d, para. 1 and para. 2 of the CVAFCA.

<sup>77</sup> Article 15, paragraph 1 and paragraph 2 of the Child Protection Act. The review of judicial practice in cases involving children with disabilities, primarily those related to placement in residential care, reveals that concerning children with disabilities, the general rule is replaced by the exception. In other words, it is assumed that hearing the child would be harmful, and therefore, such hearings are not conducted.

<sup>78</sup> Art. 15, para 3-5 from CPA.

## Right of Compensation

Victims of violence and crime can receive financial compensation for material and moral damages from the perpetrator. This can be pursued through a civil lawsuit<sup>79</sup> filed against the perpetrator, either independently or as part of the ongoing criminal proceedings related to the specific crime.<sup>80</sup> It is important to note that unless the court invokes Article 12 of the CRPD, individuals under guardianship are not permitted to independently file for compensation.

Additionally, the government provides<sup>81</sup> financial compensation for victims who have suffered material damages<sup>82</sup> due to some explicitly specified crimes.<sup>83</sup> However, the government does not provide compensation for moral damages, even in situations where the victim faces challenges in collecting court-awarded compensation from the convicted offender.

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<sup>79</sup> Article 45 of the Obligations and Contracts Act, available in Bulgarian here <https://lex.bg/bg/laws/ldoc/2121934337>.

<sup>80</sup> Art 124 from the Civil Procedure Code; Art. 84-88 from the Criminal Procedure Code.

<sup>81</sup> See in detail Articles 13-19 of the CVAFCA and the Voices for Justice: People with Disabilities in Bulgaria who are Victims of Crime Report, available in Bulgarian here: <https://nie.expert/dokladi/>.

<sup>82</sup> Costs of treatment, except for the costs that are covered by the budget of the National Health Insurance Fund; loss of income; costs of payment of court and legal costs; loss of means of subsistence; funeral costs; other pecuniary damage - see Art. 14, para. 1, of the CVAFCA.

<sup>83</sup> Terrorism; murder; attempted murder; intentional grievous bodily harm; fornication; rape; human trafficking; crimes committed on the orders of or in execution of a decision of an organised criminal group; other serious intentional crimes from which death or grievous bodily harm have occurred as a constitutive consequence - see Art. 3 of the CVAFCA.

### 02 Strategies, plans and services at the national and local level

The Social Services Act (SSA) governs the creation, financing, and categories of social services for persons with disabilities and victims of abuse.<sup>84</sup> Additionally, some services for victims of violence are regulated in other acts such as the Protection against Domestic Violence Act (PADVA), the Combating Trafficking in Human Beings Act (ATPA)<sup>85</sup>, and the Crime Victim Assistance and Financial Compensation Act (CVAFCA). The social services maps, required under the SSA and developed in 2023, include analysis and planning for both services for people with disabilities and for victims of violence. However, a review of these maps does not indicate the establishment of a clear link between the two service types<sup>86</sup>. Currently it is uncertain whether future steps will be taken to make services for victims of gender-based violence accessible to people with disabilities and whether rehabilitation and reintegration programs will be available for people with disabilities who have experienced gender-based violence. As of today, it can be stated with certainty that services for victims of gender-based violence are relatively scarce and unevenly distributed across Bulgaria. People with disabilities may not always be able to access these services, and a wide range of disabilities are not sufficiently covered.<sup>87</sup> Furthermore, there is still no electronic system providing up-to-date and accessible information on the number, types, locations, and contact

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<sup>84</sup> The Act (available in Bulgarian here: <https://lex.bg/bg/laws/ldoc/2137191914>) was introduced in 2020, but its entry into force has been postponed several times, with some of its texts coming into force only from 01.01.2023. The implementation of the Social Services Act is linked to the development of social services maps, which are in turn conditional on the completion and publication of the results of the national census carried out in 2021 (see par. 31 of the Transitional and Final Provisions of the Social Services Act). The delay in publishing the results, combined with the 12-month deadline, meant that the analysis of social service needs only started in 2023.

<sup>85</sup> Combating Trafficking in Human Beings Act (2003), available in Bulgarian here: <https://lex.bg/laws/ldoc/2135467374>.

<sup>86</sup> See, for example, the Analysis of the Needs for Social Services at Municipal and Regional Level, which are Financed in Full or in Part by the State Budget for the Municipality of Shumen, available in Bulgarian here: <https://www.shumen.bg/doc/obsajdane/2302152.pdf>. The analysis is typical. According to the guidelines of the ASA (see above note), the analyses follow this structure and content.

<sup>87</sup> See for example a map of services for victims of violence produced in 2020 by the P.U.L.S. Foundation: <https://www.pulsfoundation.org/bg/learn-more/mesta-za-pomost-i-podkrepa.html>.

details of services for victims of violence.<sup>88</sup>

As mentioned above, violence occurring within various types of closed institutions (such as residential centres, small group “home” institutions, and psychiatric hospitals) is not recognised as domestic violence. However, it must be acknowledged that the legislation makes some effort to address violence in social services. The Regulation on the Quality of Social Services<sup>89</sup> outlines requirements related to the identification, prevention, and reporting of violence in social services, including staff training. Nevertheless, these regulations do not offer sufficient guarantees that violence will be identified, reported, and that victims will have access to justice.<sup>90</sup> They lack adequate guarantees that the barriers arising from the isolation and limitations due to dependence on staff and disability will not result in ineffectiveness of the measures.<sup>91</sup>

The Regulation on the Quality of Social Services draws a distinction between social services providing shelter and care for people with disabilities and those for victims of gender-based violence. There is no intersection between these two services. For instance, the quality criteria for services addressing the social needs of people with disabilities does not encompass preventive and follow-up<sup>92</sup> protection from gender-based violence, even though the interviews clearly highlighted the pattern of victims of gender-based violence with disabilities being placed in institutions.

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<sup>88</sup> In this regard see the Agency for the Quality of Social Services's register of social services in Bulgaria - <https://aksu.government.bg/registar-na-licenziranite-dostavchiczi-na-soczialni-uslugi-2/>.

<sup>89</sup> Regulation on the Quality of Social Services (2022) is available in Bulgarian here: <https://lex.bg/bg/laws/ldoc/2137223813>.

<sup>90</sup> The judicial practice in this regard is extremely scarce.

<sup>91</sup> One of the pointed criteria for the quality of the services (criteria 17.1 of the Regulation) includes requirements related to adapting complaint procedures. However, the text leaves too much room for staff discretion (it is stated that adapted materials are prepared “where applicable,” without specifying what is meant by that). Mechanisms to overcome isolation and dependence on staff are not proposed, even in this criterion.

<sup>92</sup> The Handbook for professionals supporting women who have experienced violence, produced by Animus Association and available in Bulgarian here: [https://www.icss-bg.org/wp-content/uploads/2015/07/Narachnik\\_Prevencia\\_DN.pdf](https://www.icss-bg.org/wp-content/uploads/2015/07/Narachnik_Prevencia_DN.pdf) discusses a number of reasons why violence against women with disabilities goes unrecognised and unaddressed, including barriers to accessing support. Although the text is not directly relevant to Bulgaria, we find that the conclusions are entirely valid for our national context. See page 27 of the Handbook.

Notwithstanding the aforementioned changes, institutionalisation practices such as placing adults and children in residential facilities are still part of Bulgaria's deinstitutionalisation policy for persons with disabilities, even though the goal is to enable them to live in the community. These services are still institutions even though they are smaller than the previous group homes.<sup>93</sup> The laws and policies are yet to address how the harm caused by inaction and the inadequate response to violence against people with disabilities in the past will be repaired, even if we assume that the most recent changes have improved the chances of protecting persons with disabilities from gender-based violence.<sup>94</sup>

Bulgaria does not have a national plan or strategy to address gender-based violence. Each year, a National Programme for the Prevention and Protection against Domestic Violence is adopted, but the 2023 program does not provide specific measures for women and children with disabilities.<sup>95</sup> There is no national program to combat human trafficking. The National Strategy for Persons with Disabilities (2021-2030) does not include measures to protect people with disabilities from violence, including gender-based violence.<sup>96</sup> Similarly, the National Strategy for the Promotion of Equality between Women and Men (2021-2030) lacks specific measures to protect people with disabilities affected by gender-based violence.<sup>97</sup>

In 2023, the National Program for Preventing Violence and Exploitation of Children (2023-2026) was adopted.<sup>98</sup> The program acknowledges that *"certain groups of children may be more vulnerable and, therefore, require more focused and specialised assistance,"* this group

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<sup>93</sup> Detailed information on policies and practices related to de-institutionalisation (DI) can be found in the report "De-institutionalization and Living in the Community in Bulgaria, A Three-Dimensional Illusion", available in Bulgarian here: <https://nie.expert/dokladi/>.

<sup>94</sup> A report by Disability Rights International published in 2019 (available in English here: <https://www.driadvocacy.org/reports/dead-end-children-bulgarias-group-homes>) describes numerous cases of violence against children and young people with disabilities in residential care. Violence varies from neglect to tethering and isolation, and includes forms of inhumane and degrading treatment and neglect to reports of sexual abuse. Signs of violence were not recognised, and victims were in a state that prevented them from complaining and taking advantage of otherwise formally available complaint mechanisms.

<sup>95</sup> National Programme for the Prevention and Protection against Domestic Violence (2023) is available in Bulgarian here: <https://www.strategy.bg/StrategicDocuments/View.aspx?lang=bg-BG&Id=1610>

<sup>96</sup> National Strategy for Persons with Disabilities (2021-2030) is available in Bulgarian here: <https://www.mlsp.government.bg/uploads/38/khu/20rh957pr.pdf>.

<sup>97</sup> National Strategy for the Promotion of Equality between Women and Men (2021-2030) is available in Bulgarian here: [https://www.mod.bg/bg/doc/ravnopostavenost/20210119\\_National\\_strategy\\_2021-2030.pdf](https://www.mod.bg/bg/doc/ravnopostavenost/20210119_National_strategy_2021-2030.pdf).

<sup>98</sup> National Program for Preventing Violence and Exploitation of Children (2023-2026) is available in Bulgarian here: <https://sacp.government.bg/sites/default/files/politics/nacional-program-nasilie-i-zloupotreba.pdf>.

includes *"children with disabilities, those placed outside the family, and those from marginalised groups."*<sup>99</sup> It outlines measures to protect all children from violence, ensuring their access to justice and social and health services as well as conducting monitoring.<sup>100</sup> The Strategy's Action Plan outlines specific steps to protect children with disabilities from violence, including developing necessary communicational and social skills, and implementing a free system for alternative communication.<sup>101</sup> The suggested measures are novel for Bulgaria and have not yet been put into practice or had their efficacy assessed.

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<sup>99</sup> Ibid., page 2.

<sup>100</sup> Ibid., page 66.

<sup>101</sup> The Action Plan for Implementation of National Program for Preventing Violence and Exploitation of Children (2023-2026) is available in Bulgarian here: <https://sacp.government.bg/sites/default/files/politics/plan-nasilie-i-zloupotreba-deca-2023.pdf>.

### 03 Monitoring and regulation of institutions and public services

#### Monitoring of social services

Monitoring is an obligation of the State that requires the establishment of independent bodies to observe and evaluate the performance of institutions in accordance with agreed international standards for the protection of human rights. OHCHR defines monitoring as a *"method of improving the protection of human rights [which] ultimate objective is to reinforce the State's responsibility to respect, protect and fulfil human rights."*<sup>102</sup>

The monitoring of social services in Bulgaria, including residential ones, is most comprehensively regulated by the Social Services Act (SSA) and the Regulation on the Quality of Social Services, which defines the standards for the provision of each service. Monitoring is also regulated by other acts, such as the Child Protection Act (CPA), Protection Against Domestic Violence Act (PADVA), the Combating Trafficking in Human Beings Act (ATPA) and the Ombudsman Act.

The Social Services Act (SSA) divides activities on observation and evaluation of social services into **"monitoring of the quality of social services"** and **"control of the provision of social services."** "Monitoring" is defined as *"a process of systematically collecting, summarising and analysing information based on the criteria for compliance with the quality standards of social services."*<sup>103</sup> and, on its own, does not include visits on-site. "Control" is defined as *"the tracking of compliance with the regulatory requirements for the provision of services and with the quality standards and taking timely measures to improve said*

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<sup>102</sup> Basic Principles of Human Rights Monitoring, UN, page 4, available at: <https://www.ohchr.org/sites/default/files/Documents/Publications/Chapter02-MHRM.pdf>.

<sup>103</sup> Art. 108 para. 1 from SSA.

