EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX

23 mars 2012

SECOND REPORT
ON THE NON-ACCEPTED PROVISIONS
OF THE EUROPEAN SOCIAL CHARTER

BULGARIA

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I. SUMMARY

With respect to the procedure provided by Article 22 of the Social Charter - examination of non-accepted provisions – the Committee of Ministers in December 2002 decided that "states having ratified the Revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification" and had "invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the states concerned".

Following this decision, five years after ratification of the Revised Social Charter (and every five years thereafter), the European Committee of Social Rights will review non-accepted provisions with the countries concerned, with a view to securing a higher level of acceptance. Past experience had shown that states tended to forget that selective acceptance of Charter provisions was meant to be a temporary phenomenon. The aim of the new procedure was therefore to require them to review the situation after five years and encourage them to accept more provisions.

In 2010, the European Committee of Social Rights was for the second time called upon to examine whether Bulgaria is in a position to accept additional provisions of the European Social Charter.

In its first report on this issue, which was a follow-up to a meeting organised in Sofia on 4-5 October 2005, the Committee expressed its opinion that Bulgaria could accept several additional provisions as follows:

Provisions which could be accepted by Bulgaria:

Article 2§1 – Right to reasonable daily and weekly working hours
Article 2§3 – Right to annual holiday with pay
Article 15§§1-3 – Right of persons with disabilities to independence, social integration and participation in the life of the community
Article 17§1 – Right of children and young persons to assistance, education and training
Article 19§§ 4a) and b), 5, 7, 9 – Right of migrant workers and their families to protection and assistance
Article 27§1 – Right of workers with family responsibilities to equal treatment and opportunities

Provisions with which Bulgaria did not seem to comply:

Article 4§1 – Right to a decent wage
Article 12§§2 and 4 – Right to social security
Article 13§4 – Right to emergency assistance for non-residents
Article 18§§1-3 – Right to engage in a gainful occupation in the territory of other Parties
Article 19§§6 and 8, 10 – Right of migrant workers and their families to protection and assistance
Article 23 – Right of elderly persons to social protection
Article 30 – Right to protection against poverty and social exclusion
Article 31 – Right to housing

Provisions for which the information provided was not sufficient :

Article 9 – Right to vocational guidance
Article 10§§1-5 – Right to vocational training
Article 19§§1, 2, 3, 4 c), 11 and 12 – Right of migrant workers and their families to protection and assistance

Following the 2005 meeting, Bulgaria on 16 February 2007 notified the Secretary General of its acceptance of Article 2§3. The Committee wishes to congratulate the Bulgarian authorities for this initiative and invites the authorities to continue their efforts with a view to accept additional provisions.

By letter dated 9 February 2010 the European Committee of Social Rights asked the Bulgarian authorities to provide information on the 15 provisions of the Revised Charter which were still not accepted: Article 2§1; Article 4§1; Article 9; Article 10§§1, 2, 3, 4, 5; Article 12§§2, 4; Article 13§4; Article 15§§1, 2, 3; Article 17§1; Article 18§§1, 2, 3; Article 19§1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 ; Article 23; Article 27§1; Article 30 and Article 31§§1, 2, 3. Bulgaria submitted its report on 3 December 2010.

The European Committee of Social Rights proceeded to the examination of the situation on the basis of this information and herewith delivers its assessment of the situation in relation to the provisions of the Charter not accepted by Bulgaria**:**

Provisions which could be accepted by Bulgaria:

Article 2§1 – Right to reasonable daily and weekly working hours
Article 12§§2– Right to social security
Article 15§§1-3 – Right of persons with disabilities to independence, social integration and participation in the life of the community
Article 17§1 – Right of children and young persons to assistance, education and training
Article 19§§ 4a) and b), 5, 7, 9 – Right of migrant workers and their families to protection and assistance
Article 27§1 – Right of workers with family responsibilities to equal treatment and opportunities

Provisions with which Bulgaria does not seem to comply:

Article 4§1 – Right to a decent wage
Article 12§§4 – Right to social security
Article 13§4 – Right to emergency assistance for non-residents
Article 18§§1-3 – Right to engage in a gainful occupation in the territory of other Parties
Article 19§§11 and 12 – Right of migrant workers and their families to protection and assistance
Article 23 – Right of elderly persons to social protection
Article 30 – Right to protection against poverty and social exclusion
Article 31 – Right to housing

Provisions for which the information provided was not sufficient:

Article 9 – Right to vocational guidance

Article 10§§1-5 – Right to vocational training
Article 19§§1, 2, 3, 4 c), 6, 8 and 10 – Right of migrant workers and their families to protection and assistance

The Committee uses the opportunity of this Report to draw the attention of States Parties to the Declaration of the Committee of Ministers on the 50th anniversary of the European Social Charter (Appendix 2).

II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS

Article 2 Right to just conditions of work

Article 2§1 Reasonable working time

Situation in Bulgaria

At the date of the previous report (2005), the following provisions of the Labour Code were effective in relation to regulation of the working time:

Normal Duration of Working Hours
Article 136 (Amended – SG, No. 100/1992) (1) (Amended – SG, No. 25/2001) The work week shall comprise five work days with normal duration of the weekly working hours up to 40 hours.

(2) (Repealed – SG, No. 25/2001).

(3) (Amended – SG, No. 25/2001) The normal duration of the working hours during the day shall be up to 8 hours.

(4) (Amended – SG, No. 25/2001) The normal duration of the working hours under the preceding paragraph shall not be extended, except in the cases and pursuant to the procedure provided for in this Code.
(5) (Repealed – SG, No. 25/2001).

Since adopting the Law Amending and Supplementing the Labour Code, promulgated in SG No. 25/2001, the provisions of Article 136 have not been amended.

By the Law Amending and Supplementing the Labour Code, promulgated in SG, No. 48/2001, effective 1.07.2006, the provisions of Article 136a, paragraph 1 have been supplemented as the act provides that the employer is bound to conduct preliminary consultation with the representatives of the trade unions and employees and officers under Article 7, paragraph 2 before extending the working hours.

Extensions of working hours
Article 136a (New –SG, No. 25/2001) (1) (Amended – SG, No. 48/2006) For reasons relevant to the production process the employer may, by order in writing, extend the working hours in some work days and compensate that in other work days, after preliminary consultation with the representatives of the trade unions and employees and officers under Article 7, paragraph 2. The employer shall be bound to notify in advance the labour inspectorate about the extension of the working hours.

By the Law Amending and Supplementing the Labour Code, promulgated in SG, No. 48/2001, effective 1.07.2006, the provisions of Article 305, paragraph 3 has been amended, as the act provides in the day and week working hours of these persons to be also included the time for vocational training and its improvement when it is performed within the process of work:
Particular Care for Adolescents
Article 305 (1) (Amended – SG, No. 100/1992)

(2) (Repealed – SG, No. 100/1992, New – SG, No. 25/2001)
(3) (Supplemented – SG, No. 100/1992, amended – SG, No. 25/2001, supplemented – SG, No. 48/2006) The working hours of employees or workers under 18 shall be 35 working hours weekly and 7 hours daily for 5-day work week. In their day and week working hours should be also included the time for vocational training and its improvement when it is performed within the process of work.
(4) By the Law Amending and Supplementing the Labour Code, promulgated in SG, No. 83/2005 the provisions of article 137, paragraph 1 has been amended and it has been provided a new paragraph 2. Pursuant to Article 137, paragraph 1, item 1 reduced working hours shall be established for employees and workers doing work under special conditions and risks to their health and life could not be removed or reduced, despite the measures taken, but reducing the duration of working hours leads to limited risks to their health. Pursuant to the new paragraph 2 it is specifically regulated that the types of work for which the reduced working hours have been established shall be determined by an Ordinance of the Council of Ministers:

Reduced Working Hours
Article 137 (1) (Previous texts of article 137 – SG, No. 25/2001) Reduced working hours shall be established for:

1. (Amended and supplemented – SG, No. 100/1992, amended SG, No. 83/2005) employees and workers doing work under special conditions and risks to their health and life could not be removed or reduced, despite the measures taken, but reducing the duration of working hours leads to limited risks to their health.

2. (Supplemented – SG, No. 100/1992) employees and workers who have not reached 18 years of age.

(2) (New – SG, No. 83/2005) Types of work for which the reduced working hours have been established shall be determined by an Ordinance of the Council of Ministers:

(3) (Repealed – SG, No. 100/1992, new SG, No. 25/2001, previous paragraph 2, SG No. 83/2005) Entitled to reduced working hours pursuant to paragraph (1), item 1, shall be employees who work under such conditions for duration not less than half of the statutory working hours.

(4) (New – SG, No. 25/2001, previous paragraph 3, SG No. 83/2005) In the case of reduced working hours pursuant to paragraphs (1) and (2) the employment consideration and the other rights of the employees may not be reduced.

By the Law Amending and Supplementing the Labour Code promulgated in SG, No. 48/2006 Article 138 has been supplemented regarding the criteria for part-time and ensure the employees that they will not be placed at a disadvantage only because of the incomplete duration of their working time in comparison with employees who have a full-time employment contract performing the same or similar work in the enterprise. It has been adopted a separagraphte text regarding introduction of part-time by the employer – article 138a:

Part-time

Article 138 (1) (Amended – SG, No. 100/1992) (1) (Previous text of Article 138 – SG, No. 25/2001) The Parties to the employment contract may negotiate work for a part of the

statutory working hours (part-time work). In this case they shall specify the duration and allocation of the working hours.

(2) (New – SG, No. 25/2001, amended - SG, No. 48/2006) In cases under paragraph 1 when the monthly working hours of employees on part-time are less than the monthly working hours of employees who work under a full-time employment contract in the same enterprise and perform the same or similar work. When there are no employees or workers on full-time for the same or similar work full-time, the comparison should be made in accordance with the duration of the monthly working hours of other employees working in the enterprise.

(3) (New – SG, No. 25/2001, amended - SG, No. 48/2006) The employees and workers under paragraph 1 could not be placed at a disadvantage only because of the incomplete duration of their working hours in comparison with employees who have a full-time employment contract and perform the same or similar work in the enterprise. They shall have the same rights and obligations as the employees working on full-time, unless the law puts the use of certain rights to depend on the duration of time worked, labour service, qualifications, etc.

Introduction of part-time by the employer

Article 138a. (New – SG, No. 48/2006) (1) In reducing the volume of work the employer may establish for up to three months in a calendar year a part-time for employees and workers in the enterprise or in his unit who work on full-time employment contract after prior consultation with representatives of trade unions and employees under Article 7, paragraph 2.

(2) The duration of the working hours under paragraph 1 should not be less than half the statutory period for the calculation of working hours.

(3) In order to enable the transition from full to part-time or from part to full-time, the employer shall:

1. take into account the requests of employees and workers to transfer from full-time to part-time, whether the requests are for the same or another workplace, when such opportunity exist in the enterprise;
2. take into account the requests of employees and workers to transfer from part-time to full-time or for increasing the duration of part-time work, if such opportunity arises;
3. provide timely and on the appropriate place within the enterprise a written information to employees and workers on job vacancies and positions in full and part-time to facilitate the transition from full-time to part-time or vice versa, such information shall also be presented to the representatives of trade unions and employees under Article 7, paragraph. 2;
4. take measures to facilitate the access part-time work at all levels in the enterprise, including for positions that require specific qualification and managerial positions and where possible to facilitate access for employees who work on part-time to professional training in order to increase the opportunities for career development and occupational mobility.

Due to the economic crisis, in §3b of the Transitional Provisions in 2009 and 2010 has been provided that for the period from January 1st to December 31st and after prior consultation with representatives of trade unions and employees under Article 7, paragraph 2, the period for which the part-time under Article 138a, paragraph. 1 has been introduced may be extended by another three months.

Content of the employment contract relating to the duration of the working hours:

Content
Article 66 (Amended – SG, No. 100/1992) (1) (Amended – SG, No. 52/ 2004) The employment contract shall contain information about the parties and shall define:

1. the place of work;
2. the position name and the nature of work;
3. the signing date and the beginning of its implementation;
4. the term of the employment contract;
5. the length of the basic and of the extended paid annual leave, and of the additional paid annual leaves;
6. equal term of notice for both parties in cases of termination of the employment contract;
7. the basic and additional labour remuneration of permanent nature, as well as the time periods of their payment;
8. the length of the working day or week.

By the Law Amending and Supplementing the Labour Code promulgated in SG, No. 48/2006 it has been established paragraph 4 which provides that for every change in the employment contract the employer shall as soon as possible or no later than one month after entry into force of the change provide the employee with the necessary written information containing details of the changes that may also refer to the working hours.
Article 66 (Amended SG, No. 100/1992) (1) (Amended – SG, No. 52/2004) (2)(3)(4) (New – SG, No. 48/2006) For every change in the employment contract the employer shall as soon as possible or no later than one month after entry into force of the change provide the employee or worker with the necessary written information containing details of the changes.

Opinion of the Committee

The general statutory limits on working time meet the requirements under the Charter (40 hours per week, 8 hours per day). However, Article 136 of the Labour Code permits the employer to extend working hours for reasons related to the production process, with prior consultation of trade union representatives. Therefore, clarification would be necessary on how this extension operates, and on absolute working time limits, to ascertain that the authorised extension would not go beyond the Charter's standards, that is, 60 hours per week or 14 hours per day. On the basis of a preliminary assessment, it would seem that Bulgaria is presently in a situation to accept Article 2§1 of the Revised European Social Charter.

In addition, as a member State of the EU, Bulgaria has incorporated Directive 2003/88/CE in its domestic legal order . The Committee would like to draw the attention of the Bulgarian authorities to its observation relating to EU legislation in general, and to this Directive in particular :

"**INTRODUCTORY OBSERVATION ON THE RELATIONSHIP BETWEEN EUROPEAN UNION LAW AND THE EUROPEAN SOCIAL CHARTER**

1. The Government considers that the national situation is in compliance with European Union law and, as a result, that it is in conformity with the Charter.

2. In reply to this argument, the Committee reiterates that the fact that the provisions at stake are based on a European Union directive does not remove them from the ambit of the Charter (CFE-CGC v. France, complaint No. 16/2003, decision on the merits of 12 October 2004, §30; see also, *mutatis mutandis*, Cantoni v. France, judgment of the European Court of Human Rights of 15 November 1996, §30).

3. In this regard, the Committee has already stated that it is neither competent to assess the conformity of national situations with a directive of the European Union nor to assess compliance of a directive with the European Social Charter. However, when member states of the European Union agree on binding measures in the form of directives which relate to matters within the remit of the European Social Charter, they should – both when preparing the text in question and when transposing it into national law – take full account of the commitments they have taken upon ratifying the European Social Charter. It is ultimately for the Committee to assess compliance of a national situation with the Charter, including when the transposition of a European Union directive into domestic law may affect the proper implementation of the Charter.

4. The Committee notes that the European Court of Human Rights has already found that in certain circumstances there may be a presumption of conformity of European Union Law with the European Convention on Human Rights ("the Convention") by reason of a certain number of indicators resulting from the place given in European Union law to civil and political rights guaranteed by the Convention.

5. The Committee considers that neither the situation of social rights in the European Union legal order nor the process of elaboration of secondary legislation would justify a similar presumption – even rebuttable – of conformity of legal texts of the European Union with the European Social Charter.

6. Furthermore, the lack of political will of the European Union and its member states to consider at this stage acceding to the European Social Charter at the same time as to the European Convention on Human Rights reinforces the Committee's assessment.

7. The Committee will carefully follow developments resulting from the gradual implementation of the reform of the functioning of the European Union following the entry into force of the Treaty of Lisbon, including the Charter of fundamental rights. It will review its assessment on a possible presumption of conformity as soon as it considers that factors which the Court has identified when pronouncing on such a presumption in respect of the Convention and which are currently missing insofar as the European Social Charter is concerned have materialised.

8. In the meantime, whenever it has to assess situations where states take into account or are bound by legal texts of the European Union, the Committee will examine on a case-by-case basis whether respect for the rights guaranteed by the Charter is ensured in domestic law.

9. In the instant case, the Committee must first indicate how it will assess conformity with the Revised Charter of the situation in states bound by Directive 2003/88/EC of the European Parliament and the Council of 4 November 2003 concerning certain aspects of the organisation of working time.

10. The Committee notes from the outset that, whilst the European Social Charter has been ratified by all member states of the European Union and the Treaty on the European Union explicitly refers to it on several occasions, the preamble of this Directive does not make any reference to it."

11. Notwithstanding this oversight, the Committee considers that the concerns underlying the text of this Directive undoubtedly show the authors' intention to comply with the rights enshrined in the Charter. It believes that the practical arrangements agreed between member states of the European Union, if properly applied, do not prevent a concrete and effective exercise of the rights contained in particular in Articles 2§1 and 4§2 of the Revised Charter.

12. However, the Committee notes that the Directive at stake provides for many exceptions and exemptions which may adversely affect respect for the Charter by States in practice. It thus considers that depending on how Member States of the European Union make use of those exemptions and exceptions or combine them, the situation may be compatible or incompatible with the Charter." (CGT v.France, complaint No 55/2009, decision on the merits of 23 June 2010."

Article 4 Right to a fair remuneration

Article 4§1 Decent remuneration

Situation in Bulgaria

The right to fair remuneration which is invariably connected with the right to work is regulated as follows:

9. Constitution of Republic of Bulgaria – Articles 48, 49, 50 and 56.
Article 48 regulates the rights of the citizens to work and their due remuneration, as well as the state's obligations in terms of realization of this right.

