



## European network of legal experts in gender equality and non-discrimination

### FLASH REPORT

<b>Country:</b>	Bulgaria
<b>Title:</b>	New Persons with Disabilities Act
<b>Date:</b>	31 January 2019
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<b><u>Context</u></b>	
<b>Issue at stake:</b>	New rights-based legislation replaces the Integration of Persons with Disabilities Act
<b>Ground of discrimination:</b>	Disability
<b>Source:</b>	Legislation
<b>Field:</b>	Employment, social protection, social advantages, access to goods and services, education, housing, other
<b>Applicable law:</b>	Persons with Disabilities Act

### **Content**

**Law:** On 18 December 2018, Parliament adopted a new law governing the rights of persons with disabilities in line with the Convention on the Rights of Persons with Disabilities (CRPD). The Persons with Disabilities Act (PDA), one of a package of disability-related laws,<sup>1</sup> entered into force on 1 January 2019 (certain individual provisions have later entry into force dates). The PDA's language is rights-based, and its stated aims are to guarantee persons with disabilities full and equal enjoyment of rights and dignity, while making their social inclusion possible, and supporting them and their families. The law's stated principles are equal treatment based on an individual approach and individual assessment of needs, as well as personal choice and independence, accessibility and full participation.

PDA provides for new definitions of "persons with disabilities", "persons with long-term disabilities", reasonable accommodation and a range of other relevant concepts. "Persons with disabilities" are "persons with a physical, mental, intellectual and sensory insufficiency, which in interaction with the environment may hinder their full and effective participation in social life". "Persons with long-term disabilities" are "persons with a long-term physical, mental, intellectual and sensory insufficiency, which in interaction with the environment may hinder their full and effective participation in social life, and who were medically certified as having a disability of a 50 percent or more type and degree". Previously, the repealed Integration of Persons with Disabilities Act (IPDA) defined "disability" as "any loss or impairment of the anatomical structure, physiology, or psychology of a given individual". Under IPDA, "a person with a long-term disability" was defined as "a person who, as a result of an anatomical, physiological or psychological disability has long-termly reduced possibilities to perform activities in a manner and to a

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<sup>1</sup> Including the Personal Assistance Act adopted in December 2018 (entered into force 1 January 2019), which governs the provision of personal services (daily life help) to persons with disabilities. While it has no provisions on equality rights, it does state that personal assistance is a means to secure rights enjoyment and full participation.

degree possible for a healthy person, and who medical expertise authorities have certified as having reduced working ability, or have certified a disability of a 50 percent or more type and degree.”

While the new definitions under PDA are closer to the language of Article 1 CRPD compared to the ones under the repealed IPDA,<sup>2</sup> the definition of long-term disability still retains, unfortunately, the medical approach to disability.

PDA provides for support interventions in the fields of healthcare, education, employment, housing, urban environments, transportation, culture, information, sports, public life and justice. It envisages rehabilitation, social services, labour support, accessible information, reasonable accommodation, access to justice and legal defence, personal assistance and personal mobility, and more. A Monitoring Council is created, comprised of 9 members, to observe and report on compliance with CRPD. It includes representatives of the Ombudsman, the Protection Against Discrimination Commission, organisations of, and for, persons with disabilities, and academia. Another consultative body, the National Council for Persons with Disabilities, is created within the Council of Ministers (the government). Its members represent the state, organisations of, and for, persons with disabilities, employees’ organisations, employers’ organisations, and municipalities. Its role is to be a vehicle for cooperation and coordination in formulating disability rights policy. In particular, it is competent to give opinions on draft legislation and strategic programming and plans.

PDA governs individual needs assessments, defining their scope, aims and procedure. Based on their individually assessed needs, persons with disabilities are entitled to financial assistance for purposes of obtaining aids, appliances and tools as needed. Persons with long-term disabilities are entitled to financial assistance for purposes of obtaining a car, adapting housing, rehabilitation, renting of municipal accommodation, as well as monthly monetary assistance. The levels of the latter are enhanced for the various sub-groups of persons with disabilities as compared with the provisions of the repealed IPDA. Persons with disabilities are furthermore entitled to social services, personal assistance and other support based on their needs as individually assessed.

PDA also provides for social inclusion support, including five types of rehabilitation, defining the concept and aims of rehabilitation in general as a right, as well as its five types. Under PDA, students with disabilities are entitled to support in schools based on individual assessments. Schools and higher education institutions have duties to provide inclusive environments, including special adjustments. In the field of employment, persons with disabilities are entitled to job seeking intermediary and consultation services, and the government is charged with devising measures to enhance their opportunities. Importantly, PDA introduces employment quotas for persons with long-term disabilities. Employers with 50 to 99 employees must hire at least one person with a long-term disability, while employers with 100 or more employees must hire at least two persons with long-term disabilities per 100. In case of non-compliance, employers are subject to fines (the maximum amount is BGN 5000 (EUR 2500), doubled in cases of repeat violations).

In addition, employers are under a duty to adjust the workplace to the needs of a person with disabilities upon hiring. Employers are eligible for public funding awarded by the Agency for Persons with Disabilities for purposes of providing reasonable accommodation of jobs, inter alia, including accessibility and special equipment. Employers are also eligible for various other economic stimuli and alleviations linked to employing persons with disabilities. PDA further defines and governs specialised enterprises and cooperatives of persons with disabilities. Those are entitled to subsidies and tax/ social

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<sup>2</sup> Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

security alleviations. The law further defines and governs protected employment centres designed to provide employment for persons with multiple long-term disabilities.

PDA articulates a range of accessibility and reasonable accommodations rights in terms of public environments, including accessible information and transportation, and personal mobility. In addition, persons with disabilities who experience serious difficulties (those are defined) to take specific legal actions are entitled to assisted decision-making. Judicial and other institutions are under a duty to provide effective access to justice, including procedural and other support measures. Under the law, the Agency for Persons with Disabilities is to create and maintain a database on persons with disabilities, including a personal profile for every individual, reflecting their health, educational and socio-economic status, social inclusion possibilities, demographics, and other aspects. The data is to be used for policy-formulation. In addition, the Agency for Persons with Disabilities is to keep a public electronic register of specialised enterprises and cooperatives of persons with disabilities, as well as a public electronic register of providers of aids and tools for persons with disabilities.

As opposed to the repealed IPDA, the new law does not ban or define any forms of discrimination. This has no consequences for the equality rights of persons with disabilities as they are fully covered under the Protection Against Discrimination Act (PADA). Previously existing bans and definitions under IPDA unnecessarily overlapped with PADA.

**Internet link source:** <https://www.lex.bg/bg/laws/ldoc/2137189213> (in BG).