*compliance.* <sup>104</sup> On-site inspections of the services and interviews with the service users are specifically conducted during “control” activities. In this process recommendations are also issued to rectify violations committed by social service providers, if any were identified.<sup>105</sup>

The Social Services Act mandates that social service providers, municipalities, and the Agency for the Quality of Social Services (ACSS) conduct mandatory monitoring. Independent national, international, and European organisations may also conduct monitoring.<sup>106</sup> However, the “control” process is exclusively carried out by service providers, municipalities, and the ACSS, so independent organisations cannot take part in it.<sup>107</sup>

Despite being the highest monitoring and control authority, the ACSS does not have internal regulations or methods for these activities. Instead, it follows the guidelines outlined in the Regulation on the Quality of Social Services where indicators for the provision of social services are specified. The ACSS inspects social services through both routine and unscheduled inspections. It has the authority to conduct unscheduled inspections autonomously, without prior notification to the service provider, or in response to a complaint. **The ACSS responded to our inquiry by stating that they did not receive any complaints regarding gender-based violence against women and children with disabilities, nor any training on the subject.**<sup>108</sup>

The State Agency for Child Protection is the primary oversight body for children. It conducts inspections to guarantee that children's rights are respected, especially when the children use social services.<sup>109</sup> According to the Child Protection Act, the Minister of Labor and Social Policy and the municipalities should support and encourage collaboration with civil society organisations in order to actively involve them in the formulation, implementation, and

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<sup>104</sup> Art. 107 from SSA.

<sup>105</sup> Art. 116 from SSA.

<sup>106</sup> Art. 108, para. 2 and 3 from SAA.

<sup>107</sup> Art. 112-114 and Art. 116 from SSA.

<sup>108</sup> Decision № RD-19-1/07.07.2023 issued by the Agency for the Quality of the Social Services on the ground of the Public Information Access Act (PIAA).

<sup>109</sup> Art.17a, para. 1, item 14 from CPA.



monitoring of child protection policies. However, the Act itself does not provide a definition of the term "monitoring."<sup>110</sup>

**Based on the information provided to us by the State Agency for Child Protection (SACP), it can be concluded that they identify cases of violence against children with disabilities in residential institutions almost every year.<sup>111</sup>**

### **Monitoring of Health Services**

Control in **healthcare facilities** is conducted by the Medical Supervision Executive Agency (EAMS) under the Ministry of Health, which performs both planned and unplanned inspections, including assessments of compliance with patients' rights.<sup>112</sup> We did not receive an answer to our inquiry to the EAMS regarding identified cases of gender-based violence against people with disabilities in the medical care system. Rather, the Agency told us in writing that it does not maintain the requested information in a available format and cannot extract it from the available documentation at this time.<sup>113</sup>

### **Independent Monitoring**

The Ombudsman is an independent authority that promotes and protects human rights and fundamental freedoms, including instances where they are violated by public authorities or in the provision of public services.<sup>114</sup> The Ombudsman's competences include examining complaints and reports of human rights violations, conducting inspections, making recommendations to correct violations, as well as making reports.<sup>115</sup>

The Ombudsman is also the **National Preventive Mechanism** (NPM) and conducts

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<sup>110</sup> Art. 6a, para. 4, item 1 b and item 8 b from CPA.

<sup>111</sup> Decision № RD-12-8 issued by the State Agency for Child Protection on the ground of PIAA.

<sup>112</sup> Art. 7a and art. 7b The Medical Institutions Act.

<sup>113</sup> Decision № 93-00-41 issued by EAMS on the ground of PIAA.

<sup>114</sup> Art. 2 from Ombudsman Act available in English at:

[https://www.ombudsman.bg/storage/pub/files/20220725170050\\_Ombudsman%20Act%20EN.pdf](https://www.ombudsman.bg/storage/pub/files/20220725170050_Ombudsman%20Act%20EN.pdf).

<sup>115</sup> Art. 19, p. 1, i. 1 and i. 2 Ombudsman Act.

inspections in all facilities that house individuals who are unable to leave on their own volition. This includes psychiatric hospitals and other institutions such as group homes for people with disabilities, protected homes, and family-type residential centres.<sup>116</sup> The NPM has the right to access any location or person within the institution while on visitation, serving as a defence authority against torture and other cruel, inhuman, or degrading treatment or punishment.<sup>117</sup> After an inspection, the NPM prepares a report containing recommendations for the relevant authorities.<sup>118</sup> The Ombudsman Act and the relevant Regulations on the Organisation and Activities of the Ombudsman do not provide specific regulations regarding persons with disabilities.

**From our inquiry to the Ombudsman, it is evident that this institution, similar to the State Agency for Child Protection, regularly identifies cases of violence against people with disabilities placed in institutions.<sup>119</sup>**

The legislation does not establish requirements for inspecting authorities to follow a specific protocol or methodology in identifying gender-based violence against people with disabilities. Furthermore, victims who are dependent on the perpetrator, as in the case of institutional violence, lack an efficient reporting mechanism.

It is evident that monitoring compliance with human rights in the system of social services and medical care for people with disabilities is reserved only for the authorities, making civil monitoring highly challenging. The closed nature of the system is difficult to justify and runs counter to other laws regulating monitoring in closed institutions and the access of civil organisations to them. For instance, in the Implementation of Penal Sanctions and Detention in Custody Act<sup>120</sup>, collaboration with the non-governmental sector is extensively developed,

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<sup>116</sup> Art. 28a, para. 1 from The Ombudsman Act.

<sup>117</sup> Art. 28a, para. 2 from The Ombudsman Act.

<sup>118</sup> Art. 28g from The Ombudsman Act.

<sup>119</sup> Decision № 94-62 issued by the Ombudsman on the ground of PIAA.

<sup>120</sup> Penal Sanctions and Detention in Custody Act is available at:  
[Implementation of Penal Sanctions and Detention in Custody Act.pdf](#).

enabling NGOs to conduct visits to prisons and detention facilities in practice. Furthermore, the Animal Protection Act<sup>121</sup> also grants rights to civil society organisations that report violations against animals to participate in inspections based on such reports, including visits to closed institutions such as "shelters".

The access to places of detention and imprisonment by lawyers is also guaranteed by the law and this provision is rarely violated.<sup>122</sup> Having said that, the authors of this report collaborated on a case of a person with disabilities placed in a residential service whose lawyers had serious difficulties visiting their client.

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<sup>121</sup> Animal Protection Act (2008) is available in English here: [https://eea.government.bg/bg/legislation/biodiversity/zzjan\\_03.05.2016.pdf](https://eea.government.bg/bg/legislation/biodiversity/zzjan_03.05.2016.pdf).

<sup>122</sup> See the Implementation of Penal Sanctions and Detentions in Custody Act.

### 04 Summary and assessment

- The legal system as a whole still falls short of international norms for safeguarding victims of gender-based violence, particularly victims with disabilities.
- Neither all types of gender-based violence nor the specific type of violence against people with disabilities have been criminalised in the Criminal Code. The Protection Against Domestic Violence Act also does not ensure comprehensive protection for people with disabilities. Violence in the social care system is not being recognised as domestic violence. There is a lack of protective measures, compliant with the victims' disabilities.
- Procedural laws have not regulated the accommodations for people with disabilities, and the Persons with Disabilities Act's provisions are not being used to a satisfactory extent. The Victims Support Directive's requirements have not yet been fully implemented.
- Social services in Bulgaria are separated – for victims of violence on one hand and for people with disabilities on the other. The amount and variety of services offered to victims of gender-based violence are insufficient, they do not cover the whole country, and they typically do not meet the needs of victims who have intellectual and psycho-social disabilities. The lack of community-based for people with disabilities leads to their institutionalisation as a way of protection against gender-based violence.
- **In the Social Services Act monitoring is defined as an act of analysis and**

**assessment of the rules and politics and not as an instrument for direct identification of cases of human rights violations. On the other hand there is no effective complaint mechanism for persons with disabilities who depend on the perpetrators.**

- In general, the activities of inspecting social services and healthcare centres are reserved for the authorities, which prevents effective civic control.
- There are no legal requirements requiring the authorities to follow a specific protocol for identifying gender-based violence, including against individuals with disabilities, when conducting inspections or monitoring.
- Currently Bulgarian authorities have not acted upon several recommendations made by the UN Committee for Eliminating all forms of Discrimination Against Women.
- Some of these recommendations are: ratification of the Istanbul convention,<sup>123</sup> introduction of all forms of gender-based violence in the legislation and its effective pursuit; building effective independent mechanisms for filing complaints for women residing in psychiatric institutions and social protection centres, relevant trainings for professionals who work with victims of gender-based violence, providing an effective access to justice and appropriate services to women with disabilities, and the inclusion of the latter in the process of policy-making, law-making among others.<sup>124</sup>

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<sup>123</sup> In 2023 the Istanbul convention was ratified the European Union, however it is not ratified by Bulgaria. The EU has joined the Convention only in respect of matters within its exclusive competence arising from the agreed common rules on judicial cooperation, asylum and non-refoulement, and in respect of the Union's institutions and public administration. The Convention is available here:

<https://www.europarl.europa.eu/legislative-train/theme-a-new-push-for-european-democracy/file-eu-accession-to-the-istanbul-convention>.

A detailed analysis of the issues and debates related to the ratification of the Convention is presented by the Bulgarian Center for Not-for-Profit Law in the analysis "Legislative and Communication Narrative on Domestic Violence", available here:

[https://bcnl.org/uploadfiles/documents/%D0%97%D0%B0%D0%BA%D0%BE%D0%BD%D0%BE%D0%B4%D0%B0%D1%82%D0%B5%D0%BB%D0%B5%D0%BD%20%D0%B8%20%D0%BA%D0%BE%D0%BC%D1%83%D0%BD%D0%B8%D0%BA%D0%B0%D1%86%D0%B8%D0%BE%D0%BD%D0%B5%D0%BD%20%D0%BD%D0%B0%D1%80%D0%B0%D1%82%D0%B8%D0%B2\\_%D0%94%D0%9C\\_%D0%91%D0%A6%D0%9D%D0%9F\\_2023.pdf](https://bcnl.org/uploadfiles/documents/%D0%97%D0%B0%D0%BA%D0%BE%D0%BD%D0%BE%D0%B4%D0%B0%D1%82%D0%B5%D0%BB%D0%B5%D0%BD%20%D0%B8%20%D0%BA%D0%BE%D0%BC%D1%83%D0%BD%D0%B8%D0%BA%D0%B0%D1%86%D0%B8%D0%BE%D0%BD%D0%B5%D0%BD%20%D0%BD%D0%B0%D1%80%D0%B0%D1%82%D0%B8%D0%B2_%D0%94%D0%9C_%D0%91%D0%A6%D0%9D%D0%9F_2023.pdf).

<sup>124</sup> See details in CEDAW's Concluding observations on the eighth periodic report of Bulgaria, 2020, available in English here:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/062/19/PDF/N2006219.pdf?OpenElement>.

- Legislation is not generally aligned with the CRPD. People with disabilities face several obstacles as a result of national legislation, despite some progress having been made in that direction.
- Guardianship is still considered as a measure of protection and has no alternative even though it is obvious that this is more of a restriction measure than a protective one. It continues to exist in Bulgaria in an extremely archaic form.<sup>125</sup> Guardianship creates several invisible barriers for people with disabilities, regardless of the changes in the Protection Against Domestic Violence Act from 2023. Additionally, there is no current opportunity for the use of easy - to - read materials or for the accessibility of information about human rights and how they are implemented.



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<sup>125</sup> Guardianship was established by Persons and families Act (available in the Bulgarian here: <https://lex.bg/laws/ldoc/2121624577>), passed in 1949 and it remains unchanged. In Constitutional Case 10/2014, the unconstitutionality of the norms regulating the existence of the guardianship was denied on the grounds that it exists only because there is nothing else in our national legislation to ensure the protection of people with disabilities. The Constitutional Court acknowledged that the norms were outdated and recommended urgent measures to fill the legislative gap and bring the legislation in line with Article 12 of the CRPD. However, at the time of writing this report, almost 10 years later, no amendment has been made.

# 04

**INTERVIEWS AND/OR  
FOCUS GROUPS - RISK  
FACTORS AND BARRIERS TO  
ACCESSING SUPPORT AND  
JUSTICE**

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## INTERVIEWS AND/OR FOCUS GROUPS - RISK FACTORS AND BARRIERS TO ACCESSING SUPPORT AND JUSTICE

### 4.1 Experiences of women and children with intellectual and psycho-social disabilities

*„And I asked her "What violence?" and then she understood that I wasn't realising that I was being sexually assaulted.“<sup>126</sup>*

Childhood, type of violence, family support, experience with the “care” system, experience with police and court, access to services for victims of violence – these core experiences in the lives of each interviewee are certainly different for each individual, however they still allow us to describe the difficult reality that many persons with disabilities face, which we are going to present in the following section of the report.