Under this provision, all citizens of the Republic of Bulgaria shall have the right to work, as the state shall create conditions conducive to the exercising of the right to work by the physically or mentally handicapped. Everyone shall be free to choose an occupation and place of work. Workers and employees shall be entitled to healthy and non-hazardous working conditions, to guaranteed minimum pay and remuneration for the actual work performed, and to rest and leave. The rights of the workers employees are also employer's obligations.

Article 48 also regulates the state obligations, which are defined both by the rights of the workers and by self-justification. Along with regulation of the right of the citizens to work, it is also indicated that the state shall take care to create the conditions for exercising of this right, as it is emphasized the obligation of the state to create conditions for the right to work of persons with physical and mental disabilities. "No one shall be compelled to do forced labour" i.e. this right of citizens is an obligation for the public authorities to prevent the forced labour.

Article 49 gives rights to workers and employees to form trade unions organizations and alliances in defence of their interests related to work and social security and to employers – to associate in defence of their economic interests.

Pursuant to Article 50 workers and employees shall have the right to strike in defence of their collective economic and social interests. This right shall be exercised in accordance with conditions and procedures established by law.

Article 56 regulates the right of everyone to have to legal defence whenever his rights or legitimate interests are violated or endangered, as he/she also has the right to be accompanied by legal counsel when appearing before an agency of the State. This right is ensuring the effective exercise of the rights to work and fair remuneration.

2. The state regulates the employment and other relevant relationships, social security and issues of living standards in cooperation and consultation with organizations of the representatives of employees and employers.

The body for conducting consultations and cooperation at national level on issues of employment and relevant relationships, social security and issues of living standards is the

National Council for Tripartite Cooperation (NCTC). It includes representatives of the government and of the organizations of employees and employers. NCTC discusses and gives opinions on draft regulations in connection with:

- employment and relevant relationships;
- health and safety at work;
- employment, unemployment and vocational training;
- social and health insurance;
- Income and living standards;
- issues related to fiscal policy;
- social impact of restructuring and privatization.

NCTC also consults and cooperates at national level on issues of employment and relevant relationships, social security and issues of living standards. The Council coordinates the work of programs at national level related to issues of social dialogue with national and international funding, in which take part all parties represented in the National Council for Tripartite Cooperation.

The Rules on Organization and Operation of the Councils for Tripartite Cooperation regulates the organization and operation of the National Council for Tripartite Cooperation and Sector, Industry and Municipal Councils for Tripartite Cooperation. These councils are bodies for consultation and cooperation in resolving the issues of employment and relevant relationships, social security and issues of living standards that are specific for relevant sector, industry and municipality.

3. Labour Code

This Code regulates the labour relations between the employee and the employer, as well as other relationships immediately related to them. In its practical application special attention should be paid to the following provisions:

- Collective bargaining
- Creation of and changes in the employment relationship;
- working hours and rests;
- leaves;
- labour remuneration;
- safe and healthy working conditions;
- termination of employment;
- length of service and service records;
- labour disputes;
- verification of compliance with labour legislation.

The amount of individual wage of employees and workers is determined by individual employment contracts in accordance with the agreements reached on wages in the collective bargaining. According to Article 242 of the Labour Code the work performed under an employment relationship shall be compensated. Women and men shall be entitled to equal remuneration for the same or equivalent labour.

The employer shall provide to the employee normal conditions to perform the job under the employment relationship he/she has agreed upon.

Upon conclusion of an individual employment contract the parties (the employer and employee or worker) should agree to the terms and provisions laid down in Article 66, paragraph 1 of the Labour Code. They are the basis for determining the amount of individual wage. In the individual employment contract should also be determined the additional remuneration of permanent nature. The method of forming the remuneration of the employee is regulated by the provisions of Article 247, paragraph 1 of the Labour Code which states that the amount of the labour remuneration shall be determined in accordance with the duration of work or the results of work.

Pursuant to Article 244 of the Labour Code, the Council of Ministers decrees the minimum wage for the country and the types and minimum amounts of the additional labour remunerations and compensations for employment relationships in so far as they have not been defined in this Code.

In determining the specific amount of remuneration it should be taken into account the mandatory provisions of the Labour Code, the laws, decrees or other regulations.

4. Settlement of Collective Labour Disputes Act (Promulgated in SG, No. 21/13.03.1990, amended – SG, No. 27/5.04.1991, SG No. 57/14.07.2000, amended and supplemented SG 25/16.03.2001, effective 31.03.2001, SG, No. 87.10.2006).

This act establishes the procedures for settling collective labour disputes between workers and employers on issues of labour relations, social security and living standards. In collective labour disputes workers are represented by the bodies of their trade unions and employers – by the respective heads (unless the parties have authorized other bodies or persons). Where no agreement is reached or a party refuses to negotiate, each may seek assistance to resolve the dispute through mediation and/or voluntary arbitration of trade unions and employers' organizations and/or from the National Institute for Conciliation and Arbitration. The National Institute for Conciliation and Arbitration operates in accordance with this Act and by Regulations approved by the Minister of Labour and Social Policy.

5. Ombudsman Act (Promulgated in SG. No. 48/23.05.2003, effective 1.01.2004, amended – SG, No. 30/11.04.2006, effective 12.07.2006, amended and supplemented SG, No. 68/22.08.2006, SG, No. 42/5.06.2009).
The Ombudsman stands for by the means provided in this Act when an action or inaction affects or violates the rights and freedoms of citizens of the state or municipal authorities and their administrations as well as of those persons entrusted to provide public services. Although the protection of the right to work and fair remuneration is not on the focus of the operations of this Public Defender, bearing in mind the nature of his work, the Ombudsman of Republic of Bulgaria often speaks on these issues. An example is the Protocol of Cooperation signed on 16.1.2007 between the Ombudsman of the Republic of Bulgaria and the Confederation of Independent Trade Unions in Bulgaria.

6. Labour Inspection Act (Promulgated in SG, No. 102/28.11.2008, effective 1.01.2009, amended – SG, No. 35/12.05.2009, effective 12.05.2009, SG, No. 82/16.10.2009, effective 16.10.2009).
The Act applies to all executive authorities or their administrative structures of the specialized administration, entrusted by law to carry out activities related to labour inspection. Labour inspection includes verification of compliance with labour and social

security legislation and the specialized control under the Employment Promotion Act and the Health and Safety at Work Act. The Minister of Labour and Social Policy manages and coordinates activities in the implementation of the full observance of labour legislation, the integrated control of health and safety at work and specialized control under the Employment Promotion Act and the Integration of Persons with Disabilities Act.

7. Act on Information and Consultation of Factory and Office Workers in Community-Scale Undertakings, Groups of Undertakings and European Companies (Promulgated in SG, No. 57/14.07.2006, effective on the date of entry into force of the Treaty of Accession of Republic of Bulgaria to the European Union – 1.01.2007).
This Act introduces the provisions of the Council Directive 94/45/EC on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees, Council Directive 2001/86/EC supplementing the Statute for a European company with regard to the involvement of employees and Council Directive 2003/72/EC supplementing the Statute for a European Cooperative Society with regard to the involvement of employees.
The Act aims to ensure the right of employees in community-scale undertakings, groups of undertakings and European companies or European cooperative societies to participate in their management and their interests to be represented by dedicated bodies or a procedure prescribed by the law. The Act regulates the terms and conditions for establishment and operation of European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees and the involvement of employees of the European companies and cooperative societies.

8. Act on Factory and Office Workers' Claims Guaranteed in the Event of Their Employer's Bankruptcy (Promulgated in SG, No. 37/4.05.2004, amended and supplemented No.104/27.12.2005, effective 1.01.2006, SG. No,105/29.12.2005, effective 1.01.2006, amended, SG. No. 30/11.04.2006, effective 12.07.2006, SG, No. 34/25.04.2006, effective 1.01.2008(*), amended and supplemented SG, No. 48/13.06.2006, effective 1.07.2006(*), amended SG, No. 80/3.10.2006, effective 3.10.2006, supplemented SG. No. 105/22.12.2006, effective 1.01.2007, (*) SG. No. 53/30.06.2007, effective 30.06.2007, SG. No. 12/13.02.2009, effective 1.01.2010 (**) – amended SG. No. 32/28.04.2009).

This law regulates the terms and conditions under which it is given the right of employees and workers to guaranteed claims arising from employment relationships in case of employer's bankruptcy. It also regulates the establishment, the functions and activities of the Fund for Factory and Office Workers' Claims Guaranteed in the Event of Their Employer's Bankruptcy as well as the order of payment of guaranteed claims of employees arising from employment relationships in case of employer's bankruptcy.

The guaranteed claims of employees under this Act comprise of charged and unpaid wages owed under individual and collective labour agreements and cash benefits payable by the employer under the same Act.

For employees and workers who work at the date of promulgation of the court decision to initiate bankruptcy proceedings who have been working for this employer not less than three months – the guaranteed claims are in amount of three wages. The maximum amount of

such claims is determined annually by the Public Social Insurance Budget Act and could not be less than two and a half minimum wages.

For employees who work at the date of promulgation of the court decision to initiate bankruptcy proceedings and who have been working for this employer for less than three months – the claims amount to one minimum wage.

Employees and workers with terminated employment relationship during the last three months before the date of promulgation of the court decision to initiate bankruptcy proceedings who have been working for this employer not less than three months the guaranteed claims amount to three wages but monthly not higher than the maximum amount of the guaranteed claims specified in the Public Social Insurance Budget Act.

The Act on Factory and Office Workers' Claims Guaranteed in the Event of Their Employer's Bankruptcy applies to all persons and entities that employ persons on basis of an employment contract and persons and entities against which could be initiated bankruptcy proceedings under the Commerce Act or under other special laws.

9. Decrees of the Council of Ministers to determine the minimum wage for the country.
The Council of Ministers under Article 244, paragraph 1 of the Labour Code sets the minimum wage for the country. Every year the amount of the minimum wage is determined in consultation with representative organizations of employees, workers and employers in the National Council for Tripartite Cooperation. The minimum monthly wage is the lowest wage for hours worked or for the work done. According to Article 245 of the Labour Code with performance in good will of the labour obligations by the worker or employee, it is guaranteed the payment of the labour remuneration of 60% of the brutto labour remuneration, but not less than the minimum wage for the country.

Year	Minimum monthly wage (BGN)	Minimum hourly wage (BGN)	Legal basis
2005	150	0.89	Council of Ministers Decree №12/21.01.2005
2006	160	0.95	Council of Ministers Decree №8/20.01.2006
2007	180	1.07	Council of Ministers Decree №324/06.12.2006
2008	220	1.30	Council of Ministers Decree №1/11.01.2008
2008	240	1.42	Council of Ministers Decree №1/10.01.2009
2010	240	1.42	Council of Ministers Decree №326/30.12.2009

The Council of Ministers has developed and adopted a number of regulations related to the wage in accordance with its powers given:

10. Ordinance to negotiate a wage, approved by Council of Ministers Decree № 129 of 1991 (Promulgated in State Gazette No. 55/1991; amended and supplemented, No 40/1993). The Ordinance determines the principles, scope and rules for the collective wage bargaining and defines the specific amount of wages in an employment contract for workers and employers of all enterprises and organizations (regardless of the form of ownership). In negotiating the wage is intended to reach agreement between the parties on the size, proportion and organization of wages under the particular conditions of the enterprise. The collective wage bargaining is done through the conclusion of collective labour agreements.

According to Article 50, paragraph 1 of the Labour Code, the collective agreement shall regulate issues of the labour and social security relations of employees and workers which are not regulated by mandatory provisions of the law. The agreements are concluded:

- at national level - between the government and the national representative organizations of trade unions and employers;
- in the enterprise – between the employer and the trade union. Collective wage bargaining could be done in sectors and industries and in municipalities and regions.

11. Ordinance on the structure and organization of wages, adopted by Council of Ministers Decree № 4 on 01/17/2007 (Promulgated in State Gazette, No. 9/26.01.2007, effective 1.07.2007, supplemented SG, No. 56/10.07.2007, effective 1.07.2007, amended and supplemented SG, No. 83/16.10.2007, effective 1.07.2007, amended SG, No. 11/5.02.2008, amended and supplemented, SG, No. 10/6.02.2009, SG, No. 67/21.08.2009).

In the Labour Code, Chapter 12 "Labour Remuneration" and in the Ordinance on the structure and organization of wages are regulated the methods for determining and calculating the labour remunerations of employees and workers as well as the types of the minimum amounts of additional remunerations. This Ordinance applies in conducting collective bargaining, developing and implementing internal rules for wages and other related internal documents of the enterprise. The Ordinance requires enterprises to develop its own internal regulations on wages under the Labour Code, under other regulations on economic activities and under collective bargaining.

The Ordinance is the basic document in creating, changing and terminating individual employment relationship and in negotiating conditions of employment. The Decree № 147 of 29.06.2007 adopted by the Council of Ministers on setting the minimum amount of the additional labour remuneration for length of service and professional experience (Promulgated in SG, No. 56/10.07.2007, effective 1.07.2007) is in direct connection and it is based on Article 12 of the Ordinance on the structure and organization of wages. By this Decree it is determined the minimum amount of the additional labour remuneration for length of service and professional experience which is 0.6 per cent for each year gained length of service and professional experience.

The Ordinance on the structure and organization of wages must be applied by all enterprises that use wage labour, regardless of form of ownership and funding.

12. The Council of Ministers adopted Decision № 860 of November 2, 2004 for determining the living standard issues that are subject to consultation with the National Council for Tripartite Cooperation as in cooperation and consultation with representative organizations of employees, workers and employers the issues of living standards are identified.

The Ministry of Labour and Social Policy together with the social partners as taking into account the quality of life of our population, proposed to the Council of Ministers to determine the following issues of living standards which are subject to consultation in the National Council for Tripartite Cooperation. Issues of labour, official and social security relationships and benefits governed by an act of the government:

1. Issues arising from the employment and social security relationships;

2. Issues relating to remuneration from labour, official and social security relationships and the remunerations regulated by documents the Council of Ministers;
3. Issues relating to social assistance and social services;
4. Issues relating to tax policy;
5. Issues relating to fiscal policy;
6. Issues relating to labour market policy;
7. Issues relating to combat poverty policy;
8. Issues relating to regulation of prices by the Council of Ministers prices;
9. Issues relating to public policy in health and education;
10. Issues relating to population policy;
11. Issues relating to the determination of an integrated indicator for assessing the poverty and the cost
of living;
12. Issues relating to the regional policy on building and maintaining social infrastructure;
13. Issues relating to environment affecting the interests of employers and employees.

Opinion of the Committee

The Committee welcomes the information provided by the Bulgarian authorities which concern various issues not entirely linked to the question of fair remuneraion. Its recalls its interpretation of Article 4§1 :

> "Article 4§1 guarantees the right to a remuneration such as to ensure a decent standard of living.
>
> To be considered fair within the meaning of Article 4§1, a wages must in any event be above the poverty line in a given country i.e. 50% of the national average wage.
>
> In addition, a wage must not fall too far short of the national average wage. The threshold adopted by the Committee is 60%.[1]
>
> The concept of remuneration, for the purpose of this provision, relates to remuneration – either monetary or in kind – paid by an employer to a worker for time worked or work done. Remuneration should cover, where applicable, special bonuses and gratuities.
>
> The Committee's calculations are based on net amounts, i.e. after deduction of taxes and social security contributions. Social transfers (e.g. social security allowances or benefits) are taken into account only when they have a direct link to the wage.
>
> The net national average wage of a full-time worker is calculated with reference to the labour market as a whole, or, in such cases where this is not possible, with reference to a representative sector, such as the manufacturing industry. When a national minimum wage exists, its net value is used as a basis for comparison with the net average wage. The yardstick for comparison is otherwise provided by the minimum wage determined by collective agreement or the lowest wage actually paid.[2]
>
> A net wage which falls below the 60% threshold is not automatically considered unfair within the meaning of the Charter. If the wage lies between 50% and 60%, a state is asked to demonstrate that the wage is sufficient for a decent standard of living, e.g. by providing detailed information on the cost of living.[3] However, a net wage which is less than half the net national average wage will be deemed to be unfair and therefore the situation of the Party concerned will not be in conformity with Article 4§1." (Digest of the case-law, Sept 2008)

[1] Conclusions XIV-2, Statement of Interpretation on Article 4§1, pp. 50-52.
[2] Conclusions XVI-2, Denmark, p. 203.
[3] Conclusions 2003, France, p. 120.

The Committee takes note of the improvement of the situation compared to 2005, in particular the increase of the minimum monthly wage from BGN 150 in 2005 to BGN 240 in 2010. It does not know the exact figure of the gross average wage in 2010 and cannot therefore make a precise assessment of the situation.

The Committee encourages the Bulgarian authorities to continue their efforts with a view to be in a position to accept article 4§1 at a later stage, but as the minimum wage still appears to be significantly below the threshold defined by the Committee, it would not recommend acceptance of Article 4§1 in the short term.

Article 9 Right to vocational guidance

Article 10 Right to vocational training

Article 10§1 Technical and vocational training; access to higher technical and university education

Article 10§2 Apprenticeship

Article 10§3 Vocational training and retraining of adult workers

Article 10§4 Long-term unemployed persons

Article 10§5 Full use of facilities provided

Situation in Bulgaria

The Vocational Education and Training Act (VETA) provides:
The system of vocational education and training shall include vocational orientation, vocational training and vocational education (Article 4, VETA).
Vocational orientation shall provide information, consulting and counselling to students and to other persons regarding the choice of profession and carrier development (Article 5, VETA).

