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Martin Schultz
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PETITION TO THE EUROPEAN PARLIAMENT

under Article 227 TFEU

Mr President,

The present petition is submitted by (...) individuals and organisations – Bulgarian citizens, including people with physical disabilities and members of the Centre for Independent Living (CIL)¹ – a Bulgarian non-governmental, non-profit organisation of disabled people. The petition concerns the inaccessibility of public rail and bus transport in Bulgaria for people with disabilities and people with reduced mobility within the meaning European Union (EU) legislation and Article 9 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) ratified both by the EU and Bulgaria.

The European Commission adopted a comprehensive strategy in 2010 to create a barrier-free Europe for disabled people by 2020. The plan outlines how the EU and national governments can empower people with disabilities so they can enjoy their rights. One of the key actions included was an accessibility initiative. The aim is to use standardisation or public procurement rules to make all goods and services accessible to people with disabilities while fostering an EU market for assistive devices. This market is expected to grow considerably in the coming years, following the experience in the United States.

The EU Charter of Fundamental Rights provides that the “Union recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community.” In addition, the EU and all its 27 Member States have already committed to creating a barrier-free Europe by signing the CRPD.

¹ For further details about CIL please visit <http://cil.bg/en/>.

“Accessibility” means that people with disabilities have access, on an equal basis with others, to the physical environment, transportation, information and communications technologies and systems, and other facilities and services. In Bulgaria very little had been done by state authorities with regard to accessibility and especially transport accessibility. This means that in practice people with disabilities in the best case scenario stay isolated within their home towns, if not in the confinement of their homes. The lack of accessible public transport deprives these people of job and education opportunities, of any social contacts outside their place of residence. Furthermore, the inaccessibility of public transport places a disproportional financial burden on people with disabilities who wish to work and study in other cities as the only real alternative to trains and buses is the car transport which in Bulgaria is significantly more expensive.

I. RAIL TRANSPORT

1. Background

Rail transport in Bulgaria, including passenger rail transport, is a public railway undertaking owned and run by the Bulgarian State through the state-owned company Bulgarian State Railways.² On 1 January 2002, a new Railway Transport Act entered into force dividing the existing National Company Bulgarian State Railways into two separate entities – a railway carrier Bulgarian State Railways EAD (Български държавни железници, BDZ)³ and an infrastructure company – the National Railway Infrastructure Company (Национална компания “Железопътна инфраструктура, RINC).⁴ BDZ EAD and RINC have obsolete rolling stock, railway infrastructure is generally in poor condition, they are overstaffed, and the significant funds allocated by the Bulgarian Government to both companies are not efficiently used.⁵ As a result service satisfaction of rail transport users in Bulgaria is dropping down to the lowest level amongst all EU member states, according to a survey of Eurobarometer published in September 2012.⁶

2. Relevant European Legislation

The relevant European Union legislation directly applicable to rail transport services in Bulgaria is Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers’ rights and obligations (hereafter the Regulation).⁷ The Bulgarian Government has exercised its right under the Regulation to exempt from the application of the provisions of the Regulation for a period of five years except those set out in Article 2 (3) of the Regulation.⁸

3. Facts

² See <http://bdz.bg/index-en.php>.

³ Ibid.

⁴ Railway Transport Act, enforced 1 January 2002, available in Bulgarian only at <http://lex.bg/bg/laws/ldoc/2134950912>.

⁵ See <http://www.eurofound.europa.eu/eiro/studies/tn1109030s/bg1109031q.htm>.

⁶ See <http://www.neurope.eu/article/level-satisfaction-railway-system-lowest-bulgaria>.

⁷ See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:315:0014:01:EN:HTML>.

⁸ See http://ec.europa.eu/transport/themes/passengers/rail/doc/summary_table.pdf.