#### **Reporting violence to authorities - victims' perspectives**

*„What is it that was stopping me? I always thought I wouldn't be able to escape the situation.“<sup>127</sup>*

Interviews revealed that the process of reaching out for help once a person becomes a victim of gender-based violence is affected by different factors: their age, their relationship with the perpetrator, support from relatives, availability of support services, societal stigma, and the reaction from the relevant institutions – authorities, police, Prosecutor's office, court. The conclusion we can make based on the interviews is that the victims rarely reach out to the authorities directly after they have experienced violence. This is due to different reasons: fear disability-based discrimination, shame, and mistrust in the authorities:

*„Something that was stopping me was that, he would always threaten me that he would take*

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<sup>126</sup> From an interview with a woman who experienced multiple forms of gender-based violence.

<sup>127</sup> From an interview with a woman with a disability, who experienced domestic violence.



*away my children.*<sup>128</sup>

*„I'm skeptical because I have a severe diagnosis [...] from the psychiatry and I was consistently being told I wouldn't get better. They constantly brought me down.“ [refers to her ex-husband and the case of her parental rights]<sup>129</sup>*

*„Well, it is shameful to share with people, you don't know how they will react. One option is for them to make fun of you your whole life and the other is to reject you. [...].“<sup>130</sup>*

*„What is it that was stopping me? I always thought I would not be able to escape the situation. But when I called 112, they reacted right away. [...] It was then when there were many cases of domestic violence against women and children and then I reacted. Before that in 2006<sup>th</sup>, 2007<sup>th</sup> there was no such a law ensuring protection from domestic violence and I could not get protection order from the court [...].“<sup>131</sup>*

For the victims of violence residing in institutions, some of the main barriers are the lack of trust in the authorities, the lack of evidence (main issue with domestic violence cases in general) as well as the possibility of retributions if they make a complaint about the actions of the personnel in the institution:

*„We have witnessed the staff slap and even beat the residents. Regrettably, we have no evidence for this and we haven't found a way to be of help [...] I tried to make a complaint. However, the director of the institution turned against me. She had called a group meeting for all staff members as well as my friend [states the name] and me and as a result it was established that according to her I have not been keeping up with the regime in the house.“<sup>132</sup>*

*„I ran away, they brought me back in approximately two months and took me to another isolator*

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<sup>128</sup> From an interview with a woman with a disability, who experienced domestic violence.

<sup>129</sup> From an interview with a woman with a disability, who experienced domestic violence.

<sup>130</sup> From an interview with a woman with a disability, who experienced domestic violence.

<sup>131</sup> From an interview with a woman with a disability, who experienced domestic violence.

<sup>132</sup> From an interview with a woman with a disability, living in an institution.

*[locked in full isolation without human contact with others] where I was kept with my hands tied, handcuffs on and I was mistreated and abused” [a man who repeatedly escaped from institutions for people with disabilities where he was held in inhumane conditions].<sup>133</sup>*

The authorities’ way of conducting monitoring in institutions also does not encourage the persons living there to make complaints:

*„Well, they tell them a day or two before the inspection that there is going to be [an inspection] on this certain date. The house gets cleaned, it should be tidy. They bring us in, praise us, they also say how much they care for us, that we are like their own children. In most of the cases we, the residents, aren’t given the opportunity to speak. Another thing is – the last inspection I had – I was not given the opportunity to spend time alone with the inspector. There was another person there, because they didn’t want me to say something against them.”<sup>134</sup>*

## **Response of authorities**

The general impression is that in their interactions with the authorities, victims with disabilities have not always received support, have not been properly listened to, and have not received information on their case or on the relevant procedure in an accessible way. In some cases, the victims have neither received support nor protection from the perpetrators of the violence. Only one of the women we spoke with shared that she felt heard by the police and the information they provided her with was understandable:

*„Yes, they spoke with us, one by one and with both of the children, they spoke with me too. [...] Yes, they explained absolutely everything to me.”<sup>135</sup>*

However, her experience with the court in the domestic violence protection case left a different impression on her: *„I wanted [her daughter’s name] to be heard [...] but she was not heard by*

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<sup>133</sup> From an interview with a man with a disability, who used to live in an institution.

<sup>134</sup> From an interview with a woman with a disability, living in an institution.

<sup>135</sup> From an interview with a woman with a disability, who experienced domestic violence.

*the court. It would have been better if [the judge] had asked me questions.”<sup>136</sup>*

Another woman with disabilities, however, described her experience with police as negative: *„They didn't ask me to testify [...] „They didn't explain anything to me. [...] They asked me very briefly how I know him [...] and that was all. They wanted more information from the staff than they did from me. When I called [the police] the second time one of the police officers said to me: “Well you call him and then you complain.” [...] Every time I filed a report against him, they [the police officers] went to the ladies in the office and not to me. As if they are the ones who know what happened, not I. They have called me in the office. However, they [the staff] have spoken instead of me. And all I do is listening [...], they didn't ask me „is this true?”* This woman has not been present at the hearing of her domestic violence protection case, since she was not sure if the building was accessible, and she was also afraid of meeting the defendant in Court.

When it comes to cases of violence against victims with disabilities, a possible reaction of the authorities is to completely exclude the victim from the process of collecting evidence. Such is the case of a girl who became a victim of sexual violence in a school for children with disabilities, who was never questioned - the police questioned her family instead. During the investigation the child has undergone a psychiatric or psychological examination, the results from which were not made available to the child's parents nor was the assessment explained to them: *„Nobody paid any attention to us. The psychologists just took [child's name] from me. They held a meeting for about an hour, an hour and a half.”<sup>137</sup>* Moreover, the procedural actions were not consistent with the child's condition: *„[...] and I was explaining to them [the police officers], that they are in fact mothers, however they are not mothers of children with disabilities and that if the medical examination [gynecological] isn't conducted under anesthesia, it will do her more harm than good.[...] They were trying to make [child's name] lie on the table where the examination had to take place. Ten people were not enough to hold*

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<sup>136</sup> From an interview with a woman with a disability, who experienced domestic violence.

<sup>137</sup> From an interview with a parent of a child with a disability, who experienced sexual violence.

her still. And I was crying and explaining that it's not working because she is autistic [...]. You can't make her lie on the medical table simply because she is afraid (...) It was really scary, it was truly horrible."<sup>138</sup>

***„The system was completely indifferent [...] In fact, there is no system, they don't know how to react when there is a case of violence against a person with a disability. They have no idea, not a single institution knows how to proceed in such situations. That's a fact.“***<sup>139</sup>

We identified a provision of procedural accommodations only in one case (in which the victim was supported from the very beginning by a non-governmental provider of services for victims of violence): the interrogations were taking place in the presence of the girl's therapist. The hearing was conducted in an environment familiar to the child (in the shelter where the girl was staying), and breaks were taken during the interrogations. Unfortunately, in this case, the child still encountered barriers: one of the interrogations lasted around seven hours (with breaks); the child did not always understand the questions and she was ashamed to admit it; and the repeated interrogations had a negative effect on her: *„Well, they [the police investigators] asked me if understand and I said “yes” because I was embarrassed to say “no.” [...] I was very nervous. [...] I was not going to say anything” [if her therapist was not with her during the interrogations].*<sup>140</sup>

### **Reporting violence to the social and medical care system from a victims' perspective**

Based on the information shared with us, we conclude that the "care" system is unable to appropriately respond to reports of violence and is unable to recognise the signs of actual violence. Very telling of this is the story of a woman who experienced domestic violence in the institution she lived in. The violence was committed by her ex-partner who was an external

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<sup>138</sup> From an interview with a woman living in an institution, who experienced domestic violence.

<sup>139</sup> From an interview with a parent of a child with a disability, who experienced sexual violence.

<sup>140</sup> From an interview with a child who experienced human trafficking.

person to the institution. When she reported the violence to the staff of the institution, she was met with accusations, she was denied help, and the staff tried to move her to a different place. This woman shared her experience with the staff when the violence becomes unbearable, however their answer is: *„Well, what am I supposed to do? It is your fault. Deal with it yourself, [the director of the institution] is already finding you a place, but we can't help you.“*<sup>141</sup>

The concealment of the violence, committed by a staff member of an institution is also something that the victims and their families face: *„I received threats from the director, her attitude was scary. She told me how I was crazy for thinking that someone would pay attention to me. It was really difficult.“*<sup>142</sup>

The identification of violence against women with disabilities and alerting to the authorities seems to be missing completely in the system of psychiatric care: two of the women we spoke with had been hospitalised in psychiatric hospitals, but the violence they had experienced was never taken into consideration by hospital authorities: *„I experienced cruel beating from him and because of that I was hospitalised [...] they would come in, ask what my condition is and leave [...] They simply come in, give you your medicine, ask how you are feeling.“*<sup>143</sup>

This interviewee chose not to share with the hospital's staff what she was experiencing at home because she did not feel she could do so. During her hospitalisations nobody recognised the signs of violence, or even if they did, nobody offered her anything different than administering medications. In addition, the interviewee's hospital stay shows us a well-known problem in Bulgaria: *“Nobody ever told me why am I diagnosed and on what grounds was it [the diagnosis] given to me [...] but I also remember that the second time I was afraid they are going to take my children away from me. The medications were very strong. [...] I was not feeling well, they were yelling, they were screaming, there were new patients arriving constantly, they were screaming, yelling. And all of them women, harassed by men [...]. It was*

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<sup>141</sup> From an interview with a woman living in an institution, who experienced domestic violence.

<sup>142</sup> From an interview with a parent of a child, who experienced sexual violence.

<sup>143</sup> From an interview with a woman with disabilities, who experienced domestic violence.

*disgusting, there are no good conditions [...] in these hospitals. And there is no respect, they treat you like cattle.*<sup>144</sup>

Another female interviewee with a disability who was hospitalised for an operation after she became a victim of violence reported the lack of support and the failure of the hospital personnel to signal the authorities:

*„Somebody asked me [...] if I was going to sue the one who did this to me [...] They were going to throw me out, because I have a psychiatric diagnosis. My mother came in to see me and they told her "You either stay with her [in the hospital] to look after her, like the others, or you take her home."*<sup>145</sup>

This woman went through 48 hospitalisations in psychiatric hospitals, but she never received any support for the violence she experienced in early childhood. When she mentioned a part of the violence she experienced, the doctors did not believe her:

*„Yes, when I was in Sofia I started mentioning the sexual [violence], I don't think they really believed me. That is something that happens too - you tell them. They think that everything is caused by the psychosis. They don't feel like dealing with it."*<sup>146</sup>

Violation of her rights and inadequate treatment have also been discovered during her stays in institutions of psychiatric care:

*„You spend the first two weeks or at least 10 days on injections, on extremely strong medications and you go into a semi-comatose state. It's a similar feeling. That is the first two weeks, until the drugs accumulate in your system [...]. You get a 10-minute visitation in the morning and that's it. After that, you do nothing, you cry, you walk the hallways and cry [...]."*<sup>147</sup>

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<sup>144</sup> From an interview with a woman with disability, who experienced domestic violence.

<sup>145</sup> From an interview with a woman with a disability, who experienced multiple forms of gender-based violence.

<sup>146</sup> From an interview with a woman with a disability, who experienced multiple forms of gender-based violence.

<sup>147</sup> From an interview with a woman with a disability, who experienced multiple forms of gender-based violence.

## Access to services for victims of gender-based violence

Most of the interviewees were not provided with access to gender-based violence services. The only exception is an underage girl who was taken to a shelter for victims of human trafficking. None of the women interviewed were offered psychological or psychotherapeutic support during their psychiatric hospitalisations.

*„I don't know what services are available. Are there existing ones at all? I know that there is one, what is it called... dispensary, but it is only available in Sofia [name of the medical institution].“<sup>148</sup>*

*„No, even if there was a [psychologist] I haven't [been told about that], it was really scary there, there were really tough cases. They were worse than I was. It was very scary.“<sup>149</sup>*

The access to such services is even more difficult if the victim lives in an institution. This is evident in the case of a woman where the residential service she lives in refused to help her in finding psycho-therapeutic support: *„She [staff member] said: “Find a psychologist yourself.“ [...] No, nobody offered me anything [...] because I got to a point where I would cry in me sleep. I made a phone call, it was in the winter at seven o'clock. I told her, “nurse, I cry in my sleep, I need help” [the nurse replied]: „Well, if you keep crying like that, then you need a psychiatrist not a psychologist.“<sup>150</sup> Instead of receiving support, she has become the subject of attempts to be moved out from the residential service: *„You have a little more left. [director's name] is searching for a place for you. You shouldn't worry, you are going to feel better in the place they are moving you to [...]. On my birthday instead of a gift I received a report to sign and give consent to leave [...]. She [staff member] stands next to me and tells me what to write and and I do it beacuse I wasn't feeling like myself.“<sup>151</sup> After that, the condition of the young woman got worse, and she attempted suicide. Even so, though, the institution's staff**

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<sup>148</sup> From an interview with a woman with a disability, who experienced multiple forms of gender-based violence.