The Act provides the establishment of centres for information and vocational orientation. In accordance with Article 21 of VETA - The centres for information and vocational orientation shall carry out vocational orientation of students and other persons.

Article 22 sets the status of the centers for vocational training and orientation and information:
- The centres for vocational training and the centres for informational and vocational orientation shall be state, municipal or private, Bulgarian with foreign participation and foreign.
- The licence for vocational training or for vocational orientation shall be issued by the National Agency for Vocational Education and Training.

In accordance with Article 41, paragraph 2 of the VETA the National Agency for Vocational Education and Training shall be a state body for licensing activities in the system of vocational education and training, as well as for coordination between the institutions related to vocational orientation, education and training.

The National Agency for Vocational Education and Training issues licences that give the right to carry out and certify vocational education for acquiring professional qualification degree or for vocational orientation (Article 49a, VETA).
The Vocational Education and Training Act provides Section IV - Vocational Education and Vocational Training for Students with Special Educational Needs and/or Chronic Diseases, for Students from Raising and Educating Children Deprived of Parental Care and for Persons Deviant Behaviour. This section regulates the acquisition of professional

qualifications for students with mental retardation, and it is provided a possibility for vocational training for up to 5 students in class with sensory disabilities, Chronic Diseases, for Students from Raising and Educating Children Deprived of Parental Care (by the Ministry of Education, Youth and Science/.

Vocational guidance
(Article 65, Employment Promotion Act)

The vocational guidance is carried out by the National Employment Agency and by the institutions licensed under the Vocational Education and Training Act.

The Bureau of Labour Directorates provides the following vocational guidance services:

Professional counseling - individual or by groups.
The purpose of the consultation is to assist people in relation with:
• choice of profession (occupation)
• the degree of training – initial professional qualification or prequalification
• ways to acquire the desired qualifications.
The consultation is carried out by information and advice, in accordance with the terms and opportunities of the labour market, the requirements of the profession and the willingness of customers

Professional information for all people in relation with:
• the nature of the occupations, conditions and requirements for their implementation and exercise
• the status and trends in application and development of occupations with regional and national significance
• personal requirements for professional aptitude
• vocational training, education and opportunities to raise qualification level
• educational institutions – Centers for Vocational Training, secondary schools and universities, colleges, Centers for Postgraduates, etc (Learning programs, facilities and equipment, etc.), forms of learning, admission conditions, requirements for applicants, documents issued upon graduation
• opportunity for professional realization in the labour market.

The informing may be individual or by groups (people with common interests).
The information and consultancy units to The Bureau of Labour Directorates provide the conditions for self-information of everyone by providing free access to specialized information materials for vocational guidance.

In the information and consultancy units are organize group events for:
• motivation for active behavior on the labour market;
• information and consultation on the choice of profession/occupation;
• information on national and regional programs, presentation of profession (occupation) or group of professions (occupations);
• representation of educational institutions including exchanges for candidate students
• representation of the employers, etc.

The Vocational guidance including self-information is done using specialized information materials and products.

Vocational training
(Article 63, paragraph 1, Employment Promotion Act)

The training of unemployed and employed persons to attain vocational qualification, which is organized and financed by the Bureau of Labour Directorates, is carried out in accordance with the Employment Promotion Act, the Regulation for Application of this Act, the Ordinance on the terms and conditions for financing the training and the National Employment Agency Guidance.

All unemployed persons registered at the Bureau of Labour Directorates are entitled to training to attain vocational qualification.

The vocational training of unemployed and employed persons is carried out by occupations needed to fill vacancies announced for future needs of the labour market of skilled workforce and to maintain employment.

Any specific training is based on pre-negotiated contracts between the Labour Office Directorate, the training institutions, trainees and employers.
Vocational training is organized in order to:
• acquire basic vocational qualification;
• acquire additional qualification;
• prequalification.

The Bureau of Labour Directorates organizes vocational training for unemployed persons:
• when there is a written request from an employer ready for recruitment under an employment contract for a period not less than 6 months after successful completion of training; this training can be conducted by a training institution designated by him/her or selected by the Bureau of Labour Directorates under Article 59, paragraph 1 of the Regulation for Application of the Employment Promotion Act (Article 63, paragraph 1, item 1 of the Employment Promotion Act);
• without preliminary secured jobs for an occupations offered by the regional employment bodies in accordance with the needs of the labour market, training can be conducted by a training institution designated by him/her or selected by the Bureau of Labour Directorateunder Article 59, paragraph 1 of the Regulation for Application of the Employment Promotion Act (Article 63, paragraph 1, item 1 of the Employment Promotion Act);
• In Bulgaria - German vocational training centers in Pleven, Pazardjik and Stara Zagora.
The Bureau of Labour Directorates organizes vocational training of employed persons on written request of an employer when they are:
• factory and office workers at micro enterprises and small enterprises, who have worked for the latest employer thereof under a contract of employment during the last preceding three months; (Article 63, paragraph 1, item 3 of Employment Promotion Act);
• factory and office workers in respect of whom the vocational qualification requirements change owing to specific changes in production; (Article 63, paragraph 1, item 4 of Employment Promotion Act);
These vocational training can be carried out by the employer or selected by Bureau of Labour Directorates training institution under article 59, paragraph 1 of the Regulation for

Application of the Employment Promotion Act. The employer undertakes to preserve employment within 6 months after completion of the training.

Opinion of the Committee

In respect of Article 9, the right to vocational guidance is well regulated. There is, however, no information on the free services, qualifications of personnel providing guidance and the number of people involved. Nonetheless, in view of the increased importance of vocational guidance in the current economic crisis, the Committee encourages the Bulgarian authorities to increase their efforts with a view to accepting Article 9. The Committee is ready to continue the dialogue on this issue and would welcome additional information form the Bulgarian authorities.

In respect of Article 10, the information provided mainly concerns continuous vocational training for employed or unemployed workers. The Committee recalls its interpretation of Article 10:

> **Article 10§1**
> In view of the current evolution of national systems, which consists in the blurring of the boundaries between education and training at all levels within the dimension of lifelong learning, the notion of vocational training of Article 10§1 covers: initial training - i.e. general and vocational secondary education - university and non-university higher education, and vocational training organised by other public or private actors, including continuing training – which is dealt with under paragraph 3 of the Charter (see infra). University and non-university higher education are considered to be vocational training as far as they provide students with the knowledge and skills necessary to exercise a profession.[4]
>
> The right to vocational training must be guaranteed to everyone.[5] States must provide vocational training by:[6]
>
> – ensuring general and vocational secondary education, university and non-university higher education; and other forms of vocational training;
> – building bridges between secondary vocational education and university and non-university higher education;
> – introducing mechanisms for the recognition/validation of knowledge and experience acquired in the context of training/working activity in order to achieve a qualification or to gain access to general, technical and university higher education;
> – taking measures to make general secondary education and general higher education qualifications relevant from the perspective of professional integration in the job market;
> – introducing mechanisms for the recognition of qualifications awarded by continuing vocational education and training.
>
> Facilities other than financial assistance to students (which is dealt with under paragraph 4, see infra) shall be granted to ease access to technical or university higher education based solely on individual aptitude.[7] This obligation[8] can be achieved namely by:
>
> – avoiding that registration fees or other educational costs create financial obstacles for some candidates;
> – setting up educational structures which facilitate the recognition of knowledge and experience, as well as the possibility of transferring from one type or level of education to another.

[4] Conclusions 2003, France, p. 131.
[5] Conclusions I, p. 55.
[6] Conclusions 2003, France, p. 131.
[7] Conclusions I, p. 55.
[8] Conclusions 2003, France, p. 132.

The main indicators[9] of compliance include the existence of the education and training system, its total capacity (in particular, the ratio between training places and candidates), the total spending on education and training as a percentage of the GDP; the completion rate of young people enrolled in vocational training courses and of students enrolled in higher education; the employment rate of people who hold a higher-education qualification and the waiting-time for these people to get a first qualified job.

Equal treatment with respect to access to vocational training must be guaranteed to non-nationals.[10] According to the Appendix to the Charter, equality of treatment shall be provided to nationals of other Parties lawfully resident or regularly working on the territory of the Party concerned. This implies that no length of residence is required from students and trainees residing in any capacity, or having authority to reside in reason of their ties with persons lawfully residing, on the territory of the Party concerned before starting training. This does not apply to students and trainees who, without having the above-mentioned ties, entered the territory with the sole purpose of attending training. To this purpose, length of residence requirements or employment requirements and/or the application of the reciprocity clause are contrary to the provisions of the Charter.[11]

Vocational training of persons with disabilities is dealt with under Article 15 of the Charter for States having accepted Article 15.[12]

Article 10§2

According to Article 10§2, young people have the right to access to apprenticeship and other training arrangements. Apprenticeship means training based on a contract between the young person and the employer, whereas other training arrangements can be based on such a contract, but also be school-based vocational training.[13] They both must combine theoretical and practical training and close ties must be maintained between training establishments and the working world.[14]

Apprenticeship is assessed on the basis of the following elements: length of the apprenticeship and division of time between practical and theoretical learning; selection of apprentices; selection and training of trainers; remuneration of apprentices; termination of the apprenticeship contract.[15]

The main indicators of compliance are the existence of apprenticeship and other training arrangements for young people, the number of people enrolled, the total spending, both public and private, on these types of training and the availability of places for all those seeking them.[16]

Equal treatment with respect to access to apprenticeship and other training arrangements must be guaranteed to non-nationals on the basis of the conditions mentioned under paragraph 1.[17]

[9] Conclusions XIV-2, Statement of Interpretation on Article 10§1, p. 60 and Conclusions 2003.
[10] Conclusions XIV-2, Statement of Interpretation on Article 10§1, p. 62.
[11] Conclusions 2003, Slovenia, p. 473.
[12] Conclusions XIV-2, Statement of Interpretation on Article 10,§1 p. 62.
[13] Conclusions XIV-2, Statement of Interpretation on Article 10§2, pp. 60-61 and Conclusions 2003, Sweden, p. 589.
[14] Conclusions XIV-2, Statement of Interpretation on Article 10§2, pp. 60-61.
[15] Conclusions XVI-2, Malta, p. 498.
[16] Conclusions XIV-2, Statement of Interpretation on Article 10§2, p. 61.
[17] Conclusions XIV-2, Statement of Interpretation on Article 10§2, p. 62 and Conclusions 2003, Slovenia, p. 473.

Article 10§3

The right to continuing vocational training must be guaranteed to employed and unemployed persons, including young unemployed people. Self-employed persons are also covered by this provision. Article 10§3 takes into consideration only those of the activation measures for unemployed people that strictly concern training, while Article 1§1 deals with general activation measures for unemployed people. Specific measures for long-term unemployed people are dealt with under Article 10§4.[18] The notion of continuing vocational training includes adult education.[19]

For both employed and unemployed persons, the main indicators of compliance with this provision are the types of continuing vocational training and education available on the labour market, training measures for certain groups, such as women, the overall participation rate of persons in training and the gender balance, the percentage of employees participating in continuing vocational training, and the total expenditure.[20]

As regards employed persons, the existence of preventive measures against the deskilling of still active workers at risk of becoming unemployed as a consequence of technological and/or economic development is also taken into consideration.[21]

As regards unemployed people, the activation rate – i.e. the ratio between the annual average number of previously unemployed participants in active measures divided by the number of registered unemployed persons and participants in active measures - is used to assess the impact of the States' policies.

In addition, the following aspects are taken into account:[22]

– the existence of legislation on individual leave for training and its characteristics, in particular the length, the remuneration, and the initiative to take it;
– the sharing of the burden of the cost of vocational training among public bodies (state or other collective bodies), unemployment insurance systems, enterprises, and households as regards continuing training.

Equal treatment with respect to access to continuing vocational training must be guaranteed to non-nationals[23] on the basis of the conditions mentioned under paragraph 1.[24]

Article 10§4

In accordance with Article 10§4, States must fight long-term unemployment through retraining and reintegration measures. A person who has been without work for 12 months or more is long-term unemployed.[25]

The main indicators of compliance with this provision are the types of training and retraining measures available on the labour market, the number of persons in this type of training, the special attention given to young long-term unemployed, and the impact of the measures on reducing long-term unemployment.

Equal treatment with respect to access to training and retraining for long-term unemployed persons must be guaranteed to non-nationals on the basis of the conditions mentioned under paragraph 1.

Article 10§5

While paragraphs 1 to 4 of Article 10 mainly deal with the right of access to vocational training and continuing vocational training, paragraph 5 focuses on complementary measures which are nonetheless fundamental to make access effective in practice. The list is non-exhaustive.

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[18] Conclusions 2003, Italy, p. 272.

[19] Conclusions XIV-2, Statement of Interpretation on Article 10§3, p. 61.

[20] Conclusions XIV-2, Statement of Interpretation on Article 10§3, p. 61.

[21] Conclusions 2003, Italy, p. 273.

[22] Conclusions 2003, Slovenia, pp. 477-478.

[23] Conclusions IV, Statement of Interpretation on Article 10§3, p. xv.

[24] Conclusions XVI-2, Addendum, Ireland, p. 39.

[25] Conclusions 2003, Italy, p. 274.

a reducing or abolishing any fees or charges:

States must ensure that vocational training, as defined in paragraph 1, is provided free of charge or that fees are reduced. Fees and contributions, however, shall not apply differently to non-nationals and States are under the obligation to guarantee equal treatment on the basis of the conditions mentioned under paragraph 1.[26]

b granting financial assistance in appropriate cases:

Access to vocational training also covers the granting of financial assistance, whose importance is so great that the very existence of the right to vocational training may depend on it.[27] All issues concerning financial assistance for vocational training up to higher education, including allowances for training programmes in the context of the labour market policy,[28] are dealt with under paragraph 4.[29] States must provide financial assistance either universally, or subject to a means-test, or awarded on the basis of the merit. In any event, assistance should at least be available for those in need[30] and shall be adequate.[31] It may consist of scholarships or loans at preferential interest rates. The number of beneficiaries and the amount of financial assistance are also taken into consideration for assessing compliance with this provision.[32]

Equal treatment with respect to financial assistance must be guaranteed to non-nationals on the basis of the conditions mentioned under paragraph 1.[33]

c including in the normal working hours time spent on supplementary training taken by the worker, at the request of his employer, during employment:

The time spent on supplementary training at the request of the employer must be included in the normal working-hours. Supplementary training means any kind of training that may be helpful in connection with the current occupation of the workers and aimed at increasing their skills. It does not imply any previous training. The term "during employment" means that the worker shall be currently under a working relationship with the employer requiring the training.

d ensuring, through adequate supervision, in consultation with the employers' and workers' organisations, the efficiency of apprenticeship and other training arrangements for young workers, and the adequate protection of young workers generally:

States must evaluate their vocational training programmes for young workers, including the apprenticeships. In particular, the participation of employers' and workers' organisations is required in the supervision process.[34]

(Digest of the case-law, September 2008)

The information provided in the report on Article 10 is not sufficient to determine whether or not Bulgaria is in a position to comply with these provisions.

[26] Conclusions XVI-2, United Kingdom, p. 941.
[27] Conclusions VIII, Statement of Interpretation on Article 10§5, p. 136.
[28] Conclusions XVI-2, Slovak Republic, p. 773.
[29] Conclusions XIV-2, Statement of Interpretation on Article 10§5, p. 62.
[30] Conclusions XIII-1, Turkey, p. 242.
[31] Conclusion XVI-2, Slovak Republic, p. 772.
[32] Conclusions XIV-2, Ireland, p. 406.
[33] Conclusions 2003, Slovenia, p. 483.
[34] Conclusions XIV-2, United Kingdom, p. 784.

Article 12 Right to social security

Article 12§2 Maintenance of a social security system at a satisfactory level at least equal to that required for ratification of the European Code of Social Security

Article 12§4 Social security of persons moving between states

Situation in Bulgaria

Article 12§2

In 2008 Bulgaria ratified by law the C102 Social Security (Minimum Standards) Convention, 1952 of ILO by the following Declaration: “Republic of Bulgaria declares that it accepts the obligations arising from Sections II, III, V, VI, VII, VIII and X respectively "Medical care", "Sickness Benefit", "Old Age Benefit", "Employment Injury Benefit, “Maternity Benefit”, “Family Benefit", "Survivors’ Benefit, in conjunction with Article 2, letter "a" of the Convention. The latter is at the heart of the main instruments of the Council of Europe in the field of social security, including the European Code of Social Security and the provisions of the European Social Charter.

In July 2010 it has been conducted training with lecturers from the International Labour Office, entitled: "Preparation of the first detailed report on Convention 102" held at the Center for Human Resource Development and Regional Initiatives, Ministry of Labour and Social policy. The training was aimed at experts from the public institutions that are relevant to the implementation of the Convention and representatives of the social partners. Its main goal was to complete and improve the capacity of experts and introduction to competing guidelines for the overall preparation of the report under the ILO Convention 102.

Article 12§4

We enclose hereby a list of bilateral treaties and agreements on social security and social insurance until January 2010

The agreements with the EU Member-States (Germany, Poland, Slovakia, Hungary, Austria, Cyprus, Romania, Spain), signed and entered into force before 1 January 2007 are not mentioned in this list, as of the date of the Bulgaria's membership in the EU their provisions were replaced by Regulation 1408/71 in the relations between Bulgaria and the other Member-States.

