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the Revised European Social Charter

submitted by

THE GOVERNMENT OF BULGARIA

(for the period 1 January 2003 to 31 December 2004:
Articles 1, 5, 6, 7, 12, 13, 16 and 20)

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CYCLE 2006



REPUBLIC OF BULGARIA
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NATIONAL REPORT

For the period from 1st January 2003 to 31st December 2004 made by the Government of Republic of Bulgaria in accordance with Article C of the Revised European Social Charter, on the measures taken to give effect to the accepted provisions of the Revised European Social Charter.

TABLE OF CONTENTS

PREFACE	page 3
Article 1	page 4
Article 1, Para.1.....	page 4
Article 1, Para.2.....	page 15
Article 1, Para.3.....	page 21
Article 1, Para.4.....	page 25
Article 5	page 33
Article 6	page 44
Article 6, Para.1.....	page 44
Article 6, Para.2.....	page 48
Article 6, Para.3.....	page 52
Article 6, Para.4.....	page 54
Article 7	page 60
Article 7, Para.1.....	page 60
Article 7, Para.2.....	page 60
Article 7, Para.3.....	page 62
Article 7, Para.4.....	page 63
Article 7, Para.5.....	page 66
Article 7, Para.6.....	page 67
Article 7, Para.7.....	page 67
Article 7, Para.8.....	page 67
Article 7, Para.9.....	page 68
Article 7, Para.10.....	page 68
Article 12	page 88
Article 12, Para.1.....	page 88
Article 12, Para.3.....	page 95
Article 13	page 107
Article 13, Para.1.....	page 107
Article 13, Para.2.....	page 113
Article 13, Para.3.....	page 113
Article 16	page 116
Article 20	page 136

PREFACE

The present Report has been prepared after consultations and in cooperation with the relevant authorities.

In accordance with Article C of the Revised European Social Charter, copy of this Report has been communicated to the national representative organizations of employers' and workers' presented in National Council for Tripartite Cooperation.

The present Report contains information for the accepted hard-hard core provisions of the ESC (r) (Articles 1, 5, 6, 7, 12, 13, 16 and 20).

The Bulgarian national currency is leva (BGN) and its exchange rate is fixed to the Euro at 1.95583 BGN for 1 Euro (0.511292 Euro for 1 BGN).

ARTICLE 1 THE RIGHT TO WORK

Article 1, Paragraph 1

Question A

Please indicate the policy followed by your government in attempting to reach and maintain full employment. Please supplement with details of the measures and programmes implemented to achieve as high and stable a level of employment as possible.

The 2005 National Employment Action Plan (NEAP) is the fifth such plan with which the Republic of Bulgaria sets goals and achieves results in the field of increasing employment and reducing unemployment. The 2005 plan draws on the directions of the 2003 European Employment Strategy and the most recent recommendations from the European Commission reports related to employment directed towards reaching the Lisbon Goals, while in the same time it is consistent with the ILO Global Employment Programme. The Plan continues the implementation of the 2003 Employment Strategy for the period 2004-2010 and the recommendations and evaluations of the Joint Assessment Paper on Employment Policy Priorities in Bulgaria.

The Plan is employment policy's main instrument as it sets:

- principal targets, priorities and actions in employment policy;
- target groups for active employment policy;
- main challenges in the labour market, based on the analysis of the 2004 results;
- projects, programmes and measures to be implemented, as well as types and sizes of incentive for both employers and those taking part in subsidized employment.

The Plan comprises employment projects, programmes, measures and actions implemented by state institutions, as well as joint projects together with the social partners, international organizations and NGO's. Active employment policy financing comes mainly from the State Budget, but funding from the PHARE programme and other external sources is constantly growing.

The main goal of labour market policy in 2005 is increasing employment and continuing the trend of reducing unemployment through actions aimed at improving social-economic environment and implementation of active labour market programmes and measures. Those are aimed at achieving social-economic integration of unemployed persons in disadvantaged position by improving their employability and providing subsidized employment and better labour market services.