<sup>149</sup> From an interview with a woman with a disability, who experienced domestic violence.

<sup>150</sup> From an interview with a woman with a disability, living in an institution, who experienced domestic violence.

<sup>151</sup> From an interview with a woman with a disability, living in an institution, who experienced domestic violence.

refused to assist her: „Only after I had taken so many medications did she understand that I need a psychologist not only when somebody hits me or tears off my clothes [...].“<sup>152</sup>

## **The situation of the victims during the COVID-19 restrictions**

Some of the interviewees shared that during the restrictive measures the social service and psychiatric care institutions were closed for outsiders and the activities in them were limited. One of the women shared that one of the instructions in the institution she lives in was “*not be entered by outsiders*”<sup>153</sup>; another woman who had gone through a psychiatric hospitalisation, shared the following:

*„Yes, and the regime is closed off. There is no going out, you stay between four walls, it is stuffy, you see the same people and the hospitalisation lasts at least three weeks. That is the minimum, but they kept me there longer.“*<sup>154</sup>

A different woman, whose amicable divorce case was heard during the COVID-19 restrictions, shared that the scheduling of the hearing had been delayed “*quite a lot*”.<sup>155</sup>

### *4.2 Interviews with professionals*

#### *4.2.1 Interviews with professionals who may support victims: Facilitate reporting violence*

*“Even when we talk to each other, the NGOs, somehow when we talk about people who are victims of, for example, domestic violence, we totally exclude the victims with disabilities, they just don't reach us [...]. It means that there is an awful lot of difficulty to reach even us who are public and have been here for so long. And even when we get together and work and comment on different laws, the group of people with disabilities is missing, always missing.”*<sup>156</sup>

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<sup>152</sup> From an interview with a woman with a disability, living in an institution, who experienced domestic violence.

<sup>153</sup> From an interview with a woman with a disability, living in an institution, who experienced domestic violence.

<sup>154</sup> From an interview with a woman, who experienced multiple forms of gender-based violence.

<sup>155</sup> From an interview with a woman with a disability, who experienced domestic violence.

<sup>156</sup> From an interview with a lawyer, who is a manager of an NGO, which is social services provider for victims of gender-based violence.



In this section, we present the experiences and observations of professionals who are tasked with supporting victims: NGOs, service providers for victims of violence and for persons with disabilities.

### **Types of violence:**

The types of gender-based violence that professionals encountered include domestic violence (physical, psychological, sexual, parental alienation), sexual violence, human trafficking, early marriages, and violence (physical, sexual, psychological) in the system for social and health care. Professionals also recognised forms of domestic violence specifically affecting persons with disabilities: the neglect of their mental health needs and a restriction of their rights due to the presence of a diagnosis in the victims:

*“[...] She was diagnosed from an early age with this diagnosis, which is not given to children in order for her mother to control her [...]. The appalling thing was that, in addition to being forced to take medication, she had to periodically stay in a psychiatric clinic - something the girl did not want [...]”.*<sup>157</sup>

*“[...] a case was originally filed for obligatory treatment of a woman who came out in the course of the case that she was in fact the subject of domestic violence [...]. And her husband because he was litigating custody cases, had made such a proceeding for obligatory treatment, which failed in court [...]. This algorithm that couples follow, where one of the persons has a mental disorder or intellectual disability - either the person is put under guardianship and remains totally dependent on the abuser, or some kind of mandatory treatment case is filed on the grounds that they are dangerous to others [...]”.*<sup>158</sup>

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<sup>157</sup> From an interview with a psychologist-psychotherapist, working in NGO, which is social services provider for victims of gender-based violence.

<sup>158</sup> From an interview with a manager of social services for persons with psycho-social and intellectual disabilities.

Separately, the lack of support for mothers with disabilities, their stigmatisation, and psychological abuse within the family leads to cases where their parental capacity is diminished or denied. However, the response of the family and the authorities is not focused on supporting the mother, but on 'safeguarding' the child and the family.

*“[...] An awful lot of women with psychosocial and intellectual disabilities are appearing in [child] protection order cases recently [...] these are cases where she is not supported in her parenting role, she is not developing parenting capacity, her mental health is not being sufficiently cared for. [...] We have seen cases of mothers predominantly who have mental disorders, particularly postnatal depression, who have been left for an awfully long time in that state. We had one woman who was anorexic and was brought to a very, very severe state. She almost couldn't move, she couldn't walk anymore [...]. But her husband didn't recognise this condition as critical. Quite often [...] they are guilty of being sick, of being lazy, of being bad people because of their mental illness.”*

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### **Reporting of violence by victims themselves**

In general, support professionals do not come across many cases of gender-based violence against women and children with psychosocial and intellectual disabilities, as these cases reach them (and the authorities) much less frequently.

The reasons for that are rooted in the situation of isolation and over-control over the victims, the lack of recognition of violence, the lack of trust in institutions, the lack of effective means of reporting, the lack of active action by the authorities to identify such cases on their own initiative and the lack of support services: *“They don't identify it as violence, they don't name it as violence, they don't know the forms of violence. These are people who are first not adequately treated, and not adequately supported in both their illness and their parenting*

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<sup>159</sup> From an interview with a manager of social services for persons with psycho-social and intellectual disabilities.

*capacity. So I think one of the reasons it's not named as domestic violence is because they just think it's the norm that's what it is. They're so used to being rejected, stigmatised, insulted, that somehow it's now the norm rather than some normal treatment and support."* <sup>160</sup>

*"[...] If there is a mental health difficulty, it's absolutely impossible [the reporting] because they have both physical and psychological dependency on the abuser. It's a matter of survival. Our people are terribly poor, they depend on the perpetrator, sometimes they are not able to articulate what is happening to them. [...] When they are subjected to violence, there is no independent mechanism to check whether there is violence, especially when the victim and the abuser are living together."* <sup>161</sup>

*"It is a fact that most people with intellectual and physical disabilities have difficulty communicating with the rest of the world and don't share. It takes time to gain their trust to share what is going on, some of them are non-verbal. Others don't know how to express feelings and emotions. It's the circumstances and the fact that they are confined and locked into residential care and services, as you call them."* <sup>162</sup>

*"Here, I am giving an example of residential care. People are afraid to seek help because they are housed there. They say 'I can take this, I can endure this. You'll leave, you're here temporarily, you'll leave, but I'm going to stay here [...]'. The moment the staff themselves realised that we were getting a bit closer to their service users, they just restricted their access by saying, 'There's been an increase in morbidity and we can't let you in'."* <sup>163</sup>

*"[...] the difficulties are related to the fact that they [...] do not seek help and do*

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<sup>160</sup> From an interview with a manager of social services for persons with psycho-social and intellectual disabilities.

<sup>161</sup> From an interview with a manager of social services for persons with psycho-social and intellectual disabilities.

<sup>162</sup> From an interview with a psychologist-psychotherapist, working in NGO, which is social services provider for victims of gender-based violence.

<sup>163</sup> From an interview with a psychologist-psychotherapist, working in NGO, which is social services provider for victims of gender-based violence.

*not recognise themselves as victims. [...] Well, the risk comes mostly from the condition, the diagnosis, their skills to protect themselves, the environment, which is either also burdened with the same illnesses, or is lacking. They also find it much more difficult to enter the labor market and are therefore economically dependent. Very often they live in partnership with someone who gives them a roof, and food. Let's say it's some pseudo-care, but instead, they physically abuses them. They are subjected to domestic violence, they have nowhere to go, therefore they stay there. If they are temporarily removed from this system, they are placed, let's say, in a crisis center. Then they have nowhere to go to a safer and more secure place. And somehow it seems to them that this violent environment is the only option to stay safe, you know, no matter how unsafe and threatening it is." <sup>164</sup>*

### **Reporting of violence by the care system:**

There are two aspects to the reporting of violence by the care system: reporting (or facilitating reporting) of cases that occur outside the care system and reporting of cases that occur within the care system.

In the opinion of the professionals interviewed, cases of violence occurring within the care system itself are often concealed and rarely reported. Reasons for this include failure to recognise violence (such as emotional and psychological), fear of sanctions, and difficulties in case management:

*"I'm just assuming that it happens systematically. It just doesn't get reported because the director of the institution has to take pretty serious action and they don't have a lot of options for interventions [...]. We have to take care of these people - the segregated. Nobody would take them to a crisis centre because they are using a residential social service, under the Domestic Violence Act such*

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<sup>164</sup> From an interview with a psychologist, who is manager of NGO - social services provider for victims of gender-based violence.

*violence is not recognised as domestic violence because they are in an institution. There's nowhere for them to go, there's really nowhere for the two of them to go. I suspect that's a million arguments that could lead to this being restricted from being reported and if it is reported, investigations will certainly begin. There's a big risk of the director or the manager coming under fire from any social services quality agency."*<sup>165</sup>

*"We have had cases of sexual assault in a psychiatric hospital [...]. She was in psychiatry, she reported sexual assault by an orderly while she was on psychiatric treatment. We released a letter to the head of the ward [...]. They did not initiate pre-trial proceedings, an internal inspection was ordered - it was a psychotic production."*<sup>166</sup>

*"First they don't recognise the types of violence, then they don't know what to do with it, they are dying of horror."*<sup>167</sup>

Reporting of abuse by the care system is more common when it is committed elsewhere - in the victim's family, or in another service or treatment facility. In some cases, professionals make efforts to encourage the victim to report by themselves and file a case under the PADVA and do not take action to refer the case to other institutions if the victim herself does not agree. In other cases, service providers refer the victim themselves to the competent authorities (social services directorates, prosecutor's office), but in most cases, there is no corresponding response from the latter (*see next section*).

## **The authorities' response through the eyes of service professionals**

### **Identifying violence**

Interviewed professionals reported cases where the authorities failed to identify violence

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<sup>165</sup> From an interview with a manager of social services for persons with psycho-social and intellectual disabilities.

<sup>166</sup> From an interview with a manager of social services for persons with psycho-social and intellectual disabilities.

<sup>167</sup> From an interview with a manager of social services for persons with psycho-social and intellectual disabilities.

against victims with psychosocial or intellectual disabilities completely. This seems to be mostly due to a lack of ability to recognise violence, but also due to prejudice: *"So because in their perceptions and attitudes what she is doing is consensual and what she has experienced is not a rape."*<sup>168</sup>

### **Victim participation in criminal proceedings**

The interviewed professionals identified the lack of support mechanisms for victims to be heard in criminal proceedings, as well as their exclusion as witnesses due to psychosocial or intellectual disability as a serious problem: *"It goes as far as one forensic expertise for witness capacity and that's it. If the woman is a victim of gender-based violence, no court will consider her testimony if there aren't any other witnesses, because it all depends on the forensic expertise. There are no trained professionals to support both the court and the woman, in a proceeding where she is a victim of gender-based violence, so that the court can hear her arguments, understand them, interpret them, validate them, there are none. We rely mainly on psychiatric expertise, which often says that the witness does not have the capacity to testify [...]. And there are no procedural accommodations regarding the fair trial. There are no trained people to support the person during the legal proceedings."*<sup>169</sup>

*"They have the most limited access to legal aid and justice. Because this is related to their condition and the illness they have. [...] their witness capacity is very often examined by psychiatric. That is to say, they do not participate fully in the subsequent stages of the criminal process [...]. This is the place to say that intermediary would be very valuable in the contacts of victims with disabilities with investigating authorities, with law enforcement authorities."*<sup>170</sup>

*"The interrogations are too many, they last long, they are exhausting. [...] Victims are retraumatised, they're psychologically traumatised, they're anxious, they're restless before the interrogation, it affects their sleep, their whole psychological and emotional world."*

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<sup>168</sup> From an interview with a psychologist, who is manager of NGO - social services provider for victims of gender-based violence.

<sup>169</sup> From an interview with a manager of social services for persons with psycho-social and intellectual disabilities.

<sup>170</sup> From an interview with a psychologist, who is manager of NGO - social services provider for victims of gender-based violence.