1. Agreement on national public insurance between the Republic of Bulgaria and the Republic of AlbaniaRatified by the Presidium of the National Assembly of People's Republic of Bulgaria on 18.04.1953 and the Presidium of the National Assembly of People's Republic of Albania on 20.11.1952. The exchange of instruments of ratification took place in Sofia on 30.04.1953, effective 1.05.1953
2. Convention on social insurance between the Republic of Bulgaria and the Federative Republic of Yugoslavia
Ratified by Decree № 115 of the Presidium of the National Assembly in 1958 .- No. 63/57, promulgated No.69/29.08.1958, effective 01.09.1958
To the present moment, this Convention applies to our relations with the assignees from the former Federative Republic of Yugoslavia (Bosnia and Herzegovina; Serbia, Montenegro), with the exception of Macedonia, to which by August 1, 2003 came into force a new

Agreement for social security with Republic of Croatia, with which entered into force an Agreement on social security on 2004.01.10 with Slovenia - from 1 January 2007 applies Regulation 1408/71, which replaced the implementation of the Convention of 1957 in our bilateral relations.

3. Agreement between the Republic of Bulgaria and National Socialist Libyan Arabian Jamahiriya on social insurance from 08.03.1984.
Ratified by Decree № 2005 of the Council of State on 25.06.1984, SG, No. 51/29.06.1984, promulgated in SG, No. 101/29.12.1987, effective 01.08.1985

4. Agreement between the government of the Republic of Bulgaria and the government of the Republic of Turkey for the payment of the Bulgarian pensions in Turkey
Signed in Ankara on 04.11.1998, effective 01.03.1999.

5. Agreement between the Republic of Bulgaria and Ukraine for social security and Agreement between the National Social Security Institute and the Ministry of Labour and Social Policy of Ukraine for the implementation of the Contract between Republic of Bulgaria and Ukraine for social security of 04.09.2001.
Ratified by law, adopted by the 39th National Assembly on 28.11.2001 – State Gazette, No. 107 of 11.12.2001, published by the Ministry of Labour and Social policy, promulgated in SG, No. 26/2003, effective 01.04.2003.

6. Contract between the Republic of Bulgaria and the Republic of Macedonia for social security
Ratified by law, adopted by the 39th National Assembly on 21.05.2003– State Gazette, No. 51 of 3.06.2003, published by the Ministry of Labour and Social policy, promulgated in SG, No. 63/15.07.2003, effective 01.08.2003.

7. Agreement between the Republic of Bulgaria and the Republic of Croatia on social security and Agreement for the implementation of the Agreement between the Republic of Bulgaria and the Republic of Croatia for social security.
Ratified by law, adopted by the 39th National Assembly on 24.09.2003– State Gazette, No. 88 of 7.10.2003, published by the Ministry of Labour and Social Policy, promulgated in SG, No. 100/12.11.2004, effective for Republic of Bulgaria since 01.10.2004.
Agreement for the implementation of the Agreement between Republic of Bulgaria and the Republic of Croatia on social security.

8. Treaty between Bulgaria and Moldova on social security, effective 1.09.2009
The full text of the treaty is published in the State Gazette, No. 65 of 14 August 2009. The law on the ratification of the Treaty was promulgated in SG No.42/ 05.06.2009.

9. Treaty between Bulgaria and Israel on social security, effective 1.09.2009 and Administrative arrangement implementing the Treaty between Bulgaria and Israel

The law on the ratification of the Treaty between Bulgaria and Israel on social security was promulgated in SG No.10/02.06.2009, while the full text of the Treaty was published in the State Gazette, No. 65/14 August 2009. On October 20, 2009, in Jerusalem was signed the Administrative arrangement implementing the Treaty between Bulgaria and Israel.

Priorities of the Ministry of Labour and Social Policy for the period 2010-2012 - negotiations and preparationof draft agreements/treaties with the following countries:
- Canada, USA;
- Countries from North Africa - Morocco, Tunisia, Libya;
- Neighboring countries - Serbia, Montenegro, Bosnia and Herzegovina.

Opinion of the Committee

Bulgaria has ratified ILO Convention No. 102. It has accepted more than the minimum of the parts required for ratification of the European Code of Social Security. At present Bulgaria may accept Article 12§2 of the European Social Charter.

Bulgaria has concluded agreements with 37 States out of the 42 other States Parties to the Revised Charter. The information provided at this stage, including on the bilateral agreements, does not demonstrate that the situation in Bulgaria meets the requirements of Article 12§4 in particular as regards equal treatment and accumulation of employment and insurance periods."

Article 13 Right to social and medical assistance

Article 13§4 Specific emergency assistance for non-residents

Situation in Bulgaria

The philosophy of social assistance in Bulgaria is based on the fact that every Bulgarian citizen has the right to social protection, where due to health, age, social and other reasons beyond his/her control the citizen is not able alone or with the help of his/her family to provide for himself/herself basic needs. The social benefits are granted after having exhausted all possibilities for self-support and assistance provided by those who are obligated by law to do so. The main focus of the conducted social policy is to protect people with the lowest incomes – single elderly people, persons with disabilities, single parents and children at risk.

The Social Assistance Act and the Regulations for Implementation of the Social Assistance Act ensure the social protection of people with the lowest incomes. In implementing the social assistance there shall be no direct or indirect discrimination based on sex, race, ethnicity, nationality, political or other opinion, religion or belief, disability, age, sexual orientation, marital status or origin, membership in trade unions and other public organizations or movements.

Entitled to social assistance are Bulgarian citizens, families and cohabiting persons who because of health, age, social and other reasons beyond their control are not able by themselves through their labour or the income from personal property, or when the persons obliged to assist them by law fail to support their basic needs. Foreigners with permanent residence permit in the Republic of Bulgaria, foreigners who have been granted asylum, refugee status or humanitarian status, foreigners that have temporary protection and people for which this is an international agreement to which Republic of Bulgaria is a party may also enjoy this right.

Pursuant to the Health Insurance Act (Article 40, paragraph 3, item 5 and 9) citizens who are eligible for receiving monthly social assistance and targeted assistance for heating under the Social Assistance Act, the people accommodated in specialized institutions for social services and parents, adoptive parents or spouses who care for disabled people with lost capacity over 90 percent, that are constantly in need of assistance, if they are not socially insured on basis of other reasons, shall be provided at the expense of Republican budget, as Social Assistance Directorates provide monthly information for each eligible person. Thus, these categories of persons enjoy all rights to medical care and access to such services in the amounts provided for in the National Framework Agreement between the National Health Insurance Fund and the Bulgarian Medical Association.

By Decree № 17 of Council of Ministers of 31.01.2007 establishing the conditions and procedures for the spending of targeted funds for diagnosis and treatment in hospitals for care of Bulgarian citizens who have no income and/or personal property to provide them personal involvement in the health insurance process, money are provided from the republican budget to pay for hospital treatment of the specified target group.

Opinion of the Committee

The Committee recalls its interpretation of Article 13§4:

"Article 13§4 grants foreign nationals entitlement to emergency social and medical assistance.

Beneficiaries of Article 13§4

The personal scope of Article 13§4 differs from that of other Charter provisions. The beneficiaries of this right to social and medical assistance are foreign nationals who are lawfully present in a particular country but do not have resident status and ones who are unlawfully present. This is stated in the Charter itself. Paragraph 1§1 of the Appendix, concerning its personal scope, states that Articles 1 to 17 and 20 to 31 apply to foreigners "only in so far as they are nationals of other Parties lawfully resident or working regularly within the territory of the Party concerned", but adds that this rule is "without prejudice to Article 12, paragraph 4, and Article 13, paragraph 4". Article 13 para. 4 refers to "nationals of other Contracting Parties lawfully within their territories". The Committee has extended the scope of the right to emergency medical assistance.[35]

By definition, no condition of length of presence can be set on the right to emergency assistance.[36]

Right to emergency assistance

States are required to provide for those concerned to cope with an immediate state of need (accommodation, food, emergency care and clothing).[37] They are not required to apply the guaranteed income arrangements under their social protection systems. While individuals' need must be sufficiently urgent and serious to entitle them to assistance under Article 13§4, this should not be interpreted too narrowly.[38]The provision of emergencyt medical care must be governed by the individual's particular state of health.[39]

Conditions governing repatriation – links with the 1953 Convention

Foreign nationals' right to assistance must be "in accordance with [states'] obligations under the European Convention on Social Medical Assistance, signed at Paris on 11th December 1953".

Since the personal and material scope of Article 13§4 is defined in the Charter, the only link between Article 13§4[4041] and the 1953 Convention concerns states' right to repatriate foreigners because they are in need of assistance, in accordance with the Convention's provisions on repatriation. The conditions governing repatriation (Articles 7-10 of the Convention) are: Article 7 authorises parties to repatriate persons on the sole ground that they are in need of assistance. This option may only be applied in the greatest moderation and then only where there is no objection on humanitarian grounds, and subject to the following specific conditions:

- those concerned have not been continuously resident in the party's territory for at least five years. This condition does not apply to nationals of states party to the Charter since foreign nationals legally present in another party may not in any case be repatriated on the ground that they need assistance (see above);
- they are in a fit state of health to be transported;
- they have no close ties in the territory in which they are resident.

In addition, repatriating states must bear the cost of repatriation as far as the frontier of the territory to which the national is being repatriated (Article 8) and provide relevant information to the diplomatic or consular authorities of the country of origin and the authorities of any country or countries of transit (Article 10). Finally, if the country of which an assisted person claims to be a

[35] International Federation of Human Rights Leagues (FIDH) v. France, Complaint No. 14/2003, Decision on the merits of 8 September 2004, §32.
[36] Conclusions XIV-1, United Kingdom, p. 845.
[37] Conclusions XIII-4, Statement of Interpretation on Article 13, pp. 54-57.
[38] Conclusions XIV-1, Netherlands, p. 598.
[39] Conclusions XIV-1, Iceland, p. 417.
[40] Conclusions XIV-1, Statement of Interpretation on Article 13, p. 52.
[41] Conclusions XIII-4, Statement of Interpretation on Article 13, pp. 54-57.

national does not recognise him or her as such, the grounds of the disclaimer must be forwarded to the country of residence (Article 9).

However, the requirement to accept and apply the Article 13§4 provision on repatriation is not conditional on ratification of the 1953 Convention, which means that States that are bound by Article 13§4 must also comply with the Convention provisions on the conditions and arrangements for repatriation of nationals of Charter parties that have not ratified the Convention. According to the Appendix to Article 13§3, states that have ratified the Charter but are not parties to the Convention may accept Article 13§4, "provided that they grant to nationals of other [states that have ratified the Charter] a treatment which is in conformity with the provisions of the said convention".

(Digest of the case-law, September 2008).

It follows that in order to determine whether Bulgaria is in a position to comply with Article 13§4, the Committee would require information on the type of urgent medical and social assistance provided to persons lawfully present in Bulgaria without residing in the country.

The Committee considers that, in view of the information at its disposal, Bulgaria is not in a position to comply with Article 13§4 of the Charter.

Article 15 Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement

Article 15§1 Vocational training for persons with disabilities

Article 15§2 Employment of persons with disabilities

Article 15§3 Integration and participation of persons with disabilities in the life of the community

Situation in Bulgaria

Over the past few years it has been undertaken reforms in the education of children with special educational needs aimed at ensuring the right to education for every child with a disability, to development of the integrated education of disabled children in mainstream schools and kindergartens and to reform existing special schools and kindergartens. Besides the amendments made to the Public Education Act and its Rules for Implementation, a key point in this process is the adoption of Ordinance № 1 (promulgated, SG, No. 11/10.02.2009) for the education of children and pupils with special educational needs and/or chronic illnesses, which establishes legal guarantees that children with special educational needs will be provided with psychological and pedagogical support to: correct and compensate the damage, disturbance or difficulty; support educational and rehabilitative process for achieving state educational requirements for preschool education and training or educational content and promote the overall development in order to achieve successful social integration and professional realization. The Ordinance regulates the integrated education of this target group of children and only after exhausting all possibilities for this - in special education schools and kindergartens. In every major city in the country it has been created and it is now operating a resource center, which primary function is to support integrated education of disabled children. According to the Council of Ministers report on implementing the National Programme for Child Protection in 2009 adopted on 24.02.2010, during the school year 2008/2009 in kindergartens and schools there has been integrated and trained 7,351 children with the help of 933 resource teachers. It is especially important the fact that the number of children in special schools has been significantly reduced - in 2001/2002 school year the students in special schools were 17,563 and in 2007/2008 school year - 7657.

The Integration of Persons with Disabilities Act on 01.01.2005 governs the public relations regarding to the integration of people with disabilities. The law aims to create conditions and safeguards for equality of people with disabilities for their social integration and the exercise of their rights, to ensure support to them and their families and finally their integration into work environments.

According to Article 3 there shall be no direct or indirect discrimination against people with disabilities.

Article 4 provides that integration of people with disabilities should be carried out through medical and social rehabilitation, education and vocational training, employment, accessible living and architectural environment, social services, socio-economic protection and available information.

Item 1 of Section II of the Integration of Persons with Disabilities Act regulates the measures related to education and training of people with disabilities.
In order to provide education and vocational training of disabled people to the regional inspectors of the Ministry of Education, Youth and Science to create teams for complex educational assessment and integrated education of children with disabilities. Children with special educational needs are trained and educated in integrated schools and kindergartens. Ministry of Education, Youth and Science provides:

- Education of children of preschool and school age under the terms and conditions of the Public Education Act;
- Supportive environment for integrated education of children;
- Early auditory-speech, speech and psychological rehabilitation and rehabilitation of blind and partially sighted children;
- Textbooks, teaching materials, advanced technology and technical training facilities for children up to age 18 or until completion of secondary education;
- Learning opportunities for children who have special educational needs and are not integrated
into the overall educational environment;
- Entitled to additional free training programs for general and vocational education and adult learning, and starting rehabilitation on specific programs for the formation of basic skills, where the damage occurred after the age of 16 years of age.
The high schoolss provide a supportive environment, special facilities, appropriate teaching materials and supplementary teaching aid and carry out training of specialists to work with people with disabilities.

The vocational training of people with disabilities is carried out by the National Employment Agency, employers or authorities appointed, physical persons registered under the Commercial Act and legal persons that provide social services for people with disabilities and specialized enterprises and cooperatives for and of people with disabilities.

The Agency for People with Disabilities finances projects of NGOs and people with disabilities yearly, as more than 70% of these projects relate to vocational guidance, education and training for those beneficiaries with different type of disabilities.
Item 2 - Ensuring access to employment for people with disabilities with a view to their full integration into society and achieving economic independence is one of the priority tasks of the government of Republic of Bulgaria.
In December 2007 the Council of Ministers of Republic of Bulgaria adopted a Strategy to Ensure Equal Opportunities for People with Disabilities from 2008 to 2015, which is aimed at effective implementation of the Bulgarian government policy for improving quality of life of people with disabilities, non-discrimination on the basis of disability, equal opportunities, full and active participation in all spheres of public life. The Strategy outlines the specific steps that need to be taken to remove all barriers (psychological, educational, social, cultural, professional, financial and architectural) to social inclusion and equal integration of persons with disabilities. It was also adopted for the implementation of the following recommendations of the Council of Europe, the best practices of the Member- States, the principles set in the UN Convention on the Rights of Persons with Disabilities, the UN Standard Rules for the Equalization of Opportunities for Persons with Disabilities, the UN Convention on the Rights of the Child.

For its implementation it has been adopted biennial action plans for ensuring equal opportunities for people with disabilities, which are referred to the responsible institutions, performance indicators and deadlines for their implementation.
The Employment Promotion Act, the National Programme for Vocational Training and Employment of People with Disabilities, Integration of Persons with Disabilities Act, effective 01.01.2005 and the Rules for its implementation. Section III of the Integration of Persons with Disabilities regulates the specific measures to ensure employment of people with disabilities in mainstream and specialized environments, the implementation of these measures is described in details in Chapter IV of Rules for Implementation of the Integration of Persons with Disabilities Act.

The employment of people with disabilities can be implemented in an integrated working environment, professional work environment as well as doing own business.
The "Integrated Work Environment" is a working environment that provides opportunity to people with and without disabilities to work together.

The “Specialized Work Environment is a working environment in specialized enterprises, tailored for people with relevant disabilities.

To run its own business is supported by the Agency for Persons with Disabilities by funding projects of persons with disabilities to start their own business.

The Ministry of Labour and Social Policy and the National Employment Agency are designing and implementing national programmes and measures to promote employment and to ensure equal opportunities for people with disabilities in the labour market. The programmes and measures provide funds to promote employers who employ people with disabilities. The employers (respectively, the authority appointed) are required to adapt the workplace to the needs of people with disabilities in their employment or when the damage occurs after employment, unless the cost is excessive and would seriously impede the employer.

In accordance with Article 25 of the Integration of Persons with Disabilities Act in hiring people with disabilities from mainstream environment employers can prepare and submit projects to the Agency for Persons with Disabilities to obtain funds for:

- Providing access to the workplace;
- Adapting the workplace;
- equipping the workplace.