In compliance with Article 19 and Article 20 (1) of the Regulation BDZ EAD introduced on its website a service for people with reduced mobility.⁹ According to BDZ EAD's website "[t]ransport servicing of disabled people according to the "coach-train-coach" scheme is carried out in the following directions with the following express trains: express train "Sunny beach" (Sofia – Plovdiv – Bourgas), express train "Golden sands" (Sofia – Gorna – Oriahovitsa – Varna) and express train "Seagull" (Sofia – Karlovo – Bourgas). The above-mentioned trains have special train cars for disabled people in wheelchairs. The WC facilities in those special train cars are equipped in compliance with the European and international standards."¹⁰ On the Bulgarian version of the website another, 4th, line was also announced (Sofia – Ruse – Sofia).¹¹ However, the four routes cover only two regions of the country – 1. Western Bulgaria (Sofia) to North Eastern Bulgaria (Ruse, Varna) and 2. Western Bulgaria (Sofia) to South Eastern Bulgaria (Burgas). In practice, people with disabilities and people with reduced mobility from other regions of Bulgaria (North Western and South Western) are deprived of the opportunity to use rail transportation on a non-discriminatory basis in violation of Article 19(1) of the Regulation and Article 9 of the CPRD to which both the EU and Bulgaria are parties. These people are also deprived of the opportunity to use any kind of reliable and accessible public inter-city transport as the only alternative to rail transportation for such travels in Bulgaria is the bus transport which is also inaccessible.¹² Furthermore, some of the lines stated as accessible on the website of BDZ EAD are in fact inaccessible. In 2011 a case was reported of a person in a wheelchair who had to travel the distance between Sofia and Varna (around 480 km) in the postal delivery carriage amongst packages and parcels, as passenger carriage gangways were too narrow.¹³

II. BUS TRANSPORT

1. Legal framework

Passenger bus transport in Bulgaria is regulated by the Automotive Transport Act (ATA),¹⁴ Ordinance No 2 of 15 March 2002 on the Rules and Procedure for the Approval of Transport Schemes and on the Public Transportation of Passengers with Buses¹⁵ (Transport Schemes Ordinance) and Ordinance No 33 of 3 November 1999 for Public Transport of Passengers and Cargo on the Territory of the Republic of Bulgaria (Public Transport Ordinance).¹⁶ According to Article 2, Para 1 of the Public Transport Ordinance, the public transport of people and cargo on the territory of the Republic of Bulgaria can be carried out by natural or legal persons who are registered as commercial entities and have a license and other certificates required under the Regulation.¹⁷

⁹ See <http://bdz.bg/p.php?id=tpl> for Bulgarian version, and <http://bdz.bg/page.php?id=tpl> for English version.

¹⁰ Ibid.

¹¹ See <http://bdz.bg/p.php?id=tpl>.

¹² See Chapter II.

¹³ News report available only in Bulgarian at: http://btvnews.bg/1606540551-S_vlak_i_invalidna_kolichka_iz_Bulgaria_misiya_nevazmojna.html.

¹⁴ Adopted 17 September 1999, last amended 7 August 2012, available in Bulgarian only at: http://www.rta.government.bg/n_uredba.html.

¹⁵ Adopted on 29 March 2002, last amended on 10 June 2011, available in Bulgarian only at: http://www.rta.government.bg/n_uredba/n2.html.

¹⁶ Adopted on 23 November 1999, last amended 10 August 2012, available in Bulgarian only at: http://www.rta.government.bg/n_uredba/n33.html.

¹⁷ Article 2, para 1 of the Transport Schemes Ordinance, article last amended on 10 July 2012.

2. Relevant European Legislation

At EU level, before the entry into force of Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport,¹⁸ provisions relevant to the bus transportation of passengers with reduced mobility and/or disabilities are laid out in Directive 2001/85/EC of the European Parliament and of the Council of 20 November 2001 relating to special provisions for vehicles used for the carriage of passengers comprising more than eight seats in addition to the driver's seat (hereinafter the Directive).¹⁹

According to Article 3.2.1 of Annex VII to the Directive “ [a] minimum number of forward or rearward facing seats designated as priority seats for disabled passengers shall be situated in a position near to a service door(s) suitable for boarding and alighting. The minimum number of priority seats shall be four in Class I, two in Class II and Class III and one in Class A and B. A seat that folds out of the way when not in use shall not be designated as a priority seat. “²⁰