*Interrogations are associated with a lot of vegetative experiences, with sweating and blushing, trembling of the hands, breaking of the fingers, and blocking. With an exaggerated traumatic memory, the mind tries to preserve itself and the best way to preserve is to block out. Very often I have been present at such interrogations - the interrogator is not sensitive and thinks that the victim tries to hide the truth."*<sup>171</sup>

### **The authorities' response following the identification and reporting of violence through the eyes of service professionals**

The specialists we interviewed told us about various cases of violence against women and children with psychosocial and intellectual disabilities in which the response of social services directorate, police, prosecutors and courts was unsatisfactory. The main reason for this is the lack of coordination and a clear mechanism between different institutions and service providers when the victim is an adult (there is special coordination mechanism for child victims of violence): *„With juveniles there, things are somehow much clearer and regulated [...] there is a coordination mechanism [...] there is an inter-institutional approach and the steps taken are acted upon [...]. We are following a common work plan. We have meetings which are minuted. This is not the case with adults, however. There the coordination is much more difficult, much more complicated. The involvement of the Social Assistance Directorates is minimal [...]."*<sup>172</sup>

*“I think one of the reasons why the authorities are not being called to account is that we know very well what can and cannot happen. Ignorance of the proceedings and the law. They just don't work at an adequate level, how many times we have reported cases of violence to them? [...] We had one boy with severe intellectual disability who was definitely a victim of domestic violence. The boy was 18 years old [...]. And after he was discharged from the hospital, they put him under guardianship, his mother became the guardian, the one who neglected him. We wrote letters to the prosecutor's office, but the prosecutor's office did not initiate pre-trial*

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<sup>171</sup> From an interview with a psychologist, working in NGO, which is social services provider for victims of gender-based violence.

<sup>172</sup> From an interview with a psychologist, who is manager of NGO - social services provider for victims of gender-based violence.

*proceedings [...] That is, he remained in extremely serious dependency. She is his guardian, she is his personal assistant [...] We wrote to the ombudsman, we wrote to the Ministry of Labour and Social Policy, we wrote to the municipality, to the prosecutor's office, the court... I have never seen a bigger nightmare in my life [...]. Well, I wonder if he hasn't passed away, really, but we did everything we could.*"<sup>173</sup>

### **Access to social services**

The main conclusion that can be drawn from the interviews is **the lack of integrated social services for people with disabilities who have experienced gender-based violence**. Professionals working with persons with disabilities are confronted both with the lack of sufficient services for victims of violence (in some parts of the country there are none), and with the lack of services tailored to the needs of persons with disabilities: *"No, there are no specialised [services] for people who have disabilities. And that's a very big problem because when a victim with disability needs to go to crisis centre, the first thing we get asked by the staff there is how is she mentally and physically, is there any diagnosis? If there is a diagnosis, they cannot be placed in a crisis centre, because in the crisis centre, there are women and children who are victims of violence who do not have disabilities [...]. There is nowhere for them to be placed."*<sup>174</sup>

*"Well, sometimes people who work with other people with disabilities need other incentives besides financial support so that they have the opportunity and the peace of mind to work with people who have disabilities. We are talking about special materials, for example, if a person with a visual impairment comes to me now, firstly I am not trained to respond to their needs and secondly, I don't have the necessary materials; or if a person who is hard of hearing or deaf comes. I don't have the training to communicate with him except for in writing. I mean, I don't know his language, so there are some specifics that are necessary [...]. But here we come down to financial possibility, many new technologies can be used, there are*

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<sup>173</sup> From an interview with a manager of social services for persons with psycho-social and intellectual disabilities.

<sup>174</sup> From an interview with a psychologist-psychotherapist, working in NGO, which is social services provider for victims of gender-based violence.



*communication intermediaries, there are methods and ways to communicate, but again we come down to funding.*"<sup>175</sup>

There is a lack of community-based services for persons with disabilities, including such for independent living, leads to institutionalisation for the victims: even if initially supported by victim service providers, victims are eventually moved to group homes. *"We placed her in a home near the city. [...] A home for people with intellectual disabilities."*<sup>176</sup>

*"In a very short period of time, a suitable municipal social service has been found: a family-type accommodation centre for people with mental disorders. After the hospitalisation, we take her over and refer her for transportation to the next social service."*<sup>177</sup>

*"There are no services in the community for people with intellectual disabilities and psycho-social disabilities. Only residential services - nothing else. There's nothing on prevention either - 90% of the National Map is for residential services - it's outrageous! The crisis centres can be used for 6 months but after that there is nothing like support services, no signposting to services."*<sup>178</sup>

The lack of integrated services for victims of violence who have disabilities also leads to cases where their stay in services for victims of violence (which are short-term) is significantly prolonged: *"[...] for two years this person should have been in service for victims of trafficking. [...] With us, there is nowhere for them to go and we are starting to operate now as a service for children with disabilities rather than an emergency admission for people who have had an accident, which is both inefficient and wrong, you know our services fulfil their purpose at one point".*<sup>179</sup>

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<sup>175</sup> From an interview with a psychologist-psychotherapist, working in NGO, which is social services provider for victims of gender-based violence.

<sup>176</sup> From an interview with a psychologist, working in NGO, which is social services provider for victims of gender-based violence.

<sup>177</sup> From an interview with a psychologist, who is manager of NGO - social services provider for victims of gender-based violence.

<sup>178</sup> From an interview with a social worker working in social service for persons with disabilities.

<sup>179</sup> From an interview with a psychologist, who is manager of NGO - social services provider for victims of gender-based violence.

The lack of integrated services for survivors of gender-based violence including people with disabilities leads also to situations where even access to legal aid is difficult.

*"What I miss as a professional who supports people with disabilities is the legal side of the things. I'm not competent and I don't have any lawyers at hand that I can go to, to interpret the actual situation for me." <sup>180</sup>*

### **The situation during the Covid-19 restrictions**

The statements of the professionals we interviewed were that the risk of violence increased during Covid-19 restrictions, especially in the residential services.

*"During the lockdown, you know everyone was locked up, locked down and isolated. This was very much the case for people with disabilities because they are by predisposition much more vulnerable than others [...]. The fact that they were isolated put them at greater risk of violence. I'm not just talking about service staff and care staff, but also about violence between the persons with disabilities." <sup>181</sup>*

The move of community-based services to online mode has also hampered access and reduced their effectiveness: *"During Covid, they closed the social services [...]. We went online [...]. Services should not be closed because they are the only conduits of entitlements, they should be safe and secure, but there cannot be an order from the Minister that they must cease to operate. There must be the possibility for people to have access to means of communication [...]."*<sup>182</sup>

*"Outsiders, including relatives, were not allowed. [...] there was no visiting regime." <sup>183</sup>*

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<sup>180</sup> From an interview with a psychologist and a manager of NGO - social services provider for persons with disabilities.

<sup>181</sup> From an interview with a psychologist-psychotherapist, working in NGO, which is social services provider for victims of gender-based violence.

<sup>182</sup> From an interview with a manager of social services for persons with psycho-social and intellectual disabilities.

<sup>183</sup> From an interview with a manager of social services for persons with psycho-social and intellectual disabilities.

## **Violence as a cause of disability through the eyes of social services' professionals**

Professionals in this group identify violence (including institutional violence) and the unaddressed psychological trauma from it as factors that can cause disability: *"I have clients, cases that I've worked with, that unlocked psychoses. Bipolar affective disorder as a result of the trauma they experienced. They were diagnosed."*<sup>184</sup>

*"Here again, we are talking about a woman who has a mixed diagnosis - bipolar disorder and schizophrenia. [These developed] as a result of the trauma inflicted in childhood. Because when we examine a family history and past illnesses, in many cases they are not found. That is, we have no familial predisposition."*<sup>185</sup>

*"I think it's a phenomenon that's related to deinstitutionalisation that none of us reflect it fully well - globally. I think that nobody recognises and works with the trauma that is inflicted by institutions to the persons that lived there - trauma by negligence, physical, sexual violence, etc. [...] because this is violence at its most inhumane[ ...]. That trauma has been inflicted on thousands of people in Bulgaria, but nobody is reflecting it, nobody. And if deinstitutionalisation is going to fail, it is because they started sending them back to the psychiatric wards, the staff members of social services are absolutely unprepared for this whole trauma, and they became defensive. They don't recognise it as trauma, they recognise it as a bad person, a bad disease, schizophrenia, everything."*<sup>186</sup>

### **4.2.2 Interviews with authorities**

*Point of view of social services experts, judges, investigating officers, lawyers*<sup>187</sup>

## **Invisible Victims**

*„They usually stay silent. They don't complain. They very frequently stay in a closed*

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<sup>184</sup> From an interview with a psychologist-psychotherapist, working in NGO, which is social services provider for victims of gender-based violence.

<sup>185</sup> From an interview with a psychologist, working in NGO, which is social services provider for victims of gender-based violence.

<sup>186</sup> From an interview with a manager of social services for persons with psycho-social and intellectual disabilities.

<sup>187</sup> For the purposes of this report, the interviews with lawyers have been placed in this section - due to their active interaction with various representatives of the authorities.

*environment, regardless of their age. [...] Such cases don't reach society at all [...]. I even think that, the percentage with those cases could be even higher. In view of exactly those peculiarities. We just can't be sure.*"<sup>188</sup>

From the interviews and focus groups carried out, a clear tendency is forming. It shows that the persons with disabilities who are victims of gender-based-violence remain out of the attention of the authorities, the professionals, and society as a whole. However, professionals' perspectives drastically differ depending on what position they hold and whether the respective region offers services for victims of gender-based violence. For instance, **a lawyer**, whose practice is in a region where services for victims of that type of violence exist, states the following: *„We have approximately 700 persons per annum in our practice, who come for legal consultation and maybe approximately 15 % of said persons, be it elderly, adults, minors, are persons with disabilities, who've been victims of abuse [...]"*<sup>189</sup>. At the same time, an employee from the Child Protection Department (CPD) in a region lacking special services for victims of gender-based-violence, has not noticed similar cases.<sup>190</sup> On the other side, in places having a wide network of social services for children with disabilities almost every other child with disabilities is under the care of such services. If the child was a victim of abuse in a family environment, the signs thereof are usually noticed and reported. However, this is not always the case since, given that reporting may not be in the best interests of said services to go into conflicts with the parents, whom they want to keep as customers.<sup>191</sup>

**One of the interviewed investigating officers** also noted that he sees cases of gender-based violence against persons with disabilities relatively often. In his opinion, people with disabilities who are victims of domestic violence are predominantly the elderly: *„who were left alone, they have no relatives and people to depend on and to take care of them, and no arrangements have been made for said persons to be enrolled at care homes or another type*

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<sup>188</sup> From an interview with a lawyer, specialising in gender-based-violence cases.

<sup>189</sup> From an interview with a lawyer, specialising in gender-based-violence cases.

<sup>190</sup> From an interview with a social worker from CPD.

<sup>191</sup> From a focus group with specialists from CPD.

*of specialised facility, where they will be taken care of.”<sup>192</sup>*

It is assumed that abuse in residential services facilities, psychiatric hospitals and other closed institutions also exists. However, that abuse remains unnoticed and invisible. Professionals rarely have heard of such violent behaviour in relation to their personal life, or they have heard about it from colleagues. Most of the interviewed professionals had no immediate contact with victims and did not work on such cases. There was only one expert - from the Ombudsman's Office, who reported confirmed cases of abuse in closed care facilities. Such cases are investigated on the basis of filed reports, or during audits, including of bodies of the National Preventive Mechanism.

According to a district judge, there is a significant increase in both the ability to recognise disability and the need for support, as well as the signs that the person has been abused or is currently being abused, as awareness of people with disabilities grows along with sensitivity towards their struggles and rights. In the interview, the judge shared: *“[...] there's always this lingering feeling that, whenever you work with people, who grew up in an institutional environment that, once in a while they may have been the object of something, not necessarily a crime, maybe some type of abuse, which never was approved as an act of violence.” [...] “So, in many I cases, what I think to myself is that, whenever persons with disabilities come to us for some sort of assistance, more often than not, the idea that they may have been victims of abuse, is there, be it in the environment they have been take out of, or even in the servicing facilities, where they have been enrolled at, by people, who somehow abused those people's lack of skills to cope in such life situations.”<sup>193</sup>*

## **Types of violence, recognising and naming violence**

### **Types of violence:**

The interview participants mentioned several forms of violence – domestic abuse (verbal,

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<sup>192</sup> From an interview with an investigating officer.

