

Mandates of the Independent Expert on the enjoyment of all human rights by older persons; the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

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(Please use this reference in your reply)

26 May 2022

Excellency,

We have the honour to address you in our capacities as Independent Expert on the enjoyment of all human rights by older persons; Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, pursuant to Human Rights Council resolutions 42/12, 44/5 and 42/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **Bulgaria's COVID-19 vaccination policies between December 2020 and May 2021, deprioritizing older persons and persons with underlying medical conditions, as well as, the impact of these policies on these groups' enjoyment of all their human rights, especially their right to be free from discrimination, their rights to life, to dignity, to the enjoyment of the highest attainable standard of physical and mental health, and to access information.**

We acknowledge the efforts made by your Excellency's Government in the fight against the spread of coronavirus over the past two years. We would like to assure you of our support to your work and our willingness to cooperate in finding better solutions and effective alternatives together with you regarding the following concerns.

According to the information received:

While as of 16 May 2022 in the European Union countries, 90.1 per cent of people aged 60 and above have been fully vaccinated and 81 per cent of the people aged 60 and above had received a booster vaccine, Bulgaria has the lowest rate of vaccinated adults, including older persons in the European Union, with only 38.2 per cent of Bulgarian persons of 60 years or above fully vaccinated and 21.6 per cent of that age group has received a booster dose.

The low rate of vaccination among the oldest proportion of the Bulgarian population allegedly had a direct effect from Bulgaria's COVID-19 vaccination policies that may have undermined the human rights of older persons and people with underlying health conditions, including their right to equality and non-discrimination, their rights to life, to the enjoyment of the highest attainable standard of physical and mental health, and to access information.

[Bulgaria's National Vaccination Plan against COVID-19 and its implementation](#)

After the European Commission signed several agreements on behalf of European Union Member States with pharmaceutical companies in the second half of 2020, it is reported that Bulgaria initially received a limited quantity of COVID-19 vaccine doses. As published by the Bulgarian Ministry of Health, Bulgaria received 10,725 doses in December 2020, 66,645 doses in January 2021, 253,920 doses in February 2021, 503,190 doses in March 2021 and 745,290 doses in April 2021. As the supply of vaccines remained inadequate to meet the needs to fully vaccinate¹ the nearly seven million of Bulgarians from December 2020 to May 2021, prioritization strategies for COVID-19 vaccines were adopted and implemented by the Government of Bulgaria.

Early December 2020, the Government's website dedicated to information related to the COVID-19 pandemic ([Ваксини | coronavirus.bg](#)) recognised that "Vaccines prevent severe disease" and that providing access to vaccines for "old persons and people with chronic diseases" is of "most importance" due to their higher "risk of serious illness, hospitalization and death".

However, on 7 December 2020, the Bulgarian Council of Minister adopted Resolution No. 896 referring to the National Vaccination Plan against COVID-19, without specific mention of the necessity to protect and prioritise access to COVID-19 vaccines for the most vulnerable people, including older adults and people with underlying medical conditions.

In the National Vaccination Plan, the authorities staged the delivery and administration of COVID-vaccines into five phases corresponding to priority groups, placing older persons and people with underlying medical conditions in the penultimate priority group. The five priority phases were defined as follows:

- Phase 1 included the distribution of vaccines to all types of health care staff: medical staff of outpatient and inpatient care facilities, healthcare professionals, dental practitioners, pharmacists, assistant pharmacists and other support staff, concerning an estimated total of 243,600 people;
- Phase 2 included the delivery of vaccines for residents and staff of social institutions, pedagogical specialists, and the staff of mink farms, concerning an estimated total of 112,080 persons;
- Phase 3 included the administration of vaccines for staff involved in guaranteeing that activities essential for public life. Estimation of the proportion of the population affected by this priority phase was not provided by the Government;
- Phase 4 included the distribution of vaccines to older people aged 65+ and persons with underlying health problems, because of the higher severity of the disease and the higher risk of complications and lethal outcome, including immunocompromised or individuals with secondary immune deficiencies. The estimated total provided by the Government was 1,800,000 persons, among which 1,500,000 were 65

¹ Fully vaccinated is understood as receiving two doses of COVID-19 vaccine.

years old and above;

- Phase 5 included the administration of vaccines to vulnerable groups of the population who are at high epidemiological risk of infection due to their living conditions and lifestyle. No estimated numbers regarding the proportion of the concerned population were provided by the Government.