The positive labour market trends for 2004 have to be further developed by applying specific measures in the field of:

- improving the system of incentives efficiency for the 2005 National Employment Action Plan by using the results and conclusions of the implementation of the 2004 Plan;
- inclusion of more private employers in national programmes and preferential subsidies for employment in the private sector;
- introduction of new activities (in agriculture, processing industry, etc.) in the large-scale employment and social integration programme *From Social Assistance to Employment* for implementation by private employers;
- implementation of new employment programmes, which have been developed or have had pilot implementation in 2004 – for youths who have dropped out of the

education system; for refugees; for youth crafts training; for theatre employment; for persons laid off due to mass redundancies;

- decreasing the number of discouraged persons;
- promotion of those programmes and incentives under the Employment Promotion Act (EPA), who are less popular amongst employers, as well as opportunities for starting entrepreneurs training;
- simplification and facilitation of the procedures for receiving preferences for employers, as well as the necessary documentation thereof;
- improving control over the implementation of the Employment Promotion Act and the Labour Code, as well as the implementation of contracts for programmes and measures;
- improving the system for giving access to subsidies to training organizations and employers for hiring unemployed persons under the strict observation of the State Assistance Act;
- improving quality control in training both employed and unemployed persons.

It is expected that the improved legal base will fulfil its potential and will have a better effect in 2005, when the employment, created under the EPA preferential regime in 2004 will continue (one of the requirements is to preserve the employment for a period, equal to the subsidized one, which in most cases totals at 24 months.)

In 2005 continue the efforts to achieve the Employment Strategy goals, namely:

- increasing employment and reducing unemployment;
- improving the quality of the labour force and increasing work efficiency;
- achieving social cohesion and reintegration of the most vulnerable social groups, with smallest chances of realization at the labour market;
- timely and dedicated effort will ensure by 2010 reaching the set goals of increasing the population's economic activity by at least 5 points, decreasing unemployment to a steady level of under 10% and securing participation of a minimum of 25% of long-term unemployed persons in active measures and programmes.

The 2005 National Employment Action Plan goals are:

- average unemployment to a level of 11.9%;
- decreasing the number of long-term unemployed by 15%;
- decreasing the number of unemployed young people by 20%;
- providing employment to an average number of 109 705 people per year and training to 56 203;
- increasing labour force employability;
- increasing labour force mobility and developing the adaptability of employed persons, improving the implementation of flexible modes of work, promoting enterprise training, enhancing the role of the social partners in the field of vocational training and career development;
- increasing investments in the development of human capital, in order to shape a modern work force in the conditions of a knowledge based economy;
- maintaining and increasing labour activity amongst the more elderly part of labour force; providing easier access for elderly people to all sorts of vocational training as an equal human right;
- improving the quality of women's employment and promoting women's economic activity in order for them to reach a similar level of employment to that of men;
- increasing sustainability of small and medium sized enterprises and developing the sector by subsidizing part of their labour force expenses (while

observing the requirements of the State Assistance Act and the Protection of Competition Act);

- improvement of infrastructure and development of municipalities, support for cultural activities within those, improvement of living environment, support for environmental activities, etc.

The Ministry of Labour and Social Policy budget for 2005, including the active policy part, is developed on a programme basis. There are two operational goals that are defined in the field of labour market:

- Increasing employability and labour market integration of disadvantaged groups, which has to be implemented through activities in the programme directions of *Increasing Labour Force Employability* and *Employment for Social Integration*;
- Preserving and increasing the level of employment and reducing the level of unemployment through activities in the programme directions of *Creating New Jobs and Preserving Existing Ones* and *Promotion of Entrepreneurship*.

Active employment policy in 2005 has a priority orientation towards the following target groups: long-term unemployed, young people without working experience or without education and occupation, unemployed persons with low or none education and without professional training, persons with disabilities, unemployed persons over the age of 50.

Please indicate, if possible, the trend in total employment policy expenditure over the past five years, including the relative shares of "active" (job creation, training, etc.) and "passive" (financial compensation, etc.) measures.

- Number of unemployed persons, receiving compensation for the 2001-2004 period;
- Number of registered unemployed persons entitled to financial compensation due to unemployment.

(see Appendix 1)

Unemployment benefits in BGN

	2002	2003	2004
Unemployment benefits	153241 568	110925844	101 321 918
Postal tax and VAT	1 082193	823 140	756 062
Total	154323761	1 11 748 984	102077980

Results of the active labour market policy

		2000	2001	2002	2003	2004
Financial resources	Euro	13 416 969	35 127150	39 527174	91 459750	107 647896
Loans under programmes and measures	Number of persons	72 789	85 892	127 894	142 144	165 468
Trained persons	Number of persons	9 951	16 471	22 214	46 037	47 119

- Financing of active labour market policy in 2005 (in accordance with the Employment Promotion Act)

The maximum amount of funds provided by the MLSP active policy resources for a single unemployed person shall be as follows:

Remuneration for unemployed persons included in certain programmes and measures according to the EPA – 150 BGN.