<sup>193</sup> From an interview with a district judge.

psychological, economic, financial, sexual), human trafficking for sexual exploitation, forced prostitution, coercion and exploitation into illegal drugs.<sup>194</sup> However, professionals say that they encountered violence in the social services system only rarely. Some of the interviewees shared cases of violence against women with disabilities, whereas the abuse was done by personal care assistants.<sup>195</sup>

Regarding violence at residential facilities, the interviewed professionals shared several stories that they have heard about, or they have somehow experienced in their personal life, however not in their day-to-day experience as professionals:

For instance, a lawyer shared the following story about persons accommodated at a social services institution: *„I've heard about very poor treatment in terms of attitude: yelling, screaming, offending, negligence, compromising dignity, including slapping, literally, some forms of physical abuse.“*<sup>196</sup>

Accommodation in a residential facility itself is not viewed as a potential form of violence or harm, nor is placing someone under guardianship. Some representatives of the social support system define enforcement measures (such as tying down) against children with disabilities as form of violence.<sup>197</sup> The interviewed expert from the Ombudsman's Office also found the enforcement measures against children with disabilities very controversial: *„I remember the big scandal, which became known to the society, about the tied babies in the Sliven Hospital. It was then, when a good number of organisations actually pointed out that, no one has the right to tie the babies down, even if it's for the purpose to protect them from self-harm or in order to avoid them removing their catheter or system.“*<sup>198</sup>

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<sup>194</sup> From interviews and focus groups with social workers, lawyers, investigating officers.

<sup>195</sup> From a focus group with specialists from Individual Assessment of Persons with Disabilities and Social Services Departments (hereinafter, IAPDSSD).

<sup>196</sup> From an interview with a lawyer, specialising in gender-based-violence cases.

<sup>197</sup> From a focus group with specialists from CPD.

<sup>198</sup> From an interview with an expert from the Ombudsman's Office.

## Reporting violence by the side of the victims

*„If we're talking about people with psycho-social difficulties, e.g. psychological or psychiatric issues, maybe, it would be proper to ask the question as to whether they are able to report those types of crimes. This is when we reach to what my point is – we have very few such cases; however, that doesn't necessarily mean that they don't exist. It's just that they don't reach to us.“<sup>199</sup>*

Specialists united around the statement that victims with disabilities rarely report about abuse against themselves since – more often than not – they have been isolated from the world around them, especially if they live in closed institutions or residential services facilities: *“[...] when those people are in a domestic environment, they have some minor chance to find a way to contact, at least by phone, let's say, someone outside the family, e.g., organisations, services, institutions, or at least they could call 112. Whereas, if they stay in various facilities and institutions, it's common for such cases to be covered up. Very few such cases reach to us, which means that, either everything is perfect and wonderful, which I just cannot imagine being the case, taking into account what services we offer and what the conditions are in taking care of such children, for instance, or the elderly care homes, so, it seems to me that, receiving help when in institution or a facility is harder to reach. No one complains there, everyone is trying to keep their job before anything else.“<sup>200</sup>*

The lack of trust in state institutions was also pointed out as an issue:

*„Anyways, every person needs some sort of support, that he or she has to receive, even when looking for defence in the court, because we are aware of how the system works. I am more and more convinced that, the State is a foreigner to its citizens. A person in need will try and find whoever is there to help, e.g., the media; the person in question will scream and shout before the society in every possible way. However, if nothing else turns out to give the desired results, this is when he or she will refer to the State. There's mistrust. However, with persons*

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<sup>199</sup> From an interview with an investigating officer.

<sup>200</sup> From an interview with a lawyer, specialising in gender-based-violence cases.

*with disabilities, this is so even more.*<sup>201</sup>

Other barriers people with disabilities face when they report abuse are related to **communicating** what was experienced, **dependency on the perpetrators**, and fearing them.

One of the interviewed participants, an investigating officer, shared the following: *„I really don't know how it is expected from a person like that to have a real assessment of what happened to them, more so, having the knowledge that you have to go to the police and report it. I guess, a psychologist or a psychiatrist would be able to find something, however, each case is particularly specific.*<sup>202</sup>

None of the interviewed specialists mentioned tools that are adapted for the needs of people with psycho-social and intellectual disabilities in order to explain to them the rights they have and that or to report violence against them.<sup>203</sup>

Professionals were not aware of cases of children with disabilities self-reporting experiences of abuse.<sup>204</sup> Children without disabilities usually report the abuse they suffered, as they have lower tolerance. However, for children with disabilities, especially for those under residential care violence is *„part of their everyday life and they seem to fail to notice that.*<sup>205</sup>

## **Reports by close ones, relatives, neighbours**

Based on the conducted interviews, it is clear that professionals have a consistent observation that the majority of abuse cases are reported by friends, family, and neighbours.<sup>206</sup>

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<sup>201</sup> From an interview with a district judge.

<sup>202</sup> From an interview with an investigating officer.

<sup>203</sup> There are general means, e.g., leaflets, phone numbers, and e-mail addresses to file a report. On-field specialists (policemen and social workers) are trying to submit information by oral means in their registry offices – from interviews with investigating officers, social workers, and focus groups with specialists from IAPDSSD.

<sup>204</sup> Only one of the interviewed lawyers, specialising in gender-based-violence cases, informed us about a single case, where a 14-year-old child was able to report that they've been sexually abused in an institution. What's interesting in this case is that, the child was temporary there, and already had a good relationship with their psychologist from another facility. From what was shared by the participants in the focus group with experts from CPD carried out, we can observe a distinct difference between disabled and non-disabled children, including those accommodated at social services institutions.

<sup>205</sup> From a focus group with specialists from CPD.

<sup>206</sup> From a focus group with specialists from CPD.



## Self-referral

Self-referral happens more frequently when it is about a crime,<sup>207</sup> and when the facts suggesting a crime are known to the public. There are cases of self-referral of the child protection authorities as well, when they become aware of the violence in connection with another case.<sup>208</sup>

## Disclosure of violence in closed institutions

The need of external supervision as a method of prevention and determining violence in closed institutions is pointed out by some of the interviewed experts.<sup>209</sup> Interview participants also noted that this type of violence remains difficult to detect.<sup>210</sup> Amongst the obstacles to detect violence in institutions is the lack of skills by the side of the specialists to communicate with non-verbal people with disabilities, the lack of trust in people outside of the institution, persons with disabilities being dependant on staff, the lack of independent representatives to defend the individual interests of people living in institutions, and the lack of independent civil monitoring:

*„I'm aware that I'm having difficulties in communicating with non-verbal people, I have no special skills, I haven't completed training in order to reach out to them. „[...] We enter such homes entirely by accident. We have no permanent contacts with those children and adults. We haven't built a relationship of trust, because, in my opinion, this is the most important aspect – for trust to have been developed; instead of appearing in the course of a random day and wanting to detect what the child had suffered for months on end [...] And really, if we don't open those homes for, I'd rather say a child representative, instead of continuous civic control, the said representative having a real long-term engagement towards that child, and said engagement being professional.“<sup>211</sup>*

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<sup>207</sup> From interviews with investigating officers.

<sup>208</sup> From an interview with an asocial worker from CPD.

<sup>209</sup> From interviews with a district judge and an expert from the Ombudsman's Office.

<sup>210</sup> From interviews with a district judge, an expert from the Ombudsman's Office, and a lawyer.

<sup>211</sup> From an interview with an expert from the Ombudsman's Office.

## Monitoring

The importance of monitoring of the services is recognised during some of the interviews. An expert from the Ombudsman's Office had high hopes for the recently adopted Regulation on the Quality of Social Services and the mechanisms therein: internal and external monitoring. This expert claimed that monitoring can be an effective tool to prevent violence: *„Since, if we have internal and external supervision, we'll monitor the whole service in a way that will allow for violence detection improvement, thus, improvement of attitude and awareness of the people working under various types of violence cases.”*<sup>212</sup> The specialists we interviewed did not mention the presence of special methods to detect gender-based violence against persons with psycho-social and intellectual disabilities.<sup>213</sup>

## **Authorities' response concerning cases of gender-based violence against people with psycho-social and intellectual disabilities**

Interviewed participants shared that they often stumble upon **lack of professionalism, including refusal to apply international human rights standards, as well as lack of coordination between various institutions.**<sup>214</sup>

The work of the professionals from the social support system is made even harder by the lack of coordination between separate competent authorities, washed-down responsibilities of institutions, the huge workload for the employees, professional burnout, and the lack of services, where victims can refer to and limitations in powers.<sup>215</sup> These specialists emphasised that working with adults with disabilities who suffered abuse is harder since no adopted coordination mechanism is present in relation to cooperation between separate bodies. As a serious issue, they pointed out the lack of legal advisors to assist them in their work.<sup>216</sup> Employees from the social support system often come across the lack of assistance

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<sup>212</sup> From an interview with an expert from the Ombudsman's Office.

<sup>213</sup> From interviews with experts from the Ombudsman's Office and Social Services Quality Agency (SSQA).

<sup>214</sup> From an interview with a lawyer, specialising in gender-based violence cases.

<sup>215</sup> From focus groups with specialists from CPD and IAPDSSD.

<sup>216</sup> From focus groups with specialists from CPD and IAPDSSD.

and feedback from the other institutions and specialists as well. Even in cases when the experts from the CPD are the ones leading the Coordination mechanism in cases of violence against children, other authorities do not inform them about what is going on. Whenever they file a report about a case of violence against children in services facilities, the auditing body (State Agency for Child Protection, SSQA or the Municipality) does not inform them about the outcome.<sup>217</sup> The interviewed specialists also brought up the lack of good coordination and feedback for their work from the police and the prosecutor's office as well.<sup>218</sup> Some departments, on the other hand, (on the territory where gender-based-violence protection services are present) emphasised the good coordination and work with NGOs providing such services. In general, it is exactly those representatives of the social support system who meet victims with disabilities more frequently, and those representatives more frequently find ways to help, including through enrolment at crisis centres. On the contrary, where such services are not available, main partners happen to be psychiatric hospitals – the future of such victims is to be moved there or to a residential services facility.<sup>219</sup>

Among everything else, institutions are viewed as rigid and ineffective. Unless it is necessary, people try to avoid them and they search for support from the social service providers instead: *„Institutions in the meaning of conventional, State-owned, municipal – no. However, whenever we talk about social services providers – then, yes”. [...] So, we, more often than not, call our colleagues from various social services facilities and search according to their programmes at the time, their teams, their abilities, how to refer a particular person thereat, in order to receive support, which will continue long-term as well.*<sup>220</sup>

Contradicting these opinions, other professionals (investigating officers) found coordination with social services, more precisely with the Child Protection Departments to be satisfactory.<sup>221</sup> However, it appears that, given the specific instances, what is highlighted in

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<sup>217</sup> From a focus group with specialists from CPD.

<sup>218</sup> From a focus group with specialists from CPD.

<sup>219</sup> From a focus group with specialists from IAPDSSD.

<sup>220</sup> From an interview with a lawyer, specialising in gender-based-violence cases.

<sup>221</sup> From an interview with an investigating officer.

this instance is social workers' involvement in abuse victims' interrogations, particularly when the social worker had a prior professional relationship with the victim.<sup>222</sup>

Some of the interview participants shared that regarding cases of gender-based violence, state bodies operate in an unsystematic way and the communication between them is lacking. For instance, the investigating officers agreed that they are not informed about the future of the victims or about the operation of support systems, and whether these systems function at all.<sup>223</sup> A district judge mentioned that, despite any extra efforts within the frame of the court proceedings, trying to refer the victim towards the Social Assistance Directorate, they do not get any feedback on what's happened. The authority of the court in its sufficient scope is not used, whereas persistence and consistency in social services to offer adequate support are lacking.<sup>224</sup>

People with disabilities rarely appear in court on cases involving violence against them, but they do so frequently on issues involving their enrolment in social services programs.<sup>225</sup> In those cases, since it is required by law, a conversation is being carried out with the person in question and the judges. Judges gradually started to understand that despite their disabilities, such persons with disabilities can express their wills and preferences.<sup>226</sup> In some cases, judges see no reason to search for specialised assistance, especially so when it is about cases concerning residence, since the matters being examined are relatively simple – it is whether the person has a positive attitude towards the place they reside at, and where they would like to live.<sup>227</sup>

It is generally believed that the judiciary system is ill-equipped to deal with children with disabilities, and that judges are ignorant of the peculiarities of child development and the range

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<sup>222</sup> From an interview with an investigating officer.

<sup>223</sup> From an interview with an investigating officer.

<sup>224</sup> From an interview with a district judge.

<sup>225</sup> From an interview with a district judge.

<sup>226</sup> From an interview with a district judge.

<sup>227</sup> From an interview with a district judge.

of mental states. In, it is noted that judges are not prepared to obtain sufficient evidence in violent cases. The lack of specialised child justice is emphasised.<sup>228</sup>

Despite that conclusion, there are practices in several courts demonstrating action and knowledge of the international standards, offering another approach towards victims with disabilities and their problems. Although the lack of units and action as well as the remaining systems makes it difficult, if not impossible, to be remedied by the active actions by the side of the judges only.