It is reported that Phase 3 of the vaccination plan ended up including in practice large groups of Bulgarian people working in several different sectors of public life, including fields that were not recognised as “essential public services”. It is reported that the Government did not provide information about who was considered employees of “essential public services”. Many companies reportedly drew lists of their employees who wished to get vaccinated that were then submitted to the local Regional Health Inspectorates, which did not control the content of the lists. Family members of employees were also added to those lists and received access to vaccines prior to people in the Phases 4 and 5, naming older persons and people with underlying medical conditions.

On 3 February 2021, the National Vaccination Plan was amended to include in priority groups of Phase 3 “the individuals to be directly engaged in the organization and conducting of the parliamentary elections scheduled for 4 April 2021, including the individuals engaged in the computer processing of voting data”.

On 19 and 22 February 2021, new amendments to the plan were made to allow individuals who did not belong to any of the priority groups under Phases 1 to 5 to access vaccination, if vaccines were available. Those changes, so called “green corridors”, allowed all the remaining of the population to get vaccinated against COVID-19 while Phases 1, 2 and 3 of the vaccination plan were still ongoing and phases 4 and 5 (providing access to vaccination for older persons and people with higher risk to COVID-19 due to their underlying health conditions) had not yet started.

Opening the vaccination to all people regardless of the priority phases appeared to be in contradiction with the principle of prioritization, especially at a time when vaccines were still available in very limited quantities. By 19 February 2021, the date of the start of the “green corridors”, Bulgaria had only received 258,300 vaccine doses, including 57,600 delivered on that same day. Following the opening of the “green corridors” and due to the higher number of people eligible for vaccination, opportunities to access to COVID-19 vaccination considerably reduced for older persons and people with underlying health. Green corridors were only opened in the main cities and people had to stay in line without anywhere to sit for long hours, and often outside in low winter temperatures, without any special assistance, these conditions making it even more difficult for older persons and persons with underlying health conditions.

Hence, the situation resulted in a higher proportion of people who got access to vaccines but did not belong to any priority group which delayed the access to vaccines for these most vulnerable groups of the Bulgarian population.

On 17 May 2021, the Ministry of Health instructed general practitioners and other vaccination centres to vaccinate in priority persons aged 60 years and older, between Mondays and Thursdays.

According to information received, at the end of May 2021, only 302,149 people 65 years old and older (about 20 percent) were vaccinated out of the estimated 1,500,000 older persons in Bulgaria, while the concerned country had already received 3,377,260 doses of the vaccines at the time, making them more accessible and available.

Between January and May 2021 during the first phases of the vaccination plan, 8,813 people of 60 years and older reportedly died from COVID-19 in Bulgaria, which accounts for more than 80% of all COVID-19-related deaths during this period. This figure does not include the number of people below 60 years old who died from Covid-19 and were at an increased risk due to their health condition.

Additionally, despite the low rate of vaccination against COVID-19 that offers the most efficient protection against contracting the virus at the moment, Bulgaria lifted all COVID-19 restrictions. This includes the wearing of protective face masks in closed public spaces, observance of physical distance, restrictions on the number of persons who can visit indoor sites at the same time, restrictions on attending face-to-face training, and the ban on visits to hospitals and social service establishments as of 1 April 2022.

Availability and accessibility to COVID-19 vaccination and to information related to COVID-19 vaccines and vaccination for older persons and persons with underlying health conditions

According to the information received, conditions to access vaccination centres and facilities were physically challenging for older persons and other people in vulnerable situations. Most of the COVID-19 vaccines were only available in the main cities without any support for older persons and other people in vulnerable situations with limited mobility to travel to vaccination centres. After the creation of the “green corridors”, people also had to wait in line for several long hours outside, sometimes in low winter temperatures and without anywhere to sit.