Remuneration for unemployed persons, included in certain programmes and measures – 0.89 BGN per hour.

Remuneration for unemployed persons included in:

- Career Start Programme, Teachers for Children with Disabilities Programme and Vacation Teachers Project – 250 BGN;
- Melpomena National Programme (only for theatre artists with higher education hired under the programme) – 200 BGN;
- Family Centres for Children Project – 220 BGN;
- National Programme for Harvest Preservation – 100 BGN;
- Under Article 41 and 46 of the EPA – 75 BGN (subsidized salary for part-time employment);
- Additional remuneration as provided for in the Labour Code and other legislation on the implementation of the latter, on minimum amounts for specific cases.

Payments due by the employer according to Article 6, Paragraph 1 – 3 of the Social Security Code upon paid gross remunerations, but no less than the minimum social security income for the main economic activities and occupation groups, as set by the 2005 Public Social Security Budget Act:

- For public social security funds:
 - Pensions Fund;
 - Common Diseases and Maternity Fund;
 - Accidents at work and Occupational diseases Fund;
- For additional compulsory pension insurance funds.

Payments due by the employer under Article 40, Paragraph 1, 1 of the Health Insurance Act in amount set by the 2005 Public Social Security Budget Act.

Payments due by the employer for the Unemployment Fund calculated on remuneration paid, but no less than the minimum social security income under Article 6, Paragraph 3 of the Social Security Act, as set by the 2005 Public Social Insurance Budget Act.

Vocational training – 450 BGN, maximum.

Computer Training for Young People National Programme – 550 BGN, maximum.

Motivation training – 60 BGN, maximum.

Literacy training – 360 BGN, maximum.

Promoting territorial mobility:

- one-off sum to cover actual expenses for moving the unemployed person's and his family's belongings – a maximum of 600 BGN.
- for daily travel costs to work and back – up to 50% of the actual expenses that have already been paid for;
- for transport expenses made, in order to go to the employer – up to 20% of remuneration for subsidized employment (30 BGN) per month.

Providing scholarship, covering transport and accommodation expenses for those taking part in literacy training or vocational training for the period of training; transport and accommodation costs for those taking part in motivation training:

- scholarship – 3.00 BGN per day in case the training takes place in the same town or village as the participant's permanent address; 4.00 BGN per day in case it takes place in other place;

- daily transport at expenses at the cost of the cheapest transport available from the town or village of permanent residence to the town or village where the training takes place and back, consistent with the training schedule, in case daily transportation expenses are lower than daily accommodation costs – maximum cost of 10 BGN per day;
- transport expenses for visiting (both ways) the place of permanent residence once a month in case the training goes on for more than one month – up to 30 BGN per month for one person;
- accommodation expenses – 20 BGN per one day, maximum.

Interests on credits under guaranteed by MLSP schemes for assisting disabled persons in developing economic activity and creating new jobs are 10%.

Funding for training in the shape of credits on the subject of economic activity and/or its management of approved business project under Article 47, paragraph 1 of the EPA can amount to a maximum of 900 BGN. In the event of successful completion of training, half of the credit is cancelled.

Expenses for land cultivation, seeds and planting material, for fertilizers and pesticides under an approved project for agricultural activity may cover a maximum cost of 2000 BGN per year.

Expenses made for purchasing farm animals, including bees, silkworms, fish and material for artificial fish breeding, as well as the necessary equipment, apian inventory and medications under an approved business project for agricultural activity – 2000 BGN per year. Expenses for starting independent agricultural activity – 2000 BGN per year.

There is also additional funding for hiring another unemployed family member with no right to benefits under Article 47, Paragraph 4 of the Employment Promotion Act in the amount of four times the subsidized remuneration or namely 600 BGN.

The assistance for employing external consultancy services under Article 47, Paragraph 1 of the EPA is 450 BGN, or in other words, the maximum amount of funds for vocational training.

The requirements of the State Assistance Act (SAA) are followed when granting financial assistance under active policy: the amount of finance, granted to a single employer (enterprise) is smaller than the stated in Article 1, Paragraph 6 of the SAA, so that the principles of free and fair competition are not infringed; in conformity with Article 22, paragraph 2 of the SAA, the Employment Agency notifies the Ministry of Finance on yearly basis about the amount of financial assistance granted.