*„The judges push the case, but they need someone to offer them their professional knowledge and to say – these are the problem and the solutions from a social standpoint not from legal standpoint. However, the judge needs to say what the intervention in relation to the person in question is, what needs to be done, in order for that to be the process, thus – the motivation of all parties involved to remain, in order to continue the job, after the dispute is over. This is very hard to do, though. We, as the practice shows, sometimes have to take on the role of social workers and give some unbelievable instructions, which is very draining for us, and I don't think that it provides any actual results.“<sup>229</sup>*

The problem arising from re-victimisation of the victims is very well understood by some of the professionals, including in cases when justice was not reached: *„When the Court fails to do its job properly, it re-victimises the victim actually [...]“*<sup>230</sup>

### **Procedural and reasonable accommodations**

*„ [In] my opinion, this institute is quite unknown, and if applied – it is where specialised trainings are present and people know about it.“<sup>231</sup>*

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<sup>228</sup> From a focus group with specialists from CPD.

<sup>229</sup> From an interview with a district judge.

<sup>230</sup> From an interview with a lawyer, specialising in gender-based-violence cases.

<sup>231</sup> From an interview with a lawyer, related to an NGO, service provider.

Either very little or no knowledge exists on this subject. For example, an interviewed district judge was only aware of legal aid as a potential procedural accommodation available in cases of domestic abuse. The awareness about the lack of accessible urban environment as a possible obstacle preventing access to justice, does not change the fact that such barriers still exist for many victims, since the Court cannot initiate individual actions for correction of the environment on its own.<sup>232</sup>

Difficulties in communication appear to be another obstacle when dealing with victims with disabilities, and in many situations, there are no additional resources available. One of the challenges, as mentioned by an investigating officer, is the requirement to report the questioning. Reporting becomes more difficult if the individual is unable to use gestures correctly. Although, as the interviewed party said *„we, however, to the extent possible, report such interrogations.“*<sup>233</sup> There are not many recognised methods available in that situation: *„If necessary, we appoint a special representative - whereas such hypothesis is present in the Code, however, the most important thing we do is, we appoint a psychiatric and psychological examination, a comprehensive examination to tell us whether this person has the capacity to testify, whether the person in question is able to comprehend facts from the objective reality, and to recreate them in a trustful manner. If so, then yes, but if not – we just do not interrogate them as a witness.“*<sup>234</sup>

It is acknowledged that abuse victims require support because they are stressed, in a highly vulnerable situation, and should, if possible, be given time to recover before being involved in legal procedures and investigative measures.<sup>235</sup> The presence of a victim's close relative during the interrogation process is another procedural accommodation made by the investigating officers.<sup>236</sup>

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<sup>232</sup> From an interview with a district judge.

<sup>233</sup> From an interview with an investigating officer.

<sup>234</sup> From an interview with an investigating officer.

<sup>235</sup> From an interview with an investigating officer.

<sup>236</sup> From an interview with an investigating officer.

### ***The problem „witness capacity”***

The so-called „witness capacity” is a huge obstacle in relation to participation of people with psycho-social and intellectual difficulties in pre-trial and court proceedings. The lack of the so-called „witness capacity” is determined by the means as shown above, on the basis of psychological and psychiatric examinations, and if the conclusion is that such lack is present, the possibility to gather information from the person in question is automatically excluded: *„If the person lacks witness capacity, we just cannot interrogate them as a witness.”*<sup>237</sup>

From what was shared during the interviews, it seems that, psychiatric and psychological examinations, concluding the lack of witness capacity are never questioned. However, no recognised mechanisms exist whereby the impediments to the individual's ability to replicate the events and experiences they witnessed could be addressed by instituting specific procedural accommodations (e.g., communication intermediary).<sup>238</sup> According to the interviewed investigating officer, such examinations are absent. The expectation is that an expertise may be issued with *„a definite conclusion: can this person be a witness, or not.”*<sup>239</sup> At the same time, it is expressly stated that regarding people with physical disabilities such issue is not present, since the legislation provides for the use of interpreters.<sup>240</sup> However, *„the psychological, the psychiatric disorder is an obstacle.”*<sup>241</sup> As an issue in the work with victims with psycho-social and intellectual disabilities, the lack of procedural regulation was pointed out, as well as the lack of legal requirements. In many of the cases the exclusion of the victim as a witness leads to very serious consequences in relation to the latter's access to justice. *„If a person lacks witness capacity, the most probable scenario is, the case becoming terminated or discontinued. I repeat, if, by any of the remaining methods, we are able to prove who the perpetrator is, the criminal act will be sent to the Court room. As a whole, the witness capacity,*

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<sup>237</sup> From an interview with an investigating officer.

<sup>238</sup> There is an existing programme for preparation of such specialists, as well as a pilot programme, please, refer to Promising Practices Section.

<sup>239</sup> From an interview with an investigating officer.

<sup>240</sup> From an interview with an investigating officer. Another investigating officer, however, points out that, after closing of a specialised enterprise, which existed in the city, and which was intended for people with impaired hearing, today, it is very hard to find an interpretation dictionary.

<sup>241</sup> From an interview with an investigating officer.

*in fact – the lack thereof, is a problem. That is so, because we cannot obtain first-hand information from the victim about what exactly happened, and even if we succeed in proving that through use of any of the remaining methods, it is not a lost cause.”<sup>242</sup>*

Simultaneously, the possibility for people with disabilities to be witnesses is completely denied:<sup>243</sup> *„these people hardly understand what happened to them. I just don’t know how it could be possible to ask such a person to be having an adequate assessment of what happened to them, and even more so – to be aware that they have to go to the police and to report it.”<sup>244</sup>*

Furthermore, this opportunity is lost for those with psycho-social and intellectual disabilities in other situations where communication difficulties are resolved by the use of interpreters and interpretation dictionaries. This is especially true if there are no close family members nearby to help with the process of understanding.

*„I’m going to say it this way – if it’s about foreigners – we appoint an interpreter with the relevant language, if it’s a person with impaired hearing, we appoint an interpreter for the hearing impaired, and if it’s someone with Down syndrome, retardation, oligophrenia, autism, we try the neighbours, we try to contact the victim’s relatives or close ones, acquaintances, friends, neighbours, who could tell us about the condition of the person in question. And when this can’t be done, this is when we appoint a psychologist or a psychiatrist, who is to tell us whether they could assist us in some way; to tell us whether the person is responsive or not, whether anything of what they say is comprehensible or not, since – there’s people, that they just can’t. As we spoke about severe autism, them telling you about what happened to them, and if not*

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<sup>242</sup> The issue with „witness capacity” is being discussed in both interviews with investigating officers in a similar way.

<sup>243</sup> For example, people diagnosed with autism (from an interview with an investigating officer: *„Autistic children have no witness capacity, we cannot work with them”). Another investigating officer somewhat agrees that, it should, to some extent, be accepted that autistic people may recreate what happened. However he doubts their capacity to understand what happened to them: these people hardly understand what happened to them. „In cases of autistic children, if no parent is around to explain and tell the story, we wouldn’t be able to understand, since we are profiled in general terms, in the most general case with people in normal condition or in normal condition brought to a helpless state. Whether they have been rendered by someone, or did it themselves, we’ll be able to communicate with them, however, in the event of autistic children, I know that, it depends on which side of the autistic spectrum the child is at, in what stage of development the child is in: some can speak, some can make noises/sounds, some are completely non-verbal, in such cases, those children would hardly understand that a crime was caused, if a person, a teacher, a lecturer, does not report that [...]”.*

<sup>244</sup> From an interview with an investigating officer.



– a witness, who is a complete stranger, him telling us about what happened to the victim. [...].”<sup>245</sup>

Quite the opposite is the opinion of a district judge on the matter concerning „witness capacity”:  
„That actually, is the medical approach applied concerning persons with disabilities, and in the end – operative procedures call for gathering first, and then making assumptions whether that is useful or not. You almost always are able to determine their capacity, and you are supposed to determine it based on what they tell you. If what was said is relatively the same, there’s no way that the same people observed different events and having the same perceptions. If there is such type of repetitiveness though, there’s no doubt that, things happened exactly that way”.<sup>246</sup>

## **Access to Social Services**

The majority of those interviewed agreed that there are not enough services available to help victims of gender-based violence, and in some parts of the country, there are none at all.<sup>247</sup> The lack of those services leads to development of disabilities.<sup>248</sup> There are no specialised or adapted services available for victims with psycho-social and intellectual disabilities.<sup>249</sup> There is no unified electronic system containing information about the available services, where the specialists could refer the victims to.<sup>250</sup>

When it comes to children with disabilities who are victims of domestic abuse perpetrated by family members, the child in question is usually accommodated at a residential services facility.<sup>251</sup> The same holds true for adults with disabilities who have experienced domestic abuse; in these situations, placement in a psychiatric hospital or residential care services

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<sup>245</sup> From an interview with an investigating officer.

<sup>246</sup> From a focus group with specialists from IAPDSSD.

<sup>247</sup> From focus groups with specialists from CPD and IADPSS and interviews with judges.

<sup>248</sup> From a focus group with specialists from CPD.

<sup>249</sup> From focus groups with specialists from CPD and IAPDSSD and interviews with judges.

<sup>250</sup> From an interview with an investigating officer.

<sup>251</sup> From an interview with a social worker from CPD.

facility is regarded as a highly favourable result.<sup>252</sup> In some of the cases, measures are also taken to place the victim under guardianship, if a case is initiated to start a statutory treatment under the provisions of the Health Act.<sup>253</sup>

## **Gender-based violence against persons with disabilities during the COVID 19 pandemic**

According to the representatives of the authorities, during the COVID 19 pandemic the isolation of persons with disabilities was disproportionately higher in comparison to the general population.<sup>254</sup> Some of the experts agreed that there was a rise in domestic violence during the pandemic:

*„[...] Since when forcibly put in a confined place, people, who already have an issue, have that issue worsen, it becomes more serious and if there was an implication for abuse, it actually escalated in actual violence, and when abuse already was present, it become unbearable. It was very hard working during those times, since we had days, where the offices didn't work at all.”<sup>255</sup>*

According to social workers from the Child Protection Departments, children with disabilities have been disproportionately affected by the restrictive epidemic measures, which have also had a detrimental effect on their mental health.<sup>256</sup>

During the pandemic, no change occurred in the activities of the investigative bodies. Since it is not required by law for applications to be filed in person, the lockdown measures have not been a barrier. Interrogations were carried out as a video conference, although it is not a preferred option.<sup>257</sup>

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<sup>252</sup> From a focus group with specialists from IAPDSSD.

<sup>253</sup> From a focus group with specialists from IAPDSSD.

<sup>254</sup> From an interview with an expert from the Ombudsman's Office.

<sup>255</sup> From an interview with a lawyer, specialising in gender-based-violence cases.

<sup>256</sup> From a focus group with specialists from CPD.

<sup>257</sup> From an interview with an investigating officer.

There is no clear explanation for the wide variations in reported violent cases that reached CPDs during and after the crisis in different regions.<sup>258</sup>

### **Promising practices drawn from the interviews and focus groups**

Most of the identified promising practices are isolated cases and are not widely implemented in the country. Some of them are the provision of legal aid<sup>259</sup>, assessing the support needs of people with disabilities within court proceedings, holding court hearings in an environment familiar to the victim, specialised court chambers that hear children's cases,<sup>260</sup> and referring cases to other relevant authorities.<sup>261</sup> Additionally, it is considered as a promising practice to allow people with disabilities who are victims of crime to be accompanied during interrogations.<sup>262</sup> Some further promising practises are the interrogations of children in the presence of a parent, psychologist or a representative of the Child Protection Department. Referring victims, including children to psychological support programs <sup>263</sup> is also acknowledged as a positive practice.

In numerous interviews, the National Coordination Mechanism in case of Violence against Children was mentioned as a good practice that encouraged coordinated actions from various government and non-governmental organisation representatives, even though it is unclear exactly how the mechanism functions in cases where children with disabilities are the victims.<sup>264</sup>

During our research we identified the implementation of the results of NGO projects dedicated to the introduction of protocols for working with intermediaries. In fact, these are the most promising practises as they aim to directly identify the support needs of people with disabilities

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<sup>258</sup> From an interview with a social worker from CPD, focus group with specialists from CPD.

<sup>259</sup> From an interview with a district judge.

<sup>260</sup> From an interview with an expert from the Ombudsman's office – it remained unclear whether and how these court panels work with children with disabilities.

<sup>261</sup> From an interview with a district judge. These practices have been used in other types of cases.

<sup>262</sup> From an interview with an investigating officer.

<sup>263</sup> From interviews with an investigating officers, a judge and supporting professionals.