Furthermore, general practitioners reportedly received limited number of doses and therefore, could not vaccinate their patients unable to travel to vaccination centres. On 1 March 2021, the National Association of General Practitioners in Bulgaria sent a letter to the Minister of Health deploring the “insignificant quantities of vaccine provided to the [general practitioners], which in practice excludes them from the vaccination process”.² In addition, general practitioners had to wait a long time before receiving vaccine doses for their patients; they needed to visit the local health inspectorate several times before receiving doses. They were also not notified when vaccines were available nor given instruction on how to receive them.

² National Association of General Practitioners in Bulgaria, “Letter sent to the Minister of Health of the Republic of Bulgaria”, 1 March 2021, see <https://www.nsoplb.com/uploads/assets/2021/izh-n-4-pismo-ministur-angelov.pdf>.

Early 2021, the Ministry of Health announced that mobile units would be deployed to help vaccinate people living in remote and difficult-to-access regions, starting with those living in social care homes. However, these mobile units reached a very limited number of people: by 23 September 2021, they had vaccinated only 4,274 people.

Furthermore, it was reported that information about COVID-19 vaccines and the vaccination campaign to encourage people to get vaccinated remained scarce since the beginning of the availability of COVID-19 vaccines in Bulgaria.

On 21 March 2022, the Ministry of Health launched a website titled “Plus Me” (<https://plusmen.bg>), seeking to increase confidence in the COVID-19 vaccines. While the website acknowledges some failures regarding the distribution of COVID-19 vaccines, the website provides information about the safety of the COVID-19 vaccines available and the benefits of getting vaccinated, especially for vulnerable groups, including older persons aged 60 or over and people with underlying health conditions. However, the promotion of the website itself and access to information around COVID-19 vaccines remains inadequate, especially among older persons who tend to live in remote areas and have limited to no access to internet.

It is reported that no further or concrete measures to promote the website accompany its launch to assist with the increase of the vaccination rate.

Collective complaint to the European Committee on Social Rights

According to the information received, on 24 January 2022, a collective complaint (№ 204/2022) was submitted before the European Committee on Social Rights, alleging violations of the right to the protection of health (Art. 11) and non-discrimination (Art. E) under the revised European Social Charter in the context of the COVID-19 pandemic and distribution of Covid-19 vaccines as hereby previously mentioned. The submission requested that the Committee indicate to Bulgaria that additional measures should be taken to avoid further irreparable harm on older persons and people with health conditions who continue dying or contracting serious disease of Covid-19 as they remain unvaccinated.

On 4 May 2022, the Committee published the observations of the Bulgarian Government dated 15 March 2022 on the admissibility of the complaint and informed about the immediate measures taken. In these observations, we note that the Government acknowledged that the older persons and those with underlying medical conditions are at the highest risk of contracting COVID-19, and that vaccination is the best protection tool. It was also acknowledged that the level of vaccination in the country is “unsatisfactory” and that there is a need for “coordinated efforts” to tackle the low vaccination rates in the country. It was also mentioned that a “large-scale information campaign” was being planned by the Bulgarian authorities to encourage the population to get vaccinated against COVID-19, including towards older persons and persons with underlying conditions.

Without wishing to prejudge the accuracy of the information received, we would like to express concern at the non-prioritization of older persons and people with underlying health conditions to access to COVID-19 vaccination in Bulgaria. We are further concerned that the Bulgarian National Vaccination Plan against COVID-19 may have reinforced ageist stereotypes and attitudes against older persons, in placing this group of the population most vulnerable to contracting severe forms of the coronavirus in the penultimate priority group of vaccination. At the end of 2020 the vaccines became the most effective tool to protect people against getting seriously ill or dying from the disease. The National Vaccination Plan against COVID-19 in Bulgaria seems to have been designed without taking into consideration international standards and recommendations, restricting the access to vital health care services and goods for older persons and people with underlying health issues.