- Total expenses provided for employment programmes and projects funded by the MLSP active policy funds – 2005 National Employment Action Plan (Appendix 2);

- Total costs for employment programmes and projects funded by the MLSP active policy funds in implementation of the 2004 National Employment Action Plan (Appendix 3).

Please indicate the active policy measures taken in order to favour access to employment of groups most exposed to or affected by unemployment (eg. women, the young, older workers, the long-term unemployed, the disabled, immigrants and/or ethnic minorities). Please give indications on the number of beneficiaries from these measures and information, if possible, on their impact on employment.

The results of the employment programmes and projects, funded by the MLSP active policy funds, show that for the period between January and September 2004 active labour market policy has provided employment for 142 041 unemployed persons and training for

further 24 456 persons. The total expenses made is 153 259 129 BGN.

The expenses made for employment and training programmes and measures for the first nine months of 2004 amount to 153 359 120 BGN (75.1% funds assimilation rate). The distribution in branches was as follows:

- employment programmes – 132 794 516 BGN (77.2 % funds assimilation rate of the scheduled year total);
- incentive measures – 15 088 729 BGN (70.2 % funds assimilation rate);
- vocational training under Article 63 of the Employment Promotion Act - 5 475 875 BGN (51.7 % funds assimilation rate).

Active and preventive measures for unemployed and economically inactive persons:

The main target group consists of active, long-term unemployed persons, registered with the Labour Office Directorate. Long-term unemployed persons are also a target group under Article 37 of the EPA. For the period between January and September 2004 the number of unemployed persons who have worked under *From Social Assistance to Employment Programme* is 94 619, while those who have worked under Article 37 of the EPA are 1 503, which equals 38.3% of long-term unemployed persons were provided with work (the target in the 2004 National Employment Action Plan was 18%.)

Creating new jobs and entrepreneurship:

The Employment Promotion Act provides for a number of measures and programmes to support unemployed persons in starting their own business, as well as for agricultural activity. The Employment through Business Support Project has a network of 37 business centres/business incubators, which support micro and small sized enterprises and farms in their sustainable development and in creating new jobs. Unemployed persons entitled to unemployment benefits may start their own business by receiving their whole benefits package at once. Unemployed persons also have the opportunity to be trained in the field of activity and/or management of such activity and the expenses for external consultancy services are reimbursed.

For the period between January and September 2004 this sort of MLSP programmes have provided employment for 7 345 persons and training for 5 014 for a total cost of 7 032 260 BGN.

Changes and development in the field of labour market adaptivity and mobility:

The measures are aimed at improving labour force and enterprise ability to adapt to changing labour market conditions. There are offers for maintaining and increasing the qualification of already hired staff.

Measures and programmes in this field have employed 156 persons (47.3% of planned) and have trained 1 849 (the initial plan was for 380) for the period between January and September 2004. The amount of resources spent is 767 366 BGN.

Promoting human resources development and lifelong learning is aimed at providing adequate education and vocational training. For the period between January and September 2004, 12 509 (72% of the planned) persons took part in vocational training under the programmes in this field at a total cost of 5 494 633 (46.8% of the budget.)

A survey was carried out in 2004 in order to determine employers' needs in terms of labour force as one of the most important conditions for providing adequate training.

The procedures for the selection of education organizations for the implementation of the trainings organized by the Employment Agency were improved. The number of employed persons to be trained under the EPA conditions has increased significantly. The conditions and the scope of training, literacy training and basic skills training have improved.

The measures in the field of increasing labour offering and aging in working environment

are aimed at creating the adequate complex conditions for maintaining labour activity amongst the more elderly workers and improving employment. 1 290 persons have been provided with employment for the period between January and September 2004 at a total cost of 1 875 469 (66.9% of the planned expenses.)

Gender equality:

Activities are aimed at creating appropriate conditions for equal gender opportunities and equal gender treatment at the labour market; decreasing gender differences in employment by making it easier to reconcile work and family life through the introduction of new and improved forms of child and family care. The number of persons taking part in this type of training is 519 (71.6% of planned) for the period between January and September 2004 at a total cost of 156 786 BGN (39% of planned).

The following projects are a concrete result of the measures implemented under the 2004 National Employment Action Plan:

- *Raising Bulgarian Society's Public Awareness for Gender Equality Issues and Reconciliation of Work and Family Life* – these projects are intended to raise public and employers' awareness for the principles of gender equality, in order to abolish barriers for career success.
- *Promoting Independent Economic Activity for Women in Children Care and Back to Work*. These projects are aimed at promoting labour market participation of groups at risk of having a complicated access to employment or facing difficulties in keeping their employment.