3. Facts

Bulgaria has no provisions in its national law relating to passenger bus transport which ensure that licensed passenger bus carriers (especially such lines operating between villages and cities) provide a minimum number of vehicles capable of transporting people with disabilities and/ or people with reduced mobility. Article 37 of the Transport Scheme Ordinance only states that buses travelling between cities at distances up to 30 km can be vehicles of all classes and those travelling distances of more than 30 km should only be Class B buses which, according to Annex VII of the Directive, should contain only one priority seat.²¹ The petitioners assert that the failure of relevant Bulgarian authorities to place requirements guaranteeing that carriers should operate a reasonable minimum number of vehicles that are of such class that allows people with reduced mobility to use public inter-city bus transport freely and safely is discriminatory. The petitioners hold that the requirement to use Class B buses (supposed to be equipped with one priority seat) for travels of more than 30 km) is not reasonable and is not able to secure non-discriminatory access of people with disabilities and/or reduced mobility to public transportation. Furthermore, the petitioners allege that Bulgarian passenger bus carriers rarely meet even the insufficient requirements already in place. In practice, State control is exercised only in respect of the technical safety of buses and coaches travelling long distances and no attention is given on whether the vehicles meet accessibility standards laid down by the Directive. In reality, as both railway and bus transport is inaccessible, people with disabilities and/or reduced mobility in Bulgaria have no real access to public transport and they are therefore discriminated against on the basis of their disabilities in their access to reliable public services such as transportation.²²

¹⁸ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32011R0181:EN:NOT>.

¹⁹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001L0085:en:NOT>.

²⁰ Ibid.

²¹ Article 37 of the Transport Schemes Ordinance, article last amended on 10 July 2012.

²² For details on first hand experience of the obstacles and hindrances preventing people with disabilities of using public transportation please see Exhibit № ..and Exhibit №...

A particularly striking example of disregard for both international and national accessibility requirements is the construction of the underground in Sofia, which connects the main train and bus stations to the rest of the city and is considered by the Bulgarian Government as one of the most successful projects funded by the EU. The construction of Sofia's underground, and particularly Line 2 connecting the city with its main bus and railway stations, was finished in September 2012 and was funded by EU's Operational Programme on Transport 2007-2013, the European fund for regional development and European Investment Bank with local co-financing²³ with a total amount of EUR 185,19 million.²⁴ Despite substantial funding and official statements that the construction follows the highest of standards (including standards for accessibility) the underground in Sofia is not accessible in practice for people with disabilities or reduced mobility. Not all stations are accessible despite their relatively small number. The trains, although being brand new are difficult if not impossible to board for people using wheelchairs. This is due to a considerable gap (both horizontal and vertical) that is left between the step of the train and the boarding platform, which stays lower. That makes it almost impossible for unaccompanied people in wheelchairs to use the underground – a project that is financed by the EU with considerable funds and was supposed, amongst other things, to create a disability friendly environment and accessible transportation on an equal basis. The fact that Sofia's underground is inaccessible in all of its parts was recently established and upheld also by the Bulgarian courts following a claim before the Commission for Protection against Discrimination.²⁵

III. REQUESTS FOR ACTIONS

We, the undersigned, in view of the above call the Committee on Petitions to the European Parliament after declaring the petition admissible to:

1. ask the European Commission to conduct a preliminary investigation and provide information regarding the compliance of Bulgarian legislation and situation in the field with relevant EU legislation and particularly Article 9 of the Convention on the Rights of People with Disabilities;
2. to prepare and submit a full report to Parliament to be voted upon in plenary or if it deems more appropriate to conduct a fact-finding visit to the country concerned and issue a Committee report containing its observations and recommendations;
3. refer the petition to other European Parliament committees for information or further action;
4. to take any other action considered appropriate to try to resolve an issue or deliver a suitable response to the petitioners.

²³ See <http://www.metropolitan.bg/en/trans/>.

²⁴ See http://optransport.bg/upload/docs/Table_list_beneficiaries_english_may_2008.pdf.

²⁵ See Decision № 193 of 8 January 2013 of the Supreme Administrative Court, accessible in Bulgarian only at: <http://www.sac.government.bg/court22.nsf/d038edcf49190344c2256b7600367606/cfd016b996b63fdc2257ae90043dafb?OpenDocument>.

IV. EXHIBITS

1. Affidavit by Petar Kichashki of ...01.2013.
2. Affidavit by Vanya Pandieva of ...01.2013.

V. SIGNATURES