We also express concern at the creation of “green corridors” that further delayed in practice the access to vaccines for older persons and people with underlying conditions, increasing their risk of infection to COVID-19. Opening the vaccination to all people regardless of the priority phases was in contradiction with the principle of prioritization, especially at a time when vaccines remained available in very limited quantities. The de-prioritization of those groups of the population seems to have had considerable impacts on their living conditions and to have undermined their right to be free from discrimination, their right to health, and their right to life and human dignity.

We are further concerned that due to the low rate of vaccination among the Bulgarian population, including among older persons as of early April 2022, and the lifting of all COVID-19 restrictions in the country, the rights to health and to life of older persons and persons with underlying health conditions might further be threaten by the lack of consideration of their special needs by the State, in the face of the still ongoing pandemic. Data gathered since the availability of COVID-19 vaccines demonstrates that there have been significantly lower death rates due to COVID-19 among fully vaccinated individuals globally. A number of deaths of vulnerable people, such as older adults and people with health conditions, could most probably have been prevented had these vulnerable groups been given priority, along with effective and informed access to vaccination, by the Bulgarian authorities.

Finally, we express concern at the lack of physical accessibility to COVID-19 vaccinations centres for older persons and people in vulnerable situations with limited mobility, as well as, the lack to proper access to evidence and scientific based information related to COVID-19, vaccines, and ways to access vaccination.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.

2. Please provide information on the steps being taken by the Government to ensure that older persons and people with underlying health conditions be effectively and efficiently protected against the coronavirus, including through access to COVID-19 vaccines, in line with Bulgaria's obligations under international human rights law.
3. Please provide detailed information about the measures taken/being taken by the Government to advertise the website “Plus Me” and share evidence and scientific based information about available health goods, including vaccines, against the coronavirus, including regarding the large-scale information mentioned in the observations of your Excellency’s Government to the European Committee on Social Rights.
4. Please provide any available and disaggregated data (by sex, disability and ethnicity) on persons aged 60 and above who got vaccinated in Bulgaria since the beginning of the vaccination campaign mentioned in the observations of your Excellency’s Government to the European Committee on Social Rights. Kindly specify if available, the proportion of persons aged 60 and above vaccinated, whether they lived in urban or rural areas.
5. Please provide any available numbers of deaths among vaccinated and unvaccinated older persons since March 2020.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency’s Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge your Excellency's Government to take immediate and necessary interim measures in ensuring the access to COVID-19 vaccines for older persons and people with underlying health conditions, including in providing physical accessibility and evidence and scientific based information about the benefits of the vaccines, to ensure that the State’s actions are in line with the international human rights law standards described herein.

Please accept, Excellency, the assurances of our highest consideration.

Claudia Mahler
Independent Expert on the enjoyment of all human rights by older persons

Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary or arbitrary executions

Tlaleng Mofokeng
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international and regional norms and standards that are applicable to the issues brought forth by the situation above.

Regarding the lack of prioritization of older persons and people with underlying health conditions to access to COVID-19 vaccination, we would like to recall article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) that guarantees the right to the enjoyment of the highest attainable standard of physical and mental health, and as ratified on 21 September 1970 by Bulgaria. This right also guarantees the obligation for State Parties to the full realization of “the prevention, treatment and control of epidemic [...] diseases” like the COVID-19 pandemic.

In its General Comment No. 14 on the right to the highest attainable standard of health, the Committee on Economic, Social and Cultural Rights (hereinafter CESCR Committee) noted that an individual's biological and socio-economic preconditions must be considered when deciding what course of care and treatment would allow the individual to attain their “highest attainable standard of health.” (para. 9). Regarding age, the CESCR Committee affirms that State Parties should accord priority to the improvement of the health-care system for older persons, in order to meet its obligation of ensuring availability, accessibility, acceptability and quality of health care for them. Additionally, the Committee mentioned that “[p]riority in the provision of international medical aid, distribution and management of resources ... should be given to the most vulnerable or marginalized groups of the population” (para. 12 b) and 25).