Promotion of integration and fight against discrimination of people in a disadvantaged labour market position:

The Integration of Persons with Disabilities Act was adopted in 2004. It provides for some specific measures for the labour market integration of persons with disabilities, in order to provide them with a possibility to have an independent and decent life. The Act introduces financial incentives for employers who hire persons with disabilities – financial assistance for adapting the working environment to the specific needs of a person with disabilities, tax breaks for working environment improvements that benefit the worker with disability, social security payments concessions, etc.

Making work more attractive:

The changes in taxation schemes consist in decreasing taxes for all income groups, which results in an increase of families' real available income.

Transforming undeclared employment into formal employment:

In 2004 the main activity directions in the field of reducing undeclared employment are the following:

- reforms of the tax and the insurance systems;
- simplifying existing administrative procedures;
- tightening the control.

In 2004 there was some headway in decreasing undeclared employment. The Government's single-minded measures in the fight against undeclared employment, including tightening control activities, improving services to participants in the social security process, alleviations in taxation policy and improving business environment, lead to actual positive results. There is a significant decrease in the number of cases of employers not signing a written contract or not paying social security and health insurance contributions for the employed persons. The number of law breaches in the form of employing people without signing a written contract, established by the General Labour Inspectorate Executive Agency

for the first nine months of 2004 is 784, which is with 823 fewer than for the same period in 2003.

Activities for reducing regional employment disparities:

The measures are aimed at decreasing regional differences in the levels of employment and fostering the development of less developed regions. The number of people provided with employment for the period between January and September 2004 is 1 204 (71.8% of the number planned), while for the same period 292 persons (46.2% of the number planned) received vocational training. The total cost was 783 366 BGN (33.8% of the planned).

Question B

Please indicate the trends in employment³ covering all sectors of the economy. In connection with this, indicate as far as possible, the activity rate, the employment rate and the breakdown of employment by region, by sex, by age, by employment status (employed, self-employed), by type of employment (full time and part time, permanent and fixed term, temporary), and by sector of activity.

During the last few years the number of people aged between 15 and 64 years of age has been going down due to the negative demographic trends. These trends also continue during the first nine months of 2004 when the population shrinks by 7 100 people in comparison to the same period of the previous year.

The active population/labour force aged between 15 and 64 years is 3 281 100, which means it is 1.1% more than in 2003. The economic activity coefficient for the same period is 0.7 points higher than the previous year, totalling at 61.9%.

Men score 66.4% from this indicator (0.8 points up from the previous year), while women total at 57.4% (0.6 points up.) There is a 9 points difference between genders. The growing trend in the number of employed persons continues. The average number of employed persons between the age of 15 and 64 for the first nine months of 2004 is 2 878 900, which is 92 100 persons more than the same period in 2003. The employment rate is up by 1.8 points from the first nine months of 2003 to 54.3%. The trend of slowly increasing the employment rate, which started back in 2002, is still going up.

The basic characteristics of employed persons in the first nine months of 2004 are the following:

Gender structure

The gender structure of employed persons in Bulgaria is similar to that of EU member countries. The percentage of men is higher – 53% (0.1 points more than the first nine months of 2003), while women's percentage totalling at 47% (0.1 points less than the first nine months of 2003.) The difference in employment levels between genders is 6.1 points.

Age structure

The trend that started in previous periods continue for the age group between 35 and 44 having the highest share of 28.3%, followed by those aged between 45 and 54 with 27.5%. The lowest numbers are measured amongst people aged between 15 and 24 – 7.8% and over the age of 65 – 1.6%.

Education structure

The education structure of employed persons is dominated by workers with secondary education with 55.5%, followed by university graduates with 25.7%. The lowest share is of those with primary or lower education - 19.7%.

Employment according to the form of property and economic activity

The number of persons employed in the private sector during the first nine months of 2004 is 2 009 000, which is 12.2% more than the same period in 2003. This number equals 69.4% of all employed persons and marks 5.2 points increase in this indicator, compared to the first nine months of 2003.

There is a durable downward trend in the number of persons employed in the public sector and it has reached 908 400 persons (31.4% of all employed) which is 8.3% less than in the first nine months of 2003.

Employment structure has not changed much in terms of economic sectors. The increase in the number of employed persons in different sectors of economy is in line with the total employment growth. The sector that employs most people in the first nine months of 2004, compared with the same period in 2003, is the Service Sector, employing 1 668 500 persons (57% of the total of employed persons) and marking 3.1% growth. The Industry Sector employs 963 600 persons (32.9% of all employed persons) and gains 4.3%. The Agriculture and Forestry Sector gives employment to 292 500 people (10% of all employed persons) and loses 0.3% on the previous year.