The procedure for application and award is provided in article 17 Rules for the Implementation of the Integration of Persons with Disabilities Act. It should be noted that in a capacity of employers of normal working environment may apply all legal persons registered under the existing legislation /state and municipal authorities, private companies, NGOs, etc./; the application shall be implemented through the development and presentation of project for in compliance with this purpose and the methodology approved by the Minister of Labour and Social Policy; the employers who received funds to employ people with disabilities are required to protect jobs for those beneficiaries for a period not less than 3 years.

The Integration of Persons with Disabilities Act also provides for the financial incentives for employers of specialized work environment, i.e. specialized enterprises and cooperatives of people with disabilities. Under Article 28, paragraph 2 of the Integration of Persons with Disabilities Act, they can be financed per projects targeted by the Agency for Persons with Disabilities in accordance with a procedure specified in Article 20 of the in Rules of the Implementation of the Integration of Persons with Disabilities Act. For this purpose it has been developed and approved by the Minister of Labour and Social Policy a methodology consisting of two sections: Section I - Assessment of projects of social nature, and Section II - Assessment of investment business projects. This methodology is aimed at improving and/or providing health and safety working conditions in the production structures, increasing the skills or acquiring new ones by people with disabilities and adapting their workplaces on one hand and on the other - technological renewal of these enterprises to improve productivity, product quality as well to increase the salaries.

It has been provided BGN 1,440,028 to stimulate the specialized enterprises and cooperatives of people with disabilities. This measure is aimed at providing healthy and safe working conditions, technological upgrading of physical facilities, provision of social contacts, which in turn leads to increased productivity. During the reporting period there have been allocated funds under 22 contracts for methodology for assessing the projects of social nature in the amount of BGN 740,134 and funds under 9 contracts for methodology for evaluation of investment projects of specialized business enterprises and cooperatives of people with disabilities in the amount of BGN 699 894.

In 2009 for projects of employers it has been paid an amount of BGN 135,317 to employ unemployed persons with disabilities in regular work environment. The Agency for Persons with Disabilities finances activities to ensure access, adaptation and equipment of jobs for people with disabilities. The strict enforcement of labour legislation requires the mandatory nature of the provision of article 315, paragraph 1 of the Labour Code/financial resources for it security. This module lead to overcoming the labour and social exclusion and to achieve economic independence through the income earned by them and increase personal confidence and quality of life for a significant number of people with disabilities. Until 31.12.2009 it has provided employment for people with disabilities under contracts of 2009 concluded with 19 employers from normal work environment.

The Programme to finance projects for private business of people with disabilities launched in 2006 continues to enjoy great interest to expand its field of action on areas of activity of the business of people with disabilities. Until 31.12.2009 it has been paid funds in 2009 under 37 contracts concluded for the initiation and development of private business activity by persons with disabilities amounting to BGN 507,065.

The Council of Ministers will determined the goods and services whose production is awarded under procedure established by the Public Procurement Act to the specialized enterprises and cooperatives of people with disabilities.

It should be noted that the new Integration of Persons with Disabilities Act introduces the quota principle to employers from normal work environment who have over 50 staff members / Article 27 of the Integration of People with Disabilities Act/ namely: they are obliged to announce not less than half the total number of jobs in accordance with Article 315, paragraph 1 of the Labour Code for people with disabilities and make available such

vacancies in the territorial divisions of the National Employment Agency. The Act also provides administrative penalties for employers in violation of these provisions.

The legislation provides incentives for employers from specialized and mainstream environment, financed under projects of the Agency for Persons with Disabilities. It shall be reimbursed 30% of the money paid by these employers for social security /public social insurance, compulsory health insurance and supplementary mandatory pension insurance.
Item 3 - Section IV of the Integration of Persons with Disabilities Act provides the procedures for establishing the conditions for accessible living and architectural environment.
State and local government structures organize the construction of urban areas for population, including for people with disabilities in the terms and conditions set forth in the Spatial Planning Act.

The Ministry of Regional Development and Public Works creates conditions for accessible living and architectural environment for people with disabilities by developing regulations, rules, norms and standards for the urban area and its elements, buildings, equipment and their components and elements of adapting existing public buildings and the surrounding environment.

The Ministry of Transport and Communications establishes conditions for access of people with disabilities to transport services, develops regulations and standards for providing accessible public transport, deploys technical devices in public space and public transport to facilitate movement of people with disabilities; provides special traffic, stopping, parking and accommodation of vehicles operated by handicapped or carrying such, provides unimpeded access to public transportation for people with disabilities accompanied by guide dogs.

By 31.12.2006 the competent institutions should provide free access to public buildings and facilities (state and municipal property) for people with disabilities and it should overcome the relevant architectural, transportation and communication barriers.

Section V of the Integration of Persons with Disabilities Act regulates the socio-economic protection of persons with disabilities as follows:
The Minister of Labour and Social Policy issued an Ordinance on the terms and conditions for production, import, sale and maintenance of facilities/equipment for people with disabilities and approves annually the list of the these facilities and equipment. It s also provided targeted assistance to purchase and repair of an aid device, fitting or equipment. Ensuring that right is carried out monthly by companies producing and/or importing such aid devices authorized for to do so by the abovementioned Minister of Labour and Social Policy. The funding for the proper provision of targeted assistance for the purchase and repair of the abovementioned aid devices is provided by the Agency for Persons with Disabilities, and since 2008 these devices, equipment and medical devices for people with disabilities are provided through the Social Assistance Directorates to the Social Assistance Agency.

People with disabilities are entitled to targeted assistance for:
- the purchase and adaptation of private motor vehicle;- reconstruction of housing for people in wheelchairs;
- using of sign language interpreters for persons with impaired hearing and an assistant for visually impaired persons during visits in state, municipal, health, cultural and other

institutions. Since 01.01.2005the Integration of Persons with Disabilities Act has been supplemented - it provides an escort of persons with more than 90 percent disability.

The Ministry of Physical Education and Sports and the Ministry of Education, Youth and Science in cooperation with municipalities, sports federations and sports clubs established conditions for social integration of people with disabilities by providing accommodation and sports facilities and equipment, promoting sports events through the mass media, supporting the participation of athletes with disabilities in training and competition and supporting extracurricular activities for children and youth.

The Ministry of Culture in cooperation with the municipalities provides conditions for the integration of people with disabilities by providing specialized information for use of services, routes, architectural, transportation and other facilities in places of public use for recreation and culture, supports the development of talents and promotes creativity.

Municipalities within their competencies provide:
- Building accessible architectural environment in kindergartens and schools;
- Accessible public transport of passengers by adjusting the existing mass transport and commissioning of technically adapted vehicles for use by persons with disabilities;
- Access to public places for people with disabilities accompanied by guide dogs;
- Special transport services;
- Necessary material conditions and means to establish social contacts.

The Bulgarian National Television, the Bulgarian National Radio and the Bulgarian Telegraph Agency provide information accessible to people with disabilities and their programs include specialized TV shows for them.

The specialized enterprises, employment-treatment facilities, the separateproduction units and the cooperatives enjoy tax preferences under the Corporate Income Tax Act and the Income Taxes on Natural Persons Act.

People with disabilities who receive income from employment, enjoy preferences under the Income Taxes on Natural Persons Act.

People with disabilities are entitled to a monthly allowance for social integration. The allowance is differentiated and represents cash amounts that complement their own incomes and are intended to cover additional costs for transport, information and telecommunication services, training, medical treatment and rehabilitative services, diet and drugs, available information and to meet other vital needs. The total amount of the allowance is a sum of the funds for the needs designated by the Committee. In cases where persons are accommodated in a hospital on a full state or municipal support as well as in specialized institutions for a period longer than one month, they are not entitled to allowances for social integration.

In 2006 the funds for the implementation of the Integration of Persons with Disabilities Act have been increased by 65% compared to 2005, which is the single largest increase in state budget funds for implementation of sectoral policies. This trend continued throughout the reported period as from 01.01.2009 together with the increase of the guaranteed minimum

income (GMI) by 18.2 percent it has also been increased the amount of all monthly allowances for social integration of people with disabilities.

On the initiative of the Minister of Labour and Social Policy in the State Budget Act of the Republic of Bulgaria for 2009 it has been set an obligation the authorizing officer by delegation to provide within a specified capital expenditure in its budget for 2009, funds for measures to ensure accessible architectural environment for people with disabilities in the amount not less than BGN 150 000.

The time during which individuals took care of a person with permanent disability and have not been socially secured, this time counts for a pension upon retirement under the terms and conditions of the Social Security Act. For the same period a person shall be considered health insured under the terms and conditions set out in the Health Insurance Act.

Students with permanent disabilities and parents of children with disabilities are entitled to scholarships and other benefits in accordance with the terms and conditions set out in the Public Education Act and the Higher Education Act.

The municipalities provide people with disabilities with houses from the municipal housing stock in the terms and conditions set out in the Municipal Property Act.

On 27.09.2007 the Republic of Bulgaria have signed the UN Convention on the Rights of Persons with Disabilities and on 18.12.2008 it has been signed the Optional Protocol to the Convention.

The representatives of NGOs and all other stakeholders are equal partners of the Ministry of Labour and Social Policy in the development and implementation of measures and actions for social protection and social inclusion of people with disabilities. During the period it has been intensified and strengthened the partnerships with the National Council for the Integration of Persons with Disabilities, which is an advisory body to the Council of Ministers. The money granted to national organizations representing people with disabilities and organizations for people with disabilities have increased on average by 38% in the state budget for 2006 with over 12% in 2007, with approximately 20% in 2008 and with over 21 % for 2009.

Opinion of the Committee

On the basis of the information provided in the report and in conformity with its previous conclusion (see Report on the non-accepted provisions of 2005), the Committee considers that Bulgaria can accept Article 15§§1, 2 and 3 of the European Social Charter.

In view of the importance of the rights of persons with disabilities, the Committee encourages Bulgaria to accept this article as a matter of priority.

Article 17 Right of children and young persons to social, legal and economic protection

Article 17§1 Assistance, education and training

a) to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;
b) to protect children and young persons against negligence, violence or exploitation;
c) to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family's support;

Situation in Bulgaria

Article 17§1, a)

In recent years, several changes have been made to the existing legislation and it has been adopted new regulations aimed at achieving full guarantee of the right of children to grow up in an environment which encourages the full development of their capabilities.

The main regulations in this area - the Child Protection Act and Regulations for its Implementation. With the amendments to the Child Protection Act in 2006 as authorities for child protection were designated not only the State Agency for Child Protection at the national level and the Social Assistance Directorates at local level but also the Minister of Labour and Social Policy, the Minister of Interior, the Minister of Education, Youth and Science, the Minister of Justice, the Minister of Exterior, the Minister of Culture, the Ministry of Health and the Mayors. With these amendments and the subsequent changes to secondary legislation it has been created prerequisites for a qualitatively new stage in the development of one of the most important social services, an alternative to the accommodation of a child in a specialized institution - namely the foster care through the regulation of professional foster families.

In recent years, with the amendments to the Social Assistance Act and the Rules for its Implementation there have been established a number of new community based social services aimed at supporting families with children - a center for public support, a center for family-type accommodation, Mother and Baby Unit and protected, transitional and supervised housing. In the period from 31.12.2006 to 11.01.2010 the number of community based social services aimed at supporting families in caring for their children rose from 91 to 252. Although the number of community based social services has increased several times, the services are still distributed unevenly across the country and their creation depends on the initiatives of municipalities rather than the real needs of children and families at a disadvantage. This is why there have been developed and adopted some amendments to the Social Assistance Act (State Gazette No. 15/23.02.2010) by the National Assembly which introduced a qualitatively new approach in the development of social services through planning the disclosure, creation and changing the capacity and providing these services at municipal and district level based on analysis of the needs. It has been regulates the duties of the Governor and the Municipal Council in the development and adoption of strategies for the development of social services at regional and municipal level, as well as annual plans for the development of social services at municipal level. Thus, ensuring the establishment

of social services to meet the specific needs of people from targeted groups, not only in the municipality but also in the whole district. The introduction of the principle of regional planning and development of social services will encourage initiative and will create conditions for maximum flexibility to economically profitable, financially sound and accessible social services. The amendments regulate and coordinate the functions of the Agency for Social Assistance in planning and developing social services. It has been also created legal conditions for civil society to participate in the formulation of municipal policies for the planning of social services by regulating the functions of the Public Councils in this process.

Upon extensive discussion with the civil society in 2008 it has been developed draft amendments to the Child Protection Act. Recent changes to the Child Protection Act (SG, No. 14/ 20.02.2009) are related to:

• defining the responsibilities of all authorities for child protection and the management bodies;
• development of a coordination mechanism for cooperation between the bodies for protection;
• clarification of the judicial supervision in accommodation outside the biological family;
• introduction of more stringent controls to comply with the approved criteria and standards for quality of the social services for children;
• extended range of offenses and increased penalties for breach of obligations under the Act;
• Regulation of a new type of social services – social services of residential type;
• extending the powers of the State Agency for Child Protection;
• strengthening the role of municipalities and others.

The family assistance provided to families under Family Allowances Act and the Rules for its Implementation is one of the main financial instruments, which aims to support families in caring for their children. Since 2009 with the amendments made to the Family Allowances Act (State Gazette. No. 23/27.03.2009), in addition to the allowances paid to uninsured pregnant women and mothers who are not entitled to compensation from the insurance system, lump-sum payments for giving a birth to a live child, the allowances for parents whose children must start first grade and the monthly allowances for children, it has also been provided two new types of family allowances - a lump sum allowance for raising twins until the age of one year and allowances for raising a child by a mother – student in full-time course for the period of one year, as the both allowances are available regardless of the family income.

Article 17§1, b)
Besides the Child Protection Act, which regulates the taking of measures to protect children in neglect, abuse or exploitation, it has also been adopted in 2005 the Protection against Domestic Violence Act (promulgated in SG, No. 27/29.03.2005), which determined the responsible institutions, procedures and measures to be taken in cases of violence, including support and rehabilitation of victims of violence. At the end of 2009 it has been adopted the Law Amending and Supplementing the Protection against Domestic Violence Act (promulgated in SG, No. 102/22.12.2009), which main changes provide additional safeguards for immediate protection of children in whose families there is a domestic

violence. Thus, ensuring a higher level of protection of women and children from domestic violence and expand the circle of persons against whom you can seek protection.

In 2009 it has also been adopted the Law Amending the Health Act (promulgated in SG, No. 41/2.06.2009). The changes were aimed to ensure compliance with the rights of children and promote responsible parenting - introducing the obligation (and penalty for non-compliance) for medical professionals to inform the Directorate of Social Assistance and the Ministry of Interior for every child born or entered into a hospital, for which there is a risk of abandonment or who is a victim of violence.

Article 17§1, c)

In recent years a major policy priority in the child's welfare is the deinstitutionalization of care for children who are permanently or temporary deprived of family protection. In this direction it has been taken not only legislative changes, but there have also been developed a number of strategic documents. Besides the amendments to the Child Protection Act rand the regulations thereto, the Social Assistance Act and the regulations thereto, a key role in this process has the adoption of the new Family Code (promulgated in SG, No. 47/06/23/2009). It regulates the removal of legal procedure to include a child in the registers for full adoption. The provisions of the Family Code also provide optimization of the adoption by the introduction of national electronic register of adopters and a unified information system for children (in 2010) who are subject to full adoption, as well as weekly meetings of Council for Adoption to the regional directorates.

The provisions concerning the adoption without the consent of the parent have entered into force together with new Family Code (effective 01.10.2009). They cover cases where the child has been accommodated in a specialized institution and the parent, within 6 months after the accommodation, by the established administrative order under the Child Protection Act and with no good reason has not requested a termination of the accommodation procedure or change of the measure and returning the child and accommodating it in a family of relatives or close friends. For existing cases when the child has already been accommodated by court decision in a specialized institution is provided a three months period in which a parent may request change or termination of any measure of protection.

The new Family Code entered into force only on 01.10.2009 and it is still too early for tangible results from its implementation, but implementation of its provisions have already started and the real benefit of that will be reported no later than six months after the beginning of implementation in practice.

At the beginning of 2008 the National Assembly of Bulgaria adopted a basic policy document on policies for children - the National Strategy for the Child 2008-2018. The strategy has been developed in accordance with the purposes and principles of the UN Convention on the Rights of the Child and the Child Protection Act to place the child in society, his right to family life, ensuring the effective exercise of the rights of children, improving children's health and reducing the risk of poverty among children. It is a categorical expression of the commitment of the executive and legislative powers to improve the quality of life of Bulgarian children and their families. Therefore, the strategy encompasses all spheres of public life, having an importance on the welfare of children, namely - a family environment, healthcare, education, recreation and leisure, alternative

care, living standards and social support, overcoming exploitation and child abuse, special measures for protection of children and right to identity and protection against discrimination. In implementing the National Strategy for the Child, the Council of Ministers annually adopts a National Programme for Child Protection, proposed by the Minister of Labour and Social Policy and the Chairman of the State Agency for Child Protection.

At the end of 2009 it has been accepted a qualitatively new approach for realizing deinstitutionalization of the care for children. On 24.02.2010 the Council of Ministers adopted a National Strategy "Vision for the deinstitutionalization of children in Bulgaria".