In a statement published on 15 December 2020, the CESCR Committee recalled that “the right to health requires States to make health facilities, services and goods, including vaccines, available, accessible, acceptable and of good quality”. The Committee added that to ensure access to COVID-19 vaccines, States must remove any discrimination based in particular on age and disability, and guarantee physical and economical accessibility to vaccines.³ Given the limited quantities available of vaccines during the first months of their availability, prioritization was required and, according to the Committee, should have been based on medical needs and public health grounds: “according to these criteria, priority may be given, for instance, to health staff and care workers, or to persons presenting greater risks of developing a serious health condition if infected by SARS-CoV-2 because of age, or pre-existing conditions, or to those most exposed and vulnerable to the virus owing to social determinants of health...”⁴

In March 2021, the Human Rights Council called for “equitable, affordable, timely, and universal access for all countries to vaccines in response to the

³ UN Committee on Economic, Social and Cultural Rights, “Statement on universal and equitable access to vaccines for the coronavirus disease (COVID-19)”, 15 Dec. 2020, see <https://digitallibrary.un.org/record/3897801>

⁴ Ibid.

coronavirus disease (COVID-19).”⁵ It emphasized “the urgent need to ensure the right to everyone to the enjoyment of the highest attainable standard of physical and mental health and to facilitate the development of robust health systems and universal health coverage, encompassing universal, timely and equitable access to [...] vaccines in response to the COVID-19 pandemic and other health emergencies, in order to ensure full access to immunization for all, in particular persons and groups in vulnerable situations ...” (OP 1).

In her 2022 report to the Human Rights Council on human rights implications of the lack of affordable, timely, equitable and universal access and distribution of coronavirus disease (COVID-19) vaccines and the deepening inequalities between States (A/HRC/49/35), the High Commissioner for Human Rights further stated that “[t]he determination of vaccine recipients should not exclude anyone explicitly or implicitly on the basis of older age, disability, race, gender, religion, migration status, descent, status or other discriminatory bases and should be conducted through a fair, transparent, inclusive and accountable process.” (para. 32).

Furthermore, we would like to recall that non-discrimination and equality are fundamental human rights principles and critical components of the right to health. Article 2 (2) of ICESR guarantees these principles. The article includes race, colour, sex, language, religion, origin ‘or other status’ as prohibited grounds of discrimination. “Age” is not mentioned explicitly yet might be said to be included in the “and other status”. Under this article, States, including Bulgaria, have an obligation to prohibit and eliminate discrimination on all grounds and ensure equality to all in relation to access to health care and the underlying determinants of health.

In this regard, we would like to also highlight the definition of “ageism” provided the Independent Expert on the enjoyment of all human rights by older persons as stated in her 2021 thematic report on ageism and age-discrimination (A/HRC/48/53). Ageism is recognised as “stereotypes, prejudice and/or discriminatory actions or practices against older persons that are based on their chronological age or on a perception that the person is “old” (or “elderly”)” (para. 21). As mentioned in the Independent Expert’s first assessment of the situation in her 2020 thematic report on the impact of the coronavirus disease (COVID-19) on the human rights of older persons (A/75/205) and in the policy brief on the impact of COVID-19 on older persons of the Secretary-General, they both recognized that “COVID-19 was escalating ageism and the stigmatization of older persons” (A/HRC/48/53, para.19).

In view of the de-prioritization of older persons in the National Vaccination Plan against COVID-19 and the high number of reported deaths among older persons between January and May 2021 in Bulgaria, we would like also to recall that the right of life is guaranteed under article 6 of the International Covenant on Civil and Political Rights (ICCPR), also ratified on 21 September 1970 by Bulgaria. The Human Rights Committee, in its General Comment No. 36 (2018) on article 6 of ICCPR, on the right to life, underscored that the right to life and equal dignity applies to all people and recognized that the right to life applies equally and without discrimination on the basis of age.