Within the Service Sector, the biggest share of people work in the field of trade, automobile and appliances repairs (26.1%), as well as State Governance and Defence (13.4%). Employment trends within the Industry Sector go on as most people are employed in the field of Processing industry (72%) and Construction (17.3%).

Employment trends are positive in all planning regions, with the North-East region showing the smallest increase (0.1points compared to the same period in the previous year.) The North-East region is also the region with lowest employment rate – 35.7%. Vidin, Targovishte and Vratza are the areas with lowest employment levels, respectively with 30.8%, 33.6% and 35.8%. Highest employment levels are marked in the areas of Sofia City (50.7%), Kyustendil (49.5%) and Blagoevgrad (50.3%).

In order to overcome regional disparities in employment and unemployment rates, resources allocated for active labour market policies are distributed in different regions according to unemployment levels and the stated needs to local Employment Office Directorates. Municipalities with highest unemployment rate receive the highest quota from the measures under the EPA and from employment and vocational training programmes. Regional approach is also applied directly in regional programmes for literacy, for vocational training and for community service employment (under Article 31, Paragraph 3 of the EPA), as well as in projects like Employment by Business Support, Beautiful Bulgaria, SANE, National Programme From Social Assistance to Employment, the Social Investment Fund, etc.

Please give the trend of the figures and percentages of unemployed in your country, including the proportion of unemployed to the total labour force. Please give a breakdown of the unemployed by region, category, sex, age and by length of unemployment.

In 2004 there were a solid trend in decreasing the unemployment level and increasing the number of new jobs in the real sector and in subsidized employment programmes and measures. The goal set in the 2004 National Employment Action Plan of average year unemployment rate of 13.0% is reached, the rate is 12.67%.

According to National Statistical Institute data, unemployment rate in Bulgaria for the

first nine months of 2004 has been 12.1%¹, 1.9 points less than the same period of 2003 (14%).

For the first nine months of 2004 the average number of unemployed persons registered in the Employment Office Directorates is 478 064, 11.6% (63 034 persons) less than the same period in 2003.

According to Employment Agency data, the average unemployment rate for the first nine months of 2004 is 12.9%, which is 1.7 points lower compared to the same period in 2003.

The main unemployment characteristics² for the period between January and September 2004 are as follows:

Gender structure

The percentage of unemployed women is durably higher than that of men. The men/women ratio for the first nine months of 2004 is 54.7 : 45.3. The ratio for the same period in 2003 is 53.9 : 46.1.

Age structure

The negative trend of high unemployment rates amongst young people under the age of 29 and persons over the age of 50 goes on, with unemployment rates of 26.5% for youths and 26.2% for persons over 50. Those rates for the same period in 2003 are respectively 28.3% and 24.1%.

Education structure

The education structure of unemployed persons for the period between January and September 2004 continues to be dominated by persons with primary or lower education with 57.6% (57.2% for the same period in 2003.) The share of university graduates is only 6.8% of all registered unemployed, which in 2003 was 6.6%.

Structure in terms of registration duration

There is a positive trend of decreasing the number of long-term unemployed persons and for the period between January and September 2004 they were 36 171 less than during the same period of 2003. Nevertheless, their percentage of total number of registered unemployed remains high at 52.6% (53.1% for the same period of 2003.) Data analysis of registered unemployment for the first nine months of 2004 in comparison to the same period of 2003 outlines the following trends:

- the total number of unemployed persons follows a steady downwards trend;
- the percentage of unemployed young people under the age of 29 is down by 1.8 points;
- there is a small increase in the percentage of unemployed women (0.8 points compared to 2003.)

The pension scheme introduced in 2003 provides for higher retirement age, which brings about an increase in the number of labour force in the higher age groups. In most cases this group is at risks in the event of layoffs. In terms of education structure of registered unemployed persons, the initially high percentage of persons with primary or lower education is preserved and marks an increase by 0.4 points, compared to the same period in 2003.

According to National Statistical Institute data, the level of unemployment has decreased in almost all regions of Bulgaria. Highest unemployment rates are marked in the region of Targovishte – 28.6%, followed by the regions of Vidin – 23.7% and of Sliven – 21.1%. In

¹ The rate is calculated as a ratio between the number of unemployment persons and the total labor force, aged between 15 and 64.