The strategy is based on a policy which is in the best interest for the child aimed at supporting families and creating the best conditions for the development of children and realizing their full potential. As a result of the implementation of this policy document is expected in the long run, going through reducing the number of children in institutions, to reach complete closure of the classical type of institutions, while end institutionalization of children from 0 to 3 years of age after the reform. The planned measures will be aimed primarily at regulating the accommodation in institutions through family support and development of services to prevent abandonment, such as services for the prevention of risks in the family, early intervention and support to children, family planning services and family mediation. The efforts will be focused on introduction of foster care nationwide as main alternative to institutionalization and promoting adoption. Another important part of the activities under the strategy will be aimed at regulating the output of the institutions and reduce the number of children who move from one institution to another. It has also been provided introduction of special programmes for children leaving their homes for their successful integration. A special place in the policy document was given to support services to families of children with disabilities - creating teams for early intervention, mobile social services and others. The document sets a clear and definite purpose: the closure of all institutions for children within 15 years from the adoption of the document and not letting accommodation and bringing up children from 0 to 3 years of age in residential care after the reform.

Opinion of the Committee

The Committee takes note of the very many positive changes which occurred since the previous report in 2005. It confirms its opinion that Bulgaria is in a position to accept Article 17§1. In view of the importance of this provision, directly linked to the UN Convention on the Rights of the Child, the Committee invites Bulgaria to accept Article 17§1 as a matter of priority.

Article 18 Right to engage in a gainful occupation in the territory of other States Parties

Article 18§1 Applying existing regulations in a spirit of liberality

Article 18§2 Symplifying existing formalities and reducing dues and taxes

Article 18§3 Liberalising regulations

Situation in Bulgaria

The existing legislation in Bulgaria provides the right to work in the same way as Bulgarian citizens and nationals of EU/EEA and people from third countries residing in Bulgaria for a long period of time as they have the same rights and obligations. The state claims and taxes are subject to the fiscal policy of the government, which determines their size. Foreign workers do not pay taxes.
Pursuant to Article 32 paragraph 1 of the Rules of the Council of Ministers and its administration it has been brought for revision a Draft Decree of the Council of Ministers amending and supplementing the Ordinance on the terms and conditions for the issuance, denial and revocation of work permits to foreigners in Republic of Bulgaria adopted by Council of Ministers Decree № 77 of April 9, 2002 (promulgated in SG, No. 39/2002, amended and supplemented. SG, No. 118/2002, No. 53/2003, SG, No.92/2004, No.56/2007) /Ordinance/.

The amendments and supplements proposed in the Ordinance are designed to optimize the procedures for administrative services for foreigners (third country) for issuing work permits in connection with the situation on the labour market and its regulation in times of crisis. Under these conditions, priority attention is given to tackling unemployment in the country, which requires carefully regulated procedure in respect of the issuance of work permits for foreigners.

It is acknowledged that Bulgaria has the lowest number of work permits in the European Union (1137 to 2009), but employers should give priority to hire unemployed persons who are currently in Bulgaria (Bulgarian citizens EU / EEA and third country nationals residing for a long-term in Bulgaria) and only after having exhausted the best possible resources available in the country to accept applications for employment of nationals of third countries.
On the meeting of the National Council for Tripartite Cooperation (NTCT) that took place on October 6, 2009 it has been emphasized that the proposed amendments and supplements to the Ordinance should not be an obstacle to attracting foreign investment, which usually have their own qualified staff or hire additional members as they open new job vacancies which has a positive effect on the economy.

At the meeting of the NCTC in the course of the discussion it has been outlined a recommendation - the subsequent studies in the application of the Ordinance that require operational consultation and compromising between different institutions (mentioned in particular the Ministry of Interior, Ministry of Economy, Energy and Tourism and others) to be discussed in due form. In this regard, as the National Council on Labour Migration includes all agencies with competence in the field of migration at the level of deputy ministers, social partners, local authorities and academic community, these cases will be

revised at meetings of this National Council, which also is its obligation in accordance with its the Rules for organization.

Opinion of the Committee

The information provided does not invalidate the assesment made in 2005, according to which the situation in Bulgaria does not seem to comply with Article18§§1,2 and 3 of the Charter.

Article 19 **Right of migrant workers and their families to protection and assistance**

Article 19§1 Assistance and information on migration

Article 19§2 Departure, journey and reception

Article 19§3 Co-operation between social services of emigration and immigration states

Article 19§4 Equality regarding employment, right to organise and accommodation

Article 19§5. Equality regarding taxes and contributions

Article 19§6 Family reunion

Article 19§8 Guarantees concerning deportation

Article 19§9 Transfer of earnings and savings

Article 19§10 Equal treatment for the self-employed

Article 19§11 Teaching language of host state

Article 19§12 Teaching mother tongue of migrant

Situation in Bulgaria

In relation with Article 19 of the European Social Charter:

Article 4 letter “a” of the Public Education Act states that schoolchildren in the compulsory school age-children of citizen of any Member-State of the European Union, the European Economic Area and Switzerland, engaged in employment in the territory of Bulgaria, where they reside in country with their parents, their guardians or trustees shall be provided free education in Bulgarian language and training in cooperation with the countries of origin of the mother tongue and culture under conditions and procedures specified by the Minister of Education, Youth and Science.

Schoolchildren, whose mother tongue is other than Bulgarian, besides the compulsory study of the Bulgarian language, may study their mother tongue in municipal schools under the protection and control of the state.

2.Ordinance № 3 of 19.06.2009 issued by the Minister of Education, Youth and Science provides the terms and conditions for migrant to study the Bulgarian language, as well as to learn the mother tongue and culture in compulsory school age - children of nationals of any Member- State of the European Union, European Economic Area and Switzerland.

3.The Asylum and Refugees Act provides that minors and juvenile asylum-seekers have the right to education and vocational training under the conditions and procedure applicable to

the Bulgarian nationals. Foreigners to whom it has been granted protection are entitled to training under the conditions and procedure applicable to Bulgarian nationals.

Opinion of the Committee

The Committee notes that the information provided unfortunately concerns paragraphs 11 and 12 only. However, in its previous assessment of the situation in 2005, the Committee considered that Bulgaria was in a position to accept Article 19§§ 4a) and b), 5, 7 and 9. Assuming that the situation in law or practice has not undergone major changes, the Committee confirms the that Bulgaria is in a position to comply with Article 19§§ 4a) and b), 5, 7 and 9.

In order to be in conformity with Article 19§§11 and 12, Bulgaria should extend the benefit of the measures taken to nationals of all States Parties to the Charter (and not only to nationals of Member States of the European Union and the European Economic Area).

Article 23 Right of elderly to social protection

Situation in Bulgaria

1. The Code of Social Insurance (CSI) provides a mechanism for updating the pensions granted by December 1 of the preceding year (Article 100)
In accordance with that mechanism the pensions shall be updated annually from July 1 by a decision of the supervisory council of the National Social Security Institute by a percentage equal to the sum of 50 percents of the increasing of the insurance income and 50 per cent of the index of the consumers prices for the preceding calendar year.

The Code of Social Insurance also provides a possibility (Article 103) the pensioners with permanently reduced ability to work/ type and degree of inability over 90 percent who permanently need help by somebody, shall receive addition to the pension determined for them in extent of 75 percent of the social pension for age.

On 1.01.2010 it entered into force a mechanism for the payment of pension additions to pensioners whose spouse has deceased as the addition is in amount of 20% to 40% of retirement pension or pensions to the spouse (Article 84 of the CSI). This mechanism sets 5% increase of the addition as it will be increased for a first time by these 5% on 1.07.2010, and in the next three years it will grow by 5% from 1 January each year. It is provided that in 2013 the addition will reach 40%. If the deceased spouse have not received pensions, then the addition is calculated on the base of the pension or sum of the pensions to which the deceased would be entitled under Article 83. The addition cannot be obtained along with the inheritance pension by the same grantor.

In 2010 it shall take effect an amendment (Article 84 of the SCI) relating to additions for persons aged 75. To the pensions of such persons shall be paid an addition (up to BGN 50) under conditions and in an amount set in the Public Social Insurance Budget Act for the relevant year. The persons with the lowest pensions receive the greatest addition.

Pursuant to the Code of Social Insurance (Article 89) the persons who turned 70 years of age are entitled to social pension.

2. The amount of the social pension is determined by the Council of Ministers upon proposal of the Minister of Labour and Social Policy and the National Social Security Institute.

As a result of the policy in 2009 in the area of pensions it has been implemented the following decisions:

• The minimum pension for insurance practice and age and to be determined in an amount not less than 50% of the minimum wage.
For 2009, the minimum pension for insurance practice and age after the increase of July 1, 2009 amounted to BGN 136.95, representing 57% of the minimum wage.

• Social pension for age to be determined in amount not less than 40% of the poverty line for the country. For 2009, the minimum pension for insurance practice and age reached BGN 100.86, representing 52% of the poverty line for the country.

Opinion of the Committee

The report only provides information on old age pensions. It states that the minimum level of a social pension can not be less than 50% of the minimum wage (this could pose a problem, as the benchmark for assessing the adequacy of a pension under the Charter is 50% of the median equivalised income). Information on other matters covered under this provision is not provided in the report, namely on the question of non-discrimination legislation on the grounds of age, elderly persons in institutions or elder abuse. On the basis of the information available, the Committee considers that Bulgaria is not in a position to comply with Article 23 of the Charter.

Article 27 Right of workers with family responsibilities to equal opportunity and treatment

Article 27§1 Participation in working life

Situation in Bulgaria

Gender equality is ensured by the existing Bulgarian legislation - the Constitution of the Republic of Bulgaria, Protection against Discrimination Act, Labour Code, Code of Social Insurance, Civil Servants Act, Republic of Bulgaria Defence and Armed Forces Act, Higher Education Act, Public Education Act, etc.
The issues of equal treatment based on gender are incorporated into a special law - Protection against Discrimination Act.

The Draft Law on the Equal Opportunities for Women and Men tabled for consideration in the 40th National Assembly of the Council of Ministers in mid-2008 has been reviewed and approved by four committees, but the leading Committee on Human Rights and Religious Affairs has not present it for discussion and voting.

Upon the public consultations carried out, it has been considered that the matter is legally settled in the Protection against Discrimination Act and it has been taken a political decision not to adopt the Law on the Equal Opportunities for Women and Men.

The existing provisions of the national legislation concerning the possibilities father to participate in childcare promote reconciliation of family and professional responsibilities. The statutory provisions apply equally to all workers with family responsibilities on equal terms, irrespective of gender.

To support the policy of reconciling family and professional obligations and to encourage fathers to participate equally in child care is to implement projects financed by the European Commission to eliminate the stereotypes of gender roles.

Given the fact that gender equality is essential for achieving the 2020 Lisbon Strategy for jobs and growth, Europe 2020 and it is a measure of democratic development of a certain society, Republic of Bulgaria continues to develop and improve its national legislation to protect citizens' rights and to ensure equal treatment of women and men.

LABOUR CODE
(PROMULGATED, SG, NO. 26 OF 1.04.1986 and NO. 27 OF 4.04.1986)

Article 163 (7) (New – SG, No. 108/2008, effective 1.01.2009) When mother and father are married or live in a household, the father is entitled to 15 days leave at childbirth from the date of discharge the child from hospital.
(8) (New – SG, No. 108/2008, effective 1.01.2009, amended No. 109/2008, effective 02.01.2009). With the consent of the mother (adoptive mother) when the child reaches 6 months of age, the father (adoptive parent) may use instead of her a leave to the remaining 410 days.

Article 164 (1) After the leave for pregnancy, childbirth or adoption has been used, in case the child is not placed in a child-care establishment, the female employee shall be entitled to an additional leave for raising a first, second, and third child until they reach 2 years of age, and 6 months for each subsequent child.

(3) (Amended - SG, No. 25/2001) With the consent of the mother (adoptive mother), the leave under paragraph (1) shall be granted to the father (adoptive father) or to one of their parents in case they work under an employment relationship.

(4) For the time of the leave under the preceding paragraphs, the mother (adoptive mother) or the person who has taken over the raising of the child shall be paid a cash indemnity under terms and in amounts specified by a separagraphte law. The time of the leave shall be recognized as length of service.

Article 165 (1) (Amended – SG, No. 52/2004) After having used the leave under Article 164, Paragraph 1, the family worker or employee having four and more children, upon request, shall have the right to an unpaid leave until the child bas 2 years of age, if the chills has not been placed in a children institution. With the consent of the mother (the adopter), this leave may be used by the persons under Article 164, Paragraph 3.

(2) The time during which the leave under the preceding paragraph is used shall be recognized as length of service.

Article 167 (1) (Amended – SG, No. 52/2004) Should the mother (adoptive mother) of a child under the age of 2 die or become severely ill, with resulting inability to take care of the child, the balance of the leaves for childbirth, adoption, and raising a young child may be used by the father (adoptive father). With his consent, these leaves may be used by either of his parents, or by either of the parents of the deceased or severely ill mother (adoptive mother), should the said person work under an employment relationship.

Article 167a (New – SG, No. 52/2004) (1) After having used the leaves under Article 164, Paragraph 1 and Article 165, Paragraph 1, any of the parents (adopters), if they work under a labour contract, and the child has not been placed in an institution on a full public support, upon request shall have the right to use unpaid leave up to 6 months for taking care of a child before he/she becomes 8 years old.

(4) A parent (adopter) who is a single parent, taking care of a child, shall have the right to a leave under Paragraph 1, up to 12 months in the cases, where:

1. is not married to the other parent, and does not live in one household with him/her;
2. the other parent has been deprived of parental rights through an enforced court decision;
3. the other parent has died;

(5) In the cases under Paragraph 4, items 1 and 2, the other parent shall have no right to a leave under Paragraph 1.

(6) The leave under Paragraph 1 may be used only once, or in several periods. When used in several periods, the length of a period may not be less than 5 workdays.

(7) The person who wishes to use the leave under Paragraph 1, shall notify about this the employer at least 10 workdays in advance.

(8) The time, during which the leave is used under Paragraph 1, shall be recognized for labour service.

(9) The terms and conditions for using the leave under Paragraphs 1-8 shall be provided by an ordinance of the Council of Ministers.

Code of Social Insurance
(Promulgated, SG, No. 110/1999, effective 01.01.2000)

Article 13a (New – SG 109/08, effective 01.01.2009) The persons insured for general disease and motherhood shall be entitled to:

1. monetary indemnifications for: a) temporary inability to work as a result of … taking care of an ill or quarantined family member, for urgent need to accompany an ill family member to a medical check-up, test or treatment, and for taking care of a healthy child dismissed from a child-care facility because of quarantine imposed on that facility or on the child;… d) pregnancy and birth; e) raising a young child;

Indemnifications for temporary inability to work and labour adjustment
Right to indemnification
Article 40. (Suppl. – SG 105/06, effective 01.01.2007; amend. – SG 109/08, effective 01.01.2009)
(1) The insured persons for general disease and motherhood shall have right to pecuniary indemnification instead of labour remuneration for the time of leave due to temporary inability to work and in case of rehabilitation reassignment, if they have at least 6 months of insurance coverage of this risk. The requirement for the 6 months of insurance coverage shall not apply to persons below 18 years of age.
(3) (suppl. SG 1/02, amend. SG 38/05; amend. – SG 105/06, effective 01.01.2007; amend. – SG 109/08, effective 01.01.2009; suppl. – SG 99/09, effective 01.01.2010) The pecuniary indemnifications for temporary inability to work, labour readjustment, pregnancy and childbirth and bringing up a child and the aid from the state public insurance shall be accounted and paid by the National Social Security Institute to the insured persons to a personal bank account stated by them….
(4) (amend., SG 64/00; amend., SG 112/03; amend. – SG 105/06) The insurer shall pay to the insured person for the first working day of the temporary inability to work the average daily gross allowance for the month, in which the temporary inability to work has occurred, but not less that the average daily agreed remuneration.

Article 220 of the Transitional and Concluding Provisions of the Code of Social Insurance (New - SG. 49, 2010, effective1.07.2010) For the period until December 31, 2010: 1.the insurer shall pay to the insured person for the first, second and third day of the temporary inability to work 70 per cent of the average gross wage for the month in which temporary inability to work occurred, but not less than 70 percent of the average daily agreed remuneration;…

Article 40a. (1) (new – SG 99/09, effective 01.01.2010) The documents required for payment of indemnification for temporary disability or vocational rehabilitation shall be presented to the respective territorial directorate of the National Social Security Institute within the following terms:

1.by the employer, the insurers and their branches – for each calendar month however not later than two working days from the date on which the remunerations due or a part thereof

have been paid up, and in those cases where the remunerations have been assigned but have not been paid up or have not been assigned – not later than two working days from the last day of the month, following the month during which the labour activity has been carried out;
2. by the self-insured persons – not later than 11 days from the deposition of the advance insurance installments due for the respective moth.