⁵ A/HRC/46/14 - UN Human Rights Council resolution on Ensuring equitable, affordable, timely and universal access for all countries to vaccines in response to the coronavirus disease (COVID-19) pandemic, Resolution, 23 March 2021, <https://undocs.org/A/HRC/RES/46/14>

Concerning the decision of Bulgaria to place older persons and underlying people with underlying health conditions in the penultimate and last priority groups of vaccination, we would like to recall the recommendations made by international and regional mechanisms and organizations about the COVID-19 pandemic.

Since the outbreak of the pandemic, medical experts have highlighted that some categories of persons are particularly vulnerable to the coronavirus and face a higher risk of death or of becoming severely ill from the disease. The World Health Organization (WHO) declared in particular that “older people⁶ face a significant risk of developing severe illness due to physiological changes that come with ageing and existing underlying health conditions”.⁷ In addition, people with medical issues, such as cardiovascular disease, diabetes, chronic respiratory disease, or cancer, were also considered to be more likely to develop serious illness or dying, regardless of their age.⁸ As stated by the United Nations in April 2020, “the COVID-19 crisis has exacerbated the vulnerability of the least protected in society. It is highlighting deep economic and social inequalities, and inadequate health and social protection systems that require urgent attention as part of the public health response”.⁹

Additionally, in his policy brief on the impact of COVID-19 on older persons, the United Nations Secretary-General highlighted the higher fatality rate of older persons and the high risks they face regarding access to and delivery of health care.¹⁰

Furthermore, in November 2020, the WHO’s European Technical Advisory Group of Experts on Immunization recommended that in the context of limited supply of COVID-19 vaccines, older persons, residents of long-term care facilities and peoples with comorbidities, among other groups in vulnerable situations, should be prioritised for COVID-19 vaccination.¹¹ In the original the roadmap of the WHO’s Strategic Advisory Group of Experts in Immunization (SAGE), older persons were also recommended to be prioritized for vaccines against COVID-19 in the context of limited supply, along with “Groups with comorbidities or health states determined to be at significantly higher risk of severe disease or death”.¹²

We would also like to highlight the recommendations made by the European Commission on 15 October 2020 in a ‘Communication on preparedness for COVID-19 strategies and vaccine deployment’. It mentioned that Member States should take into consideration the definition of priority groups for vaccination in their

⁶ People 60 years old and above are considered generally considered as “older persons”. See UN General Assembly, Resolution 67/139, Towards a comprehensive and integral international legal instrument to promote and protect the rights and dignity of older persons, A/RES/67/139, adopted on 20 December 2012, <https://undocs.org/pdf?symbol=en/A/RES/67/139>.

⁷ World Health Organization, Regional Office for Europe, “Health care considerations for older people during COVID-19 pandemic”, <https://www.euro.who.int/en/health-topics/health-emergencies/coronavirus-covid-19/publications-and-technical-guidance/vulnerable-populations/health-care-considerations-for-older-people-during-covid-19-pandemic>

⁸ World Health Organization, Coronavirus disease (COVID-19) – Overview, https://www.who.int/health-topics/coronavirus#tab=tab_1

⁹ United Nations Sustainable Development Group, “COVID-19 and Human Rights: We are all in this together”, April 2020, p. 2, <https://unsdg.un.org/sites/default/files/2020-04/COVID-19-and-Human-Rights.pdf>

¹⁰ United Nations, “Policy brief: the impact of COVID-19 on older persons”, May 2020.