² The data used to analyze unemployment structure and dynamics is provided by the Employment Agency.

terms of planning regions, the North-West region has the highest unemployment rate of 18.3%, which is 1.3 points lower than the same period in 2003. Lowest unemployment rates are measured in the regions of Blagoevgrad – 4.2% and Kardjali – 3.5%.

The decrease in unemployment in 2003 and the first nine months of 2004, as well as the decrease of unemployment amongst labour market disadvantaged groups (excluding people with disabilities) is a result of the economic revival in conjunction with active labour market policy and precise targeting of active programmes and measures towards concrete target groups. Active labour market policy in 2004 was aimed at the following target groups: long-term unemployed persons; young people under the age of 29; persons over the age of 50; women and persons with disabilities.

Long-term unemployed persons³

Thanks to the development of the real economy sector and the application of active policy aimed at this group, the 2003 trend of decreasing the number of long-term unemployed persons continues. Their number for the first nine months of 2004 is 251 281⁴ persons, which still represents more than half of the total number of unemployed – 52.6%. Unemployment duration is often depending on the education and professional skills level of the unemployed persons. 68.6% of long-term unemployed persons have basic or lower education and 70.6% lack professional skills.

The number of unemployed persons with an Employment Office registration of over two years has reduced in the period between January and September 2004 by 8098 persons, compared to the same period in 2003 and now stands at 167 104 people. This represents a 66.5% share of the total number of long-term unemployed. Amongst persons unemployed for over two years, those with primary or lower education and without professional skills dominate with 73.1% and 74.2% respectively.

The gender structure of long-term unemployment is dominated by women with 56.2%. The number of long-term unemployed young people under the age of 29 is going down. For the first nine months of 2004 it has decreased by 13 326 persons, compared to the same period of last year and now stands at 56 621, which represents 22.5% of the total number of long-term unemployed. One quarter of all long-term unemployed is over the age of 50, although their number for the period (71 584) has also decreased by 2 139 people.

Question C

Labour force demand⁵ is changing according to the overall economic conditions, seasonal factors and subsidized employment development. Another factor of major importance is the employer's decision to seek staff of certain quantity and quality. During the first nine months of 2004 the Employment Office Directorates had 290 319 available job positions announced, with 156 408 of those in the primary labour market and further 133 911 under employment programmes. The number of workplaces opened in the primary market is up by 22.1% (28 311) and the number under employment programmes increased by 10.4% (12 527), in comparison to the same period in 2003. The total number of job positions opened is up by 16.4% (40 883), compared to the same period the previous year. The number of new job positions represents 22.6% (compared to 20.5% in 2003) of the total number of job positions in the primary market.

Labour force demand is dominated by the private sector. The percentage of job offers in the private sector grows by 30.4 points and reaches 79.2%.

³ Persons with Employment Office Directorate registration sustained for over 1 year

⁴ Source: Employment Agency. The data is an average rate for the period between January and September of 2003 and 2004.

⁵ According to Employment Agency administrative data

The trend to have mainly job offers for unqualified personnel registered in the Employment Office Directorates (74.5%) still persists, which is a negative labour market feature but it is mainly due to seasonal employment, low remuneration and the employment of hand or low-skilled labour on some economy branches.

By using the Employment Office Directorates' services, in the first nine months of 2004 a total of 273 637 job positions were filled, 145 051 (53%) of which in the primary market and 128 586 under employment programmes.

The total number of positions taken has gone up by 23.2% (51 456), compared to the same period last year. The number of job vacancies filled in the primary labour market is 36 530 more than in the first nine months of 2003 (33.7%).

According to data from a June 2004 Alfa Research survey on Employers' Needs of Personnel with Certain Skills, 67% of employers expect to expand their business and 53% plan on hiring more workers. Potential labour force demand shows that employers are interested mainly in skilled production workers – 29.1%; in low-qualified workers – 21.2%; in customer service, security and trade staff – 11.2%. Amongst skilled workers those most sought after are construction workers – 9%, as well as workers skilled in clothing and haberdashery production – 7%. The demand for low-qualified workers is highest for production purposes – 4.1%, followed by agriculture, forestry and fish-farming with 3.8%. 22% of employers are planning to hire all of their new employees via the Employment Offices, while 10% are going to hire only part of the staff needed in such a manner. Enterprises seek the Employment Office services mainly for vacancies that require lower levels of skills. The number of companies who would hire trainees has gone up by 9%, compared to the end of last year.