<sup>264</sup> From a focus group with specialists from IAPDSSD and an interview with an expert from the Ombudsman's office.

within the legal proceedings and to provide case specific interventions. In addition to this, there is a training program for intermediaries, and individual courts already have experience in utilising these specialists. Intermediaries are independent professionals who facilitate communication between the person with disabilities and the authorities. They provide support to the person in understanding the legal procedure and assist judges, prosecutors, investigators, and lawyers in comprehending what the person with disabilities has to say regarding their case.<sup>265</sup>

Some good examples of trainings were highlighted, including a training for social workers where victims of gender-based violence shared their experiences.<sup>266</sup> A training organised by the National Institute of Justice focusing on the rights of people with disabilities who have experienced gender-based violence was mentioned, too.<sup>267</sup> Another noteworthy example is a training conducted by a non-governmental organisation, a service provider for victims of gender-based violence, targeting social workers in "Social Patronage" to enhance their ability to recognise signs of violence.<sup>268</sup>

As a good practice we should also note the targeted inspections of the National Preventive Mechanism in closed institutions.<sup>269</sup>

### **Recommendations,**

**made by persons with disabilities who have experienced gender-based violence,  
support professionals and representatives of the authorities**

### **Recommendations from people with disabilities who have experienced gender-based**

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<sup>265</sup> From an interview with a lawyer working with persons with disabilities.

<sup>266</sup> From an interview with a social worker from IAPDSSD.

<sup>267</sup> From an interview with a district judge.

<sup>268</sup> From an interview with a lawyer connected with an NGO that provides social services.

<sup>269</sup> From an interview with an expert from the Ombudsman's office.

## violence

*"[...] basically, these people who have been victims must be heard."*<sup>270</sup>

Persons with disabilities first and foremost insisted **on being heard** and listened to **in a considerate manner** that allows them to disclose their version of what happened, their truth.

**They do not support hospitalisation and institutionalisation as a response to gender-based violence.** They preferred to receive medical care in ambulatory settings when necessary, and to have access to community-based, mobile services (or "home monitoring," as expressed by one of the women we spoke with). Psychiatric care and psychiatric hospitals were heavily criticised due to the lack of psychological support and rehabilitation, as well as the poor conditions and oppressive treatment.<sup>271</sup> Alternative forms of support were recommended: *"Resocialisation, community integration, art therapy, music therapy, dance therapy, meeting with psychologists"*.<sup>272</sup>

Persons with disabilities were aware that in some cases, it is better for the medical professionals themselves to submit a report when there is evidence of violence: *"[...] from the distance of time, I think the police should be notified, that this sort of thing happens in general. [...] So I think the police should be called, they should take the necessary statements [...] social care should be notified [...]"*.<sup>273</sup>

**Providing safety and assistance to people with disabilities who have been victims of violence is another issue that was addressed:** *"There should be places for women like me, where we can be protected, whether they are centres or somewhere else, I can't say. There should be an emergency hotline, and there should be someone to respond, not just saying*

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<sup>270</sup> From an interview with a woman with a disability who experienced domestic violence.

<sup>271</sup> From an interview with a woman with a disability who experienced domestic violence.

<sup>272</sup> From an interview with a woman who has experienced multiple forms of gender-based violence.

<sup>273</sup> From an interview with a woman who has experienced multiple forms of gender-based violence.

*“But these are your personal problems.”<sup>274</sup>*

The need for trauma-informed practices, including psychological support, was also emphasised but from psychologists with special training: *“A psychologist should be called who can work with people experienced sexual trauma.”<sup>275</sup>*

### **Recommendations from supporting specialists**

Supporting specialists recommended the development of empowering services for people with disabilities who have experienced gender-based violence, providing training for recognising violence, supporting the provision of reasonable accommodations, and emphasising the need to ensure the functioning of services during emergencies.<sup>276</sup>

The interviewed specialists also recommended training law enforcement and judicial authorities in techniques for recognising violence against people with disabilities, assessing risks, and providing procedural accommodations. Professionals also proposed the development of a methodology for monitoring social services for people with disabilities to identify gender-based violence. Establishing a coordination mechanism for dealing with cases of gender-based violence against people with disabilities and conducting awareness campaigns for victims were also suggested.<sup>277</sup>

### **Recommendations from the authorities**

Representatives of the authorities recommended trainings on the topic and the establishment of more services for victims of gender-based violence that are accessible to people with disabilities, including mobile services.<sup>278</sup> They suggested building mobile services for people

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<sup>274</sup> From an interview with a woman who has experienced multiple forms of gender-based violence.

<sup>275</sup> From an interview with a woman who has experienced multiple forms of gender-based violence.

<sup>276</sup> From interviews with a social worker in services for people with disabilities, a manager of services for persons with psychosocial and intellectual disabilities, and an interview with a psychologist-psychotherapist working in a non-governmental organisation that provides services for victims of gender-based violence.

<sup>277</sup> From interviews with a psychologist and the manager of an NGO - service provider for victims of gender-based violence, psychologists working in NGOs - service providers for victims of gender-based violence, manager of services for persons with psychosocial and intellectual disabilities.

<sup>278</sup> From a focus group with specialists of CPD and IAPDSSD.

with disabilities and creating a database with information<sup>279</sup> on available services for victims. These specialists also recommended establishing a coordination mechanism for dealing with cases of gender-based violence against people with disabilities<sup>280</sup>, providing independent representation for children in residential care<sup>281</sup>, and offering specialists to assist in communication with people with disabilities in court proceedings.<sup>282</sup>

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<sup>279</sup> From an interview with an investigation officer.

<sup>280</sup> From a focus group with a specialist of CPD and IAPDSSD.

<sup>281</sup> From an interview with an expert from the Ombudsman's office.

<sup>282</sup> From an interview with an investigation officer.

# 05

## CONCLUSIONS AND RECOMMENDATIONS

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## CONCLUSIONS AND RECOMMENDATIONS

### 01 Conclusions

The roots of the problem of gender-based violence against women with disabilities - discrimination against women and against persons with disabilities - are highlighted in an interview with a woman with disabilities who suffered domestic violence: *"Society does not accept people who have been in psychiatric units. One in two adults has a mental disorder. But it is not accepted by society. It is not supported by the state. Discrimination is happening now - against people with psychosocial disorders. This discrimination prevents these people from working in government jobs, like prisoners who are not allowed to work government jobs. That's discrimination. In most cases, women are subjected to harassment by anyone. It's just that in the society we live in, there is a lot of discrimination, both against people with psychosocial disorders and mothers with children. "I may employ you, but you won't be absent, you won't get pregnant, you won't use maternity leave, you won't use sick leave, and we won't pay you." This is the harsh reality of Bulgaria. [...] They have no living conditions, no sustenance, no jobs, no nothing. They are cast out of society."*<sup>283</sup>

This is the overall picture portrayed by the interviewed people and and focus groups. People with disabilities and victims of gender-based violence do not feel supported and protected by the authorities. Their experience speaks of rejection, distrust of their narratives, a lack of willingness to be heard, a lack of trust, and re-victimisation. Even the few instances of protection and assistance that we are aware of are frequently followed by years of abuse and victimisation. In many cases, hospitalisation and institutionalisation are the responses the state offers to people with disabilities who have experienced gender-based violence, replacing one form of dependency with another and one form of violence with another.

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<sup>283</sup> From an interview with a woman with a disability who had experienced domestic violence.

Support professionals, on the other hand, rarely have the opportunity to work on cases of people with disabilities who have experienced violence, perhaps because there are no support services for victims of gender-based violence that are fully adapted to the needs of people with disabilities. When they do have such cases, they are confronted with dysfunctional systems, legislative gaps, gaps in service provision, lack of resources and lack of support. Representatives of authorities shared similar experiences. Despite facing the problem more frequently, the impression of feeling powerless, the lack of resources and coordination between different services and systems remains. In professional circles, whether supporting professionals or representatives of government, there is a problem of unclear lines of responsibility, blurred boundaries of professional duties and accountabilities, their formalisation or, at the other extreme, overstepping into other professional fields. This is explained by lack of departments, lack of resources, lack of expertise and skills, in the context of complex and complicated cases, such as those of children and adults with disabilities who have experienced violence.

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## CONCLUSIONS AND RECOMMENDATIONS

### 02 Recommendations

In conclusion, we would like to recommend some particular measures that we, the authors of this report, believe will contribute to improving the situation of people with disabilities who are victims of gender-based violence:

- Policy-makers should include people with psychosocial and intellectual disabilities who have experienced gender-based violence in the process of improving the legal framework, policies, and practices in the field.
- Competent authorities (including Parliament and Ministries) should implement the CRPD/C/5: Guidelines on deinstitutionalisation, including in emergencies (2022) in the national legislation and polices.
- The Council of Ministers and the Ministry of Justice should revise the Criminal Code and initiate legislative changes by:
  1. Expanding the definition of "crime committed under conditions of domestic violence" to include relatives by affinity and through marriage, as well as individuals providing care or participating in the provision of social services.
  2. Elevating domestic violence to a separate offence or introducing aggravated hypothesis for other types of crimes committed under conditions of domestic violence.
  3. Criminalising hate crimes based on gender and disability.
  4. Introducing aggravated hypothesis in other types of crimes, when the victim is a person with a disability.
  5. Explicitly criminalising marital rape, genital mutilation, and honour crimes.

6. Restructuring the concept of rape, eliminating the requirement for penile-vaginal penetration and the requirement that the victim must be subject to immediate coercion.
- The Ministry of Justice should revise and initiate legislative changes in the Protection Against Domestic Violence Act, ensuring protection against individuals providing care or offering social services to a person with a disability.
  - The Ministry of Justice should propose, and the Parliament should amend procedural laws by:
    1. Implementing procedural accommodations, including the figures of intermediary and supported decision-making specialist along with individual needs assessment for participants in the process who have disabilities.
    2. Removing the requirement of “witness capacity” and the concept of incapacity to testify in relation to disability.
  - The Council of Ministers and the Ministry of Labour and Social Policy, together with the Ministry of Health should revise the Social Services Act and the Medical Facilities Act to ensure effective monitoring on social and health services from civil society organisations.
  - The Council of Ministers and the Ministry of Labour and Social Policy should revise the Social Services Act to prohibit the placement of victims with disabilities in institutions as a protective measure and instead create alternative services and opportunities, including specialised therapeutic foster families, that are consistent with Article 16(4) of the CRPD and do not conflict with Article 19 of the CRPD.

- The Ministry of Labour and Social Policy and Ministry of Health should develop monitoring methodologies on social and health services to identify gender-based violence against persons with psychosocial and intellectual disabilities.
- Institutions dealing with reports of violence (structures of the Ministry of Labour and Social Policy, police, public prosecutor's office, ombudsman) should implement reasonable and procedural accommodations for victims with psychosocial and intellectual disabilities so they can report gender-based violence against themselves.
- The Council of Ministers should establish a coordination mechanism for cases of gender-based violence against people with psychosocial and intellectual disabilities.
- The Council of Ministers should develop a unified system for collecting statistical data on all forms of gender-based violence, including against people with disabilities.
- Competent authorities (including the Parliament and the Council of Ministers) should ensure the development of more services for victims of gender-based violence and the accessibility of these services to victims with psychosocial and intellectual disabilities.
- The Agency for the Quality of Social Services should develop an electronic system with information on available services for victims of gender-based violence.
- Competent authorities should implement training for service providers and government representatives on handling cases of gender-based violence against persons with disabilities.

## Instead of an epilogue:

### From Invisible Victims to Visible Litigants: one district judge's specific experience:

*“But I will say – it is visible for a person who is ready to see. Why do I say this? When I started working and looking more into the problems of people with disabilities, maybe in the last 5 years, I started noticing that more and more such cases were assigned to me. Just on an ongoing basis, for some reason, whether because some medical documentation came up or because at the assigning comes any signal that the person has a problem. I started asking myself - well, okay, why does the computer always choose me [for these cases]? [...] [I]t stuck me that it is not the computer that is choosing me, but most probably I just got more sensitive. I started noticing the way I present information, the more effort I put in, I start noticing some simple details, the things you ask yourself – “why does this person would not want to participate, why do they not want to be included in the procedure, is there a problem?” You start working diligently, through the standard channels - you have no channels other than this - writing and trying to be more informative. You say, “well, we’ll give you legal aid if that’s what you want,” by sending in papers, realising that that may not always be understood by the other person, because we don’t know if the person on the other side communicates the same way we do, but we have no other channels, no other ways. The other option is to start calling looking for services – “do you know this person, have you seen this person, is there an issue with this person?” This is also a channel for this kind of information, so in my opinion if you work actively, you pay a lot of attention to people, if you develop a sensitivity in them [...] these are not invisible things, on the contrary, they are visible.”<sup>284</sup>*

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<sup>284</sup> With an interview with a district judge.