¹¹ World Health Organization, Regional Office For Europe, “Health workers at risk, older adults and residents of long-term care facilities to be prioritized for COVID-19 vaccination”, see <https://www.euro.who.int/en/health-topics/disease-prevention/vaccines-and-immunization/news/news/2020/11/health-workers-at-risk,-older-adults-and-residents-of-long-term-care-facilities-to-be-prioritized-for-covid-19-vaccination>;

¹² WHO SAGE Roadmap for Prioritizing Uses of COVID-19 Vaccines in the Context of Limited Supply, 20 October 2020, see <https://apps.who.int/iris/bitstream/handle/10665/341445/WHO-2019-nCoV-Vaccines-SAGE-Prioritization-2020.1-eng.pdf?sequence=1&isAllowed=y>

national COVID-19 vaccination plans. As at the time, vaccination against coronavirus remained the efficient way to end the pandemic, the European Commission further recommended that Member States give priority to vulnerable groups, including older people over 60 years.¹³

We would also like to recall the obligations of Bulgaria under the revised European Social Charter of 1996, ratified by the State on 7 June 2000 and that guarantees the right to protection of health under article 11 and on prohibition of discrimination under article E.

Regarding the lack of physical accessibility to vaccinations centres for older persons and people in vulnerable situations with limited mobility and the lack of information about COVID-19, we would like to emphasize Bulgaria's human rights obligation under article 12 of ICESR on the right to health, to ensure the conditions of availability and accessibility to vaccination against COVID-19 for people among vulnerable groups, including older persons and people with underlying health conditions who could not travel to vaccination centres. Under this article, Bulgaria has positive obligations to make the right to protection of health effective, which requires to make the vaccines practically available for all.

Furthermore, the CESCR Committee specified in its General Comment No.14 on the right to the highest attainable standard of health that the right to health in all its forms and at all levels shall contain the interrelated and essential elements that are (a) Availability, (b) Accessibility, (c) Acceptability and (d) Quality (para.12). The Committee recommends that to guarantee availability, “[f]unctioning public health and health-care facilities, goods and services, as well as programmes, have to be available in sufficient quantity within the State party.” Additionally, “[h]ealth facilities, goods and services have to be accessible to everyone without discrimination, within the jurisdiction of the State party” to guarantee accessibility, especially for people that may require specific needs due to limited mobility, like older persons and people with disabilities. As part of the “accessibility” component, “information accessibility” is also crucial for older persons. The Committee further stated in this regard that “accessibility includes the right to seek, receive and impart information and ideas concerning health issues.” (para. 12 (b)). In this current context, the elements of availability and accessibility may have not been met by the Government of Bulgaria for older persons and persons with underlying health conditions to easily access COVID-19 vaccines and guarantee their right to health.

In his thematic report on the realization of the right to health of older persons (A/HRC/18/37), the former Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standards of physical and mental health mentioned that “[u]nder the right-to-health framework, health facilities, goods and services should be made available, accessible, affordable, acceptable and be of good quality for older persons. Availability refers to the fact that functioning public health and health-care facilities, goods and services, as well as programmes, have to be available in sufficient quantity. In many cases, older persons are affected by selective unavailability because of rationing of medical care, i.e. allocation and prioritization of health resources, which often results in deprioritizing older persons for health treatment. Accessibility includes physical, financial and information components.

¹³ European Commission, Communication from the Commission to the European Parliament and the Council: Preparedness for COVID-19 vaccination strategies and vaccine deployment, October 2020, p12, https://ec.europa.eu/health/system/files/2020-10/2020_strategies_deployment_en_0.pdf

Older persons may be unable to access health care because of the location of services or their limited physical mobility. Poverty may also exacerbate older persons' inability to access healthcare, particularly where social security does not exist." (para. 25) Additionally, the former Special Rapporteur mentioned that "information accessibility refers to the right to seek, receive and impart information regarding health issues. With regard to older persons, it means that health-related information should be tailored to suit their needs and communicated to them in an appropriate, comprehensible manner allowing them to make fully informed decisions about their health condition and treatment." (para. 25).

Finally, the Independent Expert on the enjoyment of all human rights by older persons recommended in her thematic report on the impact of the coronavirus disease (COVID-19) on the human rights of older persons (A/75/205) "to ensure the smooth delivery of reduced health services during emergency situations, older persons should be provided with related information that is easy to understand and accessible" (para. 37).