Remuneration according to which is determined the indemnification
Article 41. (1) (suppl., SG 64/00; amend. – SG 105/06, effective 01.01.2007)) The daily pecuniary indemnification for temporary inability to work due to general disease shall be calculated in extent of 80 percent and for temporary inability to work due to labour accident of professional disease - in extent of 90 percent of the average daily gross remuneration or the average daily insurance income for which have been paid or due insurance payments, and for the self0insured persons – deposited insurance installments for the respective risk for the period of six calendar months preceding the occurrence of the inability to work. The daily pecuniary indemnification for temporary incapacity due to a general disease cannot exceed the average daily net remuneration for the period from which the indemnification is calculated.
(2) (amend. SG 1/02) For the days included in the period of paragraph 1 shall be taken into account the average daily minimum working salary for the country for the corresponding period if the person:

1. (amend. – SG 109/08, effective 01.01.2009) has not been insured for fund general disease and motherhood;
2. (revoked – SG 109/08, effective 01.01.2009)
3. has used unpaid leave which is recognised as working practice;
4. has used leave for bringing up a small child.
5. (new – SG 105/06, effective 01.01.2007) has been insured in compliance with the legislation of another country under the conditions of an international treaty, in which the Republic of Bulgaria is a party.
(3) (amend. – SG 105/06, effective 01.01.2007) For the days included in the period of paragraph 1 during which the person has received pecuniary indemnification from the public insurance for temporary inability to work or for pregnancy and child birth, the extent of the income, from which the pecuniary remuneration has been determined shall be taken into account.
(4) (new, SG 67/03) The sum on which the indemnifications shall be calculated may not be larger than the maximal monthly size of the insured income, determined by the law of the budget of the state public insurance for the period for which the indemnification is determined.
(5) (prev. paragraph 4 - SG 67/03) The way of calculating the indemnification shall be determined with an act of the Council of Ministers.

Indemnification for taking care of an ill member of the family
Article 45 (1) Pecuniary indemnification under the conditions and within the extent of the pecuniary indemnification for temporary inability to work due to a general disease shall be paid also for:

1. taking care of or necessary accompanying for medical examination in the country or abroad for an ill member of the family over 18 years of age - to each insured up to 10 calendar days during one calendar year.
2. taking care of or necessary accompanying for medical examination, investigation or treatment in the country or abroad for an ill child up to 18 years of age - up to 60 calendar days during one calendar year as a total for all insured members of the family; within this time shall not be included the time for taking care of a child under items 3 - 5;
3. taking care for a child under quarantine up to 18 years of age, ill with infectious disease - till the expiry of the term of the quarantine;
4. taking care of an ill child up to 3 years of age, accommodated in an establishment for hospital aid together with the insured person - for the time during which the insured has been at the establishment;
5. taking care of a healthy child returned from a children's establishment due to quarantine - till the duration of the quarantine.
(2) For one and the same insurance case for one and the same time pecuniary indemnification can be paid to only one member of the family.
(3) For taking care of a chronically ill member of the family pecuniary indemnification shall be paid at aggravation of the disease.
(4) (Amended – SG, No. 19/2010) As members of the family shall be considered the spouses and their next of kin in the ascending and the descending line.
(5) (New, SG 52/04, effective 1st of August 2004) The cash indemnification under paragraph 1, item 2, 3, 4 and 5 shall also be paid for raising a child accommodated with friends, relatives or accepting family by the order of article 26 of the Child Protection Act.

Right to indemnification for pregnancy and childbirth
Article 48a. (new, SG 112/03, amend. SG 69/04; amend. – SG 109/08, effective 01.01.2009) The persons insured for general disease and motherhood shall be entitled to pecuniary indemnification for pregnancy and childbirth instead of salary if they have 12 months of assurance coverage of this risk.

Terms for providing documents required for payment of indemnification for pregnancy and childbirth
Article 48b. (new – SG 99/09, effective 01.01.2010) The documents required for payment of indemnification for pregnancy and childbirth shall be provided at the respective territorial directorate of the National Social Security Institute within the terms fixed in Article 40a.

Indemnification at pregnancy and childbirth
Article 49. (1) (suppl. - SG 104/05, effective 01.01.2006; amend. – SG 105/06,effective 01.01.2007; amend. – SG 109/08, effective 01.01.2009) The daily pecuniary indemnification in case of pregnancy and child-birth shall be calculated as 90 percent of the amount of the average daily gross remuneration or the average daily insurance income, on which insurance installments are deposited or due, and as regards to self-insured persons – on the ground of the deposited insurance installments for general disease and motherhood for the period of 12 calendar months, preceding the month during which the temporary inability to work has occurred as a result of pregnancy and childbirth. The daily pecuniary indemnification cannot be more than the average daily net remuneration for the period for which the indemnification is calculated and not less than the minimum daily salary established for the country, and shall be calculated pursuant to Article 41, paragraphs 1 through 5.

(2) (new - SG 68/06) At acquiring right to pecuniary indemnification in the event of pregnancy and childbirth during the period of payment of pecuniary indemnification for pregnancy and childbirth or for bringing up a child, the indemnification shall be in the amount, specified under paragraph 1 regarding the previous child, in case this is more favourable to the person.
(3) (amend. - SG 104/05, effective 01.01.2006; prev. text of paragraph 2 - SG 68/06, effective 01.01.2007; amend. – SG 105/06) When the person is insured on more than one grounds, the total amount of the daily pecuniary indemnification shall not be possible to be less than the minimum daily salary established for the country

Terms for payment of the pecuniary indemnification at pregnancy and childbirth
Article 50.
(1) (suppl. SG 1/02; amend - SG 68/06, effective 01.01.2007; amend. – SG 105/06, effective 01.01.2007 ; amend. – SG 109/08, effective 01.01.2009) The mother insured for general disease and motherhood shall have right to pecuniary indemnification at pregnancy and childbirth for a term of 410 days, 45 of which before the childbirth.
(2) When the childbirth takes place before the elapse of the 45 days after the beginning of the use of the indemnification the remainder up to 45 days shall be used after the childbirth.
(3) When the child is born dead, dies or is given to a children's establishment for full state maintenance or adoption the mother shall have right to pecuniary indemnification till the elapse of 42 days after the birth. If the working ability of the mother is not recovered due to the birth after the 42 day the term of the indemnification shall be extended according to the assessment of the health authorities till the restoration of her ability to work. Till the elapse of the term of paragraph 1 this indemnification shall be paid as indemnification for pregnancy and childbirth.
(4) When the child is given for adoption, is accommodated in a children's establishment at full state maintenance or dies after the 42 day after the birth the indemnification of paragraph 1 shall be terminated on the next day. In these cases, if the working ability of the mother has not been recovered due to the birth, shall be applied paragraph 3, sentences two and three.
(5) (amend. – SG 109/08, effective 01.01.2009) The woman or the man insured for general disease and motherhood who adopt a child shall have right to indemnification under paragraph 1 in extent of the difference between the age of the child on the day of giving for adoption till the elapse of the term of the due indemnification for birth.
(6) (new – SG 105/06, effective 01.01.2007; amend. – SG 109/08, effective 01.01.2009) A father, who is insured for general disease and motherhood, shall be entitled to pecuniary indemnification upon childbirth in amount calculated according to Article 49 for a period of 15 calendar days during the leave as per Article 163, paragraph 7 of the Labour Code, in case he meets the requirements of Article 48a.
(7) (new – SG 109/08, effective 01.01.2009) A father/adoptive parent, who is insured for general disease and motherhood, shall be entitled to pecuniary indemnification upon childbirth in amount specified according to Article 49, after the child becomes 6 months old for the days remaining to the total of 410 calendar days during their leave under Article 163, paragraph 3 of the Labour Code, provided that the said person meets the requirements of Article 48a.

Indemnification at death or disease of the mother
Article 51. (amend., SG 64/00; amend. – SG 105/06, effective 01.01.2007; amend. – SG 109/08, effective 01.01.2009) At death or grave disease of the mother (the adopter) that

hampers her to bring up the child, the person using leave under article 167 of the Labour Code shall be paid the indemnification of article 49 or Article 53. The indemnification shall be paid also to self-insured persons, who are insured for general disease and motherhood.

Right to indemnification for bringing up a small child
Article 52a. (new, SG 112/03, amend. SG 69/04; amend. – SG 109/08, effective 01.01.2009) The persons insured for general disease and motherhood shall be entitled to pecuniary indemnification for raising a young child if they have 12 months of insurance coverage as insured for this risk.

Terms for providing documents required for payment of indemnification for bringing up a small child
Article 52b. (new – SG 99/09, effective 01.01.2010) The documents required for payment of indemnification for bringing up a small child shall be presented at the respective territorial directorate of the National Security Institute within the terms fixed in Article 40a.

Indemnification for bringing up a small child
Article 53.
(1) (amend. SG 1/02) After the elapse of the term of the indemnification for pregnancy and childbirth during the additional paid leave for bringing up a small child to the mother (the adopter) shall be paid monthly pecuniary indemnification in extent determined with the Law for the budget of the state public insurance.
(2) (amend. SG 1/02) When the additional paid leave for bringing up a small child is used instead by the mother (the adopter mother) by the father (the adopter father) or by the person who have undertaken the bringing up of the child, shall be paid monthly pecuniary indemnification in extent determined with the Law for the budget of the state public insurance. This indemnification shall be paid to the guardian when he uses leave under article 167, paragraph 2 of the Labour Code.
(3) (new – SG 69/04) The indemnification of paragraph 1 shall be paid also to the persons, who use leave for bringing up a child up to two years of age, accommodated by the order of article 26, paragraph 1 of the Law of protection of child.
(4) (prev. (3), amend. SG 69/04; amend - SG 68/06, effective 01.01.2007; amend. – SG 89/08, No.49/2010, effective 01.07.2010) The pecuniary indemnification of paragraph 1, 2 and 3 shall not be paid at death of the child, giving it for adoption or at accommodation of the child at a children's establishment, as well as at its bringing up by a person involved in the programme "In support of motherhood".
(5) (new – SG 105/06, effective 01.01.2007; amend. – SG 109/08, effective 01.01.2009) Self-insured persons, who are insured for general disease and motherhood, shall have right to pecuniary indemnification for bringing up a young child within the terms of par. 1 – 4.

Indemnification at not use of the additional paid leave for bringing up of a small child
Article 54.
(1) (amend. SG 1/02; suppl., SG 112/03; amend. – SG 105/06, effective 01.01.2007; amend. – SG 109/08, effective 01.01.2009) The mother (adoptive mother), who is insured for general disease and motherhood has been entitled to indemnification under Article 52a, shall get a pecuniary indemnification in the amount of 50 per cent of the indemnification under Article 53, provided that:
1. she does not use the additional paid leave for bringing up of a young child or the person who uses such leave terminates its use;

2. (amend. – SG 109/08, effective 01.01.2009) the self-insured person having the right to indemnification under Article 53 starts practicing labour activity, for which he/she is getting insured for general disease and motherhood.
(2) (amend. SG 1/02; amend. – SG 105/06, effective 01.01.2007; amend. – SG 109/08, effective 01.01.2009) If the mother (the adopter) has deceased, has been deprived from parent rights or the exercising of the parent rights has been conceded to the father (the adopter father) this indemnification shall be paid to the father (the adopter father) and if he has deceased - to the guardian. The indemnification shall be paid if the person undertaken the bringing up of the child is insured as working with an employment or official contract or is insured for his own account for general disease and motherhood.
(3) (suppl. – SG 68/06, effective 01.01.2007; amend. – SG 89/08, SG No. 49/2010, effective 1.07.2010) The indemnification of paragraph 1 and 2 shall not be paid if the child has been accommodated in a children's establishment with full state maintenance as well as in case of its bringing up by person involved in the programme "In support of motherhood".

Opinion of the Committee

The information provided complements the information given in 2005.

The Labour Code provisons on parental leave, despite granting the rights mainly to the mother, and subsidiarily to the father, would comply with the Revised Charter (it is recalled that Bulgaria has only accepted Article 27§§2 and 3).

As regards 27§1 of the Revised Charter, which covers inter alia, issues such as placement, counselling, or training programmes for workers with family responsibilities, or the availability of different working arrangements for such workers, despite the absence of any information in the report on these matters, the Committee considers that Bulgaria can also accept this paragraph of Article 27 of the Charter.

Article 30 Right to be protected against poverty and social exclusion

Situation in Bulgaria

1. By Council of Ministers Decree of 2006 for a first Republic of Bulgaria formally adopted a methodology, which determines and updates annually the poverty line in the country. The poverty line is a monetary indicator for determining the poorest in the society. For 2007 the poverty line is fixed at BGN 152 and for 2010 - BGN 211. For the period 2007 - 2010 the growth rate of the poverty line is 38.81% as in 2010 compared to 2009 the change was 8.76%. Thus, the resources needed to protect individuals from poverty were more purposefully allocated.

A main source of income of the Bulgarian households is the wage income. As a result of the successful income policy for 2005-2009, the total household income grew by 41.3 per cent.

Opinion of the Committee

The report provides very little information under Article 30. It only indicates the poverty line. In order to comply with Article 30 of the Revised Charter, a state must adopt a comprehensive and coordinated fight against poverty and set of priorities and corresponding measures to prevent and remove barriers that hinder access to basic social rights.

On the basis of the information available, the Committee considers that Bulgaria is not at present in a position to comply with Article 30 of the Charter.

Article 31 Right to housing

Article 31§1 Adequate housing

Article 31§2 Reduction of homelessness

Article 31§3 Affordable housing

Situation in Bulgaria

The right to housing and solving housing problems of vulnerable social groups in Bulgaria:

I. The Constitution of the Republic of Bulgaria has no provision to cover the right to housing. Article 33 of the Constitution explicitly states that the home shall be inviolable. No one shall enter or stay inside a home without its occupant's consent, except in the cases expressly stipulated by law.

The existing legislation in Bulgaria gives equal rights to all citizens in terms of opportunity and access to rental accommodation in social housing or to construct and respectively to purchase their own home, as well as the possibility of acquiring a mortgage loan from commercial banks to purchase or construct a home.

The State Property Act and the Municipal Property Act set the preconditions for accommodation in public housing facilities or municipal social housing.
The right to accommodation in public housing facilities has individuals who are in employment or service relationship with the relevant department if they and their families meet certain conditions.

The criteria to determine and prioritize housing needs of individuals and families who may be accommodated in these homes are defined by rules approved by the head of the relevant department.
The terms and conditions for the establishment of housing needs and rent housing in the municipality are determined by ordinance of the municipal council of the relevant municipality.

II. The solving the housing problems of vulnerable social groups in Bulgaria is stipulated with the objectives and guidelines set by the National Housing Strategy of the Republic of Bulgaria adopted by Decision of the government in May 2004.

The housing strategy set the following strategic objectives of national housing policy:
1. Stopping processes of deterioration of the existing housing stock.
2. Creating a working mechanism for providing new affordable housing/ for purchase and rental.
The strategic objectives are realized in the following operational directions:
The first operational direction includes:
• strengthening the institutional capacity to conduct housing policy at national, regional and municipal level;
• regulation of commitments of the state and municipals to housing (financial and organizational);

• Improving the credit and the tax system in the housing sector.
The second operational direction is aimed at solving the priority problems in the housing sector. For this purpose we perform a set of specialized programs:
• Program for Housing Renovation - In this connection, in January 2005, the Council of Ministers adopted a National Programme, in which were defined the functions of different stakeholders and the degree of state support;
• Programme to Improve the Management and Maintenance of the Existing Housing Stock and, Above All Buildings in Condominium Ownership - In this context, in January 2009 the National Assembly adopted the Condominium Ownership Management Act, effective May 1, 2009

In the Housing Strategy is also envisaged the development of a separate Programme to Provide Access to Housing for Families with Low Incomes.

In implementing this Programme it has been prepared a draft law on housing associations and it has been explored the possibilities for the introduction in Bulgaria of new credit and housing savings mechanisms that lead to improving access to housing for vulnerable social groups.

The draft law on housing associations regulates the establishment of housing associations as an alternative to the municipalities that manage and maintain housing intended for rental to needy individuals or families with identified housing needs, as well as dormitories, boarding houses or other means of shelter designed to house the homeless, disabled or other disadvantaged persons. It is envisaged that housing associations to be supported by the state.

Given the specificity and the particular severity of the problem, the Housing Strategy provides the development of separatetargeted program to improve housing conditions of Roma, which was adopted by the Council of Ministers at the beginning of 2006.

The National Programme for Improving Housing Conditions of Roma in Bulgaria is consistent with the aims and tasks of the Action Plan for the Decade of Roma Inclusion.
It contains the main components and measures as follows:
1. Regulation of the territories - updated and new detailed cadastral plans;
2.Enhancing engineering infrastructure in the quarters - water supply, sewerage, electricity, road networks;
3. Improving the existing housing by encouraging the adoption of improvements to its own forces;
4.Buidling of new homes on standard projects consistent with the number of household members and financial opportunities;
5. Development of the social infrastructure for health, education, culture, entertainment and administration;
6. Mobilizing the organizations based in the community through training, consultancy, exchange of experience and administrative support;
7. Building partnerships involving community organizations, other NGOs, officials from municipal and state authorities, representatives of the business
The Programme runs for a period of 10 years - from 2005 until the end of the Decade of Roma Inclusion in 2014

III. Updating the National Housing Strategy of Republic of Bulgaria and the National Programme for Housing Renovation in Bulgaria.

The National Housing Strategy of the Republic of Bulgaria was adopted in May 2004 and the National Programme for Housing Renovation in Bulgaria - in January 2005. The analysis of the results of the current implementation of the two strategic document show that it is necessary and urgent to review the regulatory framework governing the relations in housing policy and to assess the need to review some of the objectives, targets and measures to solve problems, including the mechanisms for financing of renovation activities on residential buildings, to define the responsibilities of central and local authorities and to coordinate the management of various financial instruments that are designed for the purposes of the Strategy and the Programme.

In this connection it has been issued an Order by the Minister of Regional Development and Public Works on 16.02.2010 to form a working group to draw up the terms of reference to update the documents.

Opinion of the Committee

On the basis of the information provided in the report, the Committee considers that Bulgaria can accept Article 31§3.

As to Article 31§1, the report does not contain sufficient information for the Committee to assess the situation. In particular, the Committee needs to know whether:

1. the right to housing is subject to any kind of discrimination on any of the grounds mentioned by Article E of the Revised Charter as equal treatment should guaranteed to non-nationals who are lawfully resident or regularly working in Bulgaria with respect to access to adequate housing.
2. the notion of adequate housing (which should apply to housing available for rent as well as to owner occupied housing) is defined in law and whether it applies not only to new constructions, but also gradually to the existing housing stock.
3. public authorities have responsibility to ensure that housing is of an adequate nature.
4. the legal protection of the right to housing is guaranteed by effective procedural safeguards.

It is recalled that under Article 31§1, “adequate housing” means a dwelling which is safe from a sanitary and health point of view, i.e. it must possess all basic amenities, such as water, heating, waste disposal, sanitation facilities and electricity and must also be structurally secure, not overcrowded and with secure tenure supported by the law (see Conclusions 2003, Article 31§1 France, FEANTSA v. France, Complaint No. 39/2006, decision on the merits of 5 December 2007, § 76 and Defence for Children International, DCI v. the Netherlands, Complaint No. 47/2008, decision on the merits of 20 October 2009, § 43).

As to Article 31§2, the report does not contain sufficient information for the Committee to assess the situation. In particular, the Committee needs to know:

5. whether shelters/emergency accommodation satisfy security requirements (including in the immediate surroundings) and health and hygiene standards (in particular whether they are equipped with basic amenities such as access to water and heating and sufficient lighting);
6. whether the law prohibits eviction from shelters or emergency accommodation.
7. what measures are taken to reduce homelessness with a view to eliminating it.
8. whether procedures exist to limit the risk of evictions and to ensure that when these do take place, they are carried out under conditions which respect the dignity of the persons concerned.

It is recalled that since the right to shelter is closely connected to the right to life and is crucial for the respect of every person's human dignity, under Article 31§2 of the Revised Charter, States Parties are required to provide adequate shelter also to children unlawfully present in their territory for as long as they are in their jurisdiction (DCI v. the Netherlands, Complaint No. 47/2008, decision on the merits of 20 October 2009, §§ 47 and 64).

APPENDIX 1

BULGARIA AND THE EUROPEAN SOCIAL CHARTER

Situation of Bulgaria on 31 December 2011

Ratifications

Bulgaria ratified the Revised European Social Charter on 07/06/2000, accepting 62 of its 98 paragraphs.

Bulgaria agreed to be bound by the Additional Protocol providing for a system of Collective Complaints when it accepted Article D of the Revised Charter at the time of the ratification. It has not yet made a declaration enabling national NGOs to submit collective complaints.

Table of Accepted Provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22
23	24	25	26.1	26.2	27.1	27.2	27.3	28	29	30	31.1
31.2	31.3							Grey = Accepted provisions			

The Charter in domestic law

Automatic standing incorporation based on the Constitution, Article 5(4) "Any international instruments which have been ratified by the constitutionally established procedure, promulgated, and come into force with respect to the Republic of Bulgaria, shall be considered part of the domestic legislation of the country. They shall supersede any domestic legislation stipulating otherwise."

Reports *

Between 2002 and 2011, Bulgaria submitted 9 reports on the application of the Revised Charter.

The 9th report of Bulgaria concerning the accepted provisions related to Thematic Group 4 "Children, families, migrants" (Article 7, 8, 16, 17§2, 27§2 and 27§3 of the Revised Charter) was submitted on 13 September 2011. Conclusions in respect of these provisions were published in January 2012.

The 10th report of Bulgaria, which should have been submitted by 31/10/2011, concerns the accepted provisions of the Revised Charter relating to Thematic Group 1 "Employment, training and equal opportunities" i.e.

- the right to work (Article1),
- the right to engage in a gainful occupation in the territory of other States Parties (Article 18§4),
- the right of men and women to equal opportunities (Article 20),
- the right to protection in cases of termination of employment (Article 24),
- the right to workers to the protection of claims in the event of insolvency of the employer (Article 25).

Conclusions in respect of these provisions will be published in December 2012.

* Following a decision taken by the Committee of Ministers in 2006, the provisions of both the 1961 Charter and the Revised Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

The situation of Bulgaria with respect to application of the Revised Charter

Examples of progress achieved in the implementation of social rights under the Social Charter[42]

Thematic Group 1 "Employment, training and equal opportunities"

► Protection against discrimination in the exercise of labour rights, right to education and training and trade union rights (Act of 30 September 2003, SG No. 86/2003 Amend. SG 105/2005).

► Alleviation of the burden of proof in case of alleged discrimination based on sex (Section 127 of the Code of Civil Procedure, transposing EC Directive 97/80/EC of 15 December 1997)

► Right of persons with disabilities to equal treatment, education, employment and social integration (Act of 17 September 2004 on the Integration of Persons with disabilities, SG No. 81/2004*)*.

► Setting up of a special fund at the National Social Security Institute to guarantee employee's wage claims in the event of insolvency of the employer (Protection of Workers' Claims in Case of Employer's Insolvency Act of 4 May 2004, SG No. 37/2004, Amend. SG No. 104 and 105/2005).

Thematic Group 2 "Health, social security and social protection"

► Right of persons without adequate resources to free legal aid *inter alia* in administrative cases processing (Legal Aid Act of 4 October 2005, SG No. 79/2005)

► Criminalisation of domestic violence and possibility to adopt restraining orders against their perpetrators (Act of 29 March 2005 on protection against domestic violence, SG n° 27/2005)

Thematic Group 3 "Labour rights"

► Entitlement to pregnancy and childbirth leave of 135 days for each child, out of which 45 days are used obligatory before giving birth. (Labour Code amended, by SG No. 52/2004).

► Restriction of the circumstances for dismiss female employees who are on leave for pregnancy and childbirth to the sole case of closing down of the enterprise. (Labour Code amended by SG No. 52/2004).

[42] « 1. The Committee rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure » (Article 2 of the Rules of the Committee).

Cases of non-conformity

Thematic Group 1 "Employment, training and equal opportunities"

► *Article 1§4 – Right to work - Vocational guidance, training and rehabilitation*
Nationals of other States Parties lawfully resident or working regularly in Bulgaria are subject to a length of residence requirement for entitlement to vocational guidance, training or rehabilitation.
(Conclusions 2006)

► *Article 24 – Right to protection in case of dismissal*
The compensation for unlawful termination of employment is subject to a maximum of six months' wages.
(Conclusions 2007)

Thematic Group 2 "Health, social security and social protection"

► *Article 3§3 – Right to safe and healthy working conditions - Enforcement of safety and health regulations*
The level of fatal accidents is too high.
(Conclusions 2009)

► *Article 11§1 – Right to protection of health - Removal of the causes of ill-health*
1. The authorities have failed to take appropriate measures to address the health problems faced by Roma communities stemming from their often unhealthy living conditions and difficult access to health services.
2. The medical services available for poor or socially vulnerable persons who have lost entitlement to social assistance are not sufficient.
(Conclusions 2009)

► *Article 11§3 – Right to protection of health - Prevention of diseases and accidents*
It has not been established that adequate measures have been taken in controlling asbestos use and reducing domestic accidents.
(Conclusions 2009)

► *Article 12§1 – Right to social security - Existence of a social security system*
The minimum levels of the unemployment benefit, of the old-age benefit, of the survivors' benefit are manifestly inadequate and the minimum levels of employment injury benefit and invalidity benefit are inadequate.
(Conclusions 2009)

► *Article 13§1 – Right to social and medical assistance - Adequate assistance for every person in need*
The level of social assistance paid to a person under 65 living alone is manifestly inadequate.
1. It has not been established that persons in need, whose social assistance is interrupted after 12 months, can obtain adequate resources to meet the necessary costs of living in a manner consistent with human dignity.
2. Persons who lose entitlement to social assistance are not provided with medical assistance which they might require.
3. The level of social assistance is manifestly inadequate.
4. It has not been established that elderly persons without resources receive adequate social assistance.
5. The granting of social assistance to foreigners is conditional on a continuous presence in Bulgarian territory that is excessively long.
(Conclusions 2009)

Thematic Group 3 "Labour rights"

► *Article 2§5 – Right to just conditions of work - Weekly rest period*
It has not been established that the right to weekly rest period is guaranteed.

(Conclusions 2010)

► *Article 4§2 – Right to a fair remuneration - Increased remuneration for overtime work*
The Labour Code does not guarantee workers under an "open-ended working hours scheme" the right to an increased remuneration or a sufficiently long rest period in compensation for overtime work.
(Conclusions 2010)

► *Article 4§4 – Right to a fair remuneration - Reasonable notice of termination of employment*
Fifteen days' notice is not a reasonable period of notice for employees with six or more months' service under contract for work in addition to their principal occupation.
(Conclusions 2010)

► *Article 5 – Right to organise*
Legislation does not provide for adequate compensation proportionate to the harm suffered by the victims of discriminatory dismissal based on involvement in trade union activities.
Foreign workers' right to form or participate in the formation of trade unions is subject to prior authorisation.
(Conclusions 2010)

► *Article 6§1 – Right to bargain collectively – Joint consultation*
It has not been established that joint consultation takes place in practice.
It has not been established that joint consultative bodies exist in the public service.
(Conclusions 2010)

► *Article 6§2 – Right to bargain collectively – Negotiation procedures*
It has not been established that sufficient measures to promote collective negotiations are taken.
(Conclusions 2010)

► *Article 6§3 – Right to bargain collectively - Conciliation and arbitration*
There is no conciliation or arbitration procedure in the public service.
(Conclusions 2010)

► *Article 6§4 – Right to bargain collectively – Collective action*
Civilian personnel of the Ministry of Defense and any establishments responsible to the Ministry are denied the right to strike.
The restriction on the right to strike in the railway sector pursuant to Section 51 of the Railway Transport Act goes beyond that permitted by Article G.
Civil servants are only permitted to engage in symbolic action and are prohibited from strike (Section 47 of the Civil Service Act).
(Conclusions 2010)

► *Article 22 – Right of workers to take part in the determination and improvement of working conditions and working environment*
It is not established whether workers' representatives participate in the organisation of social and socio-cultural services set up within an undertaking.
(Conclusions 2010)

► *Article 28 – Right of workers' representatives to protection in the undertaking and facilities to be accorded to them*
Legislation does not provide for adequate protection in the event of an unlawful dismissal based on the employee's status as a trade union representative or activities linked to this status.
(Conclusions 2010)

Thematic Group 4 "Children, families, migrants"

► *Article 7§5 – Right of children and young persons to protection - Fair pay*
The right of young workers and apprentices to a fair wage and other appropriate allowances is not guaranteed due to non effective enforcement of the legislation.
(Conclusions 2011)

► *Article 7§9 – Right of children and young persons to protection - Regular medical examination*
The right of young workers to regular medical examination is not guaranteed due to non effective enforcement of the legislation.
(Conclusions 2011)

► *Article 7§10 – Right of children and young persons to protection - Special protection against physical and moral dangers*
It has not been established that all children under 18 are effectively protected from all forms of child pornography and child prostitution.
(Conclusions 2011)

► *Article 8§2 – Right of employed women to protection - Prohibition of dismissal during maternity leave*.
Dismissal of pregnant employees (who are not on maternity leave) is not prohibited.
(Conclusions 2011)

► *Article 8§5 – Right of employed women to protection - Prohibition of dangerous, unhealthy or arduous work*.
Women having recently given birth, who are not breastfeeding, do not benefit from the possibility of adjustments of their working conditions or temporary reassignment to an adequate post.
(Conclusions 2011)

► *Article 16 – Right of the family to social, legal and economic protection*
1. It cannot be assessed whether Roma families receive adequate protection with regard to housing.
2. It cannot be assessed whether Roma families are guaranteed equal access to family benefits.
(Conclusions 2011)

► *Article 17§2 – Right of children and young persons to social, legal and economic protection - Free primary and secondary education – regular attendance at school*
1. It has not been established that measures taken to increase enrolment rates in secondary education are sufficient.
2. Children with disabilities are not guaranteed an effective right to education.
(Conclusions 2011)

► *Article 27§3 – Right of workers with family responsibilities to equal opportunity and treatment – Illegality of dismissal on the ground of family responsibilities*
Legislation does not sufficiently protect workers with family responsibilities against dismissal.
(Conclusions 2011)

The European Committee of Social Rights has been unable to assess compliance with the following rights and has invited the Bulgarian Government to provide more information in the next report in respect of the following provisions:

Thematic Group 1 "Employment, training and equal opportunities"
(Report to be submitted before 31 October 2011)

► *Article 1§2 – Conclusions 2008*
► *Article 20 – Conclusions 2008*
► *Article 25 – Conclusions 2008*

Thematic Group 2 "Health, social security and social protection"
(Report to be submitted before 31 October 2012)

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Thematic Group 3 "Labour rights"
(Report to be submitted before 31 October 2013)

► *Article 2§3 – Conclusions 2010*
► *Article 26§§ 1 and 2 – Conclusions 2010*

Thematic Group 4 "Children, families, migrants"
(Report to be submitted before 31 October 2014)

► *Article 7§§3, 4, 6, 7 and 8 – Conclusions 2011*
► *Article 8§§1 and 3 – Conclusions 2011*

Collective complaints and state of procedure in Bulgaria[43]

Collective complaints (under examination)

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Collective complaints (proceedings completed)

1. Complaints inadmissible or where the Committee has found no violation

International Helsinki Federation for Human Rights (IHF) v. Bulgaria (No. 44/2007)
On 5 March 2008, as a result of the insolvency proceedings of the complainant organisation which lacks the capacity to take part in further proceedings in respect of this complaint, the European Committee of Social Rights decided to strike out the case from the list of complaints.

2. Complaints where the Committee has found a violation which has been remedied

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3. Complaints where the Committee has found a violation which has not yet been remedied

European Roma Rights Centre v. Bulgaria (No. 48/2008)
Violation of 13§1 (right to social and medical assistance) alone or in conjunction with Article E (non discrimination) of the Revised European Social Charter, decision on the merits of 31 March 2009.

European Roma Rights Centre v. Bulgaria (No. 46/2007)
Violation of Article 11 (right to health) and Article 13 (right to social and medical assistance) alone or in conjunction with Article E (non-discrimination) of the Revised European Social Charter, decision of the merits of 3 December 2008.

[43] The case-law of the Committee relative to collective complaints may be consulted on the European Social Charter website on the Collective Complaints webpage. Searches on complaints may also be carried out in the European Committee of Social Rights Case-law database (www.coe.int/socialcharter).

Mental Disability Advocacy Centre (MDAC) v. Bulgaria (No. 41/2007)
Violation of Article 17§2 (right of children and young persons to social, legal and economic protection) taken alone and in conjunction with Article E (non-discrimination), decision on the merits of 3 June 2008.

Confederation of Independent Trade Unions in Bulgaria (CITUB) / Confederation of Labour "Podkrepa"/ European Trade Union Confederation (ETUC) v. Bulgaria (No. 32/2005)
Violation of Article 6§4 (right to collective action), decision on the merits of 16 October 2006.

European Roma Rights Center (ERRC) v. Bulgaria (No. 31/2005)
Violation of Article 16 of the Revised Charter taken together with Article E (right of family to social, legal and economic protection), decision on the merits of 18 October 2006.

APPENDIX 2

Declaration of the Committee of Ministers
on the 50th anniversary of the European Social Charter

(Adopted by the Committee of Ministers on 12 October 2011
at the 1123rd meeting of the Ministers' Deputies)

The Committee of Ministers of the Council of Europe,

Considering the European Social Charter, opened for signature in Turin on 18 October 1961 and revised in Strasbourg on 3 May 1996 ("the Charter");

Reaffirming that all human rights are universal, indivisible and interdependent and interrelated;

Stressing its attachment to human dignity and the protection of all human rights;

Emphasising that human rights must be enjoyed without discrimination;

Reiterating its determination to build cohesive societies by ensuring fair access to social rights, fighting exclusion and protecting vulnerable groups;

Underlining the particular relevance of social rights and their guarantee in times of economic difficulties, in particular for individuals belonging to vulnerable groups;

On the occasion of the 50th anniversary of the Charter,

1. Solemnly reaffirms the paramount role of the Charter in guaranteeing and promoting social rights on our continent;

2. Welcomes the great number of ratifications since the Second Summit of Heads of States and Governments where it was decided to promote and make full use of the Charter, and calls on all those member states that have not yet ratified the Revised European Social Charter to consider doing so;

3. Recognises the contribution of the collective complaints mechanism in furthering the implementation of social rights, and calls on those members states not having done so to consider accepting the system of collective complaints;

4. Expresses its resolve to secure the effectiveness of the Social Charter through an appropriate and efficient reporting system and, where applicable, the collective complaints procedure;

5. Welcomes the numerous examples of measures taken by States Parties to implement and respect the Charter, and calls on governments to take account, in an appropriate manner, of all the various observations made in the conclusions of the European Committee of Social Rights and in the reports of the Governmental Committee;

6. Affirms its determination to support States Parties in bringing their domestic situation into conformity with the Charter and to ensure the expertise and independence of the European Committee of Social Rights;

7. Invites member states and the relevant bodies of the Council of Europe to increase their effort to raise awareness of the Charter at national level amongst legal practitioners, academics and social partners as well as to inform the public at large of their rights.