The percentage of employers to have taken advantage of the Employment Office services and to consider those very useful is 22%.

Balancing labour force demand and offer in the aspects of quality and quantity, as well as securing conditions for opening more and better jobs are all priorities of active employment policy.

Article 1, Paragraph 2

Question A

Article 2 of the Employment Promotion Act states the following: While exercising the rights and discharging the duties under this Law, no direct or indirect discrimination and privileges or restrictions based on nationality, origin, gender, sexual orientation, race, colour of the skin, age, political and religious convictions, affiliation to trade unions and other non-governmental organisations and movements, marital status, social and financial condition and physical and mental disabilities shall be allowed.

The Discrimination Protection Act entered into force on 1 January 2004.

Part of the Act deals with the protection of the right to work, as well as employers' obligations when hiring and laying off workers and exercising labour rights. It provides for the establishment of a Commission for Protection against Discrimination, as an independent body, charged with the prevention of discrimination, protection from discrimination, and securing equal opportunities by applying the norms of antidiscriminatory legislation. The Commission may be approached by persons, victims of discrimination, or it may consider certain cases on its own initiative. The Commission may impose compulsory administrative measures and fines up to 20 000 BGN (for more information see the Report on Article 20.)

Under the provision of Article 344 of the Labour Code (LC), every worker, who considers

that his/her employment has been unlawfully, has the right to court protection and when such termination is recognized as unlawful, he/she shall have right to be reinstated to his/her former position (Article 345 of the LC.)

According to Article 225, paragraph 1 of the LC, in case of unlawful termination of employment, the worker is entitled to compensation from the employer in the amount of his/her nominal remuneration for the period of the unemployment caused by this termination, but no longer than six months. In case the worker has been employed to a lower paid position, he/she is entitled to compensation to the extent of the difference in remuneration.

According to Article 354, 1 of the Labour Code, the period of time, during which no employment relationship has existed because the worker was unlawfully dismissed is also considered as length of service, counting from the date of the contract termination to that of the worker's reinstatement to his/her position. Hence, the period of time between the worker's unlawful employment termination to that of his/her reinstatement is considered to be part of his/her work experience. For this period of time, the worker is entitled to paid annual leave (regular and extended) for each year of working experience, duly certified, and may be used after his/her reinstatement, or, in case that he/she does not want to be reinstated, is entitled to compensation for the paid leave that was due but was not used.

According to Article 9, Paragraph 3, 2 of the Social Security Code, the period of time, during which a worker has been unemployed due to dismissal which have been recognized as unlawful by the competent authority (from the termination to the reinstatement date) is subject to social security contributions for the account of the insurer on the last gross remuneration, if the person has not been insured; if the person has been insured, the insurance contribution shall be paid on the difference between the last gross remuneration and the insurance income for the period, if the said income is smaller;

The above shows that under Bulgarian legislation, every worker who has been reinstated to his/her position after unlawful dismissal is entitled not only to a compensation to the amount of his nominal salary for a period of up to six months, but is also protected by legislation by recognizing this period of time as part of his/her length of service and social security contributions, conceding him/her the right to paid leave and all other rights, arising from employment and social security relations.

All the payments listed above that are due by the employer are in fact kind of sanction for him under the Labour Code and the Social Insurance Code.

Implementation of the 2004 National Employment Promotion Plan:

Gender equality

The measures were aimed at creating conditions for gender opportunities between men and women and equal gender treatment at the labour market; reducing differences in employment levels through reconciliation of work and family life by introducing new and improved forms of children and family care.

In terms of common gender equality promotion measures, a legislative change was introduced to transpose EC Directive 96/34. There was a Labour Code amendment, which introduced parental leave, in order to promote family and work life reconciliation policy.

In order to create the institutional resource capacity to implement gender equality policy, a project for the creation of a gender mainstreaming indicators system for measuring quality and efficiency of labour market measures and programmes is currently implemented. Civil servants are being trained in implementing the gender mainstreaming approach in assessing labour market measures and programmes. The following measures have been implemented under the 2004 National Employment Action Plan: *Raising Bulgarian Public Awareness for the Problems of Gender Equality and Reconciliation of Work and Family Life*. Both projects are aimed at raising public and employer awareness for the principles of gender equality, in

order to abolish obstacles for career success. *Promotion of Independent Economic Activity for Women for Rendering Services in Child Care* and *Back to Work* projects are aimed at fostering labour market participation for groups at risk of facing difficulties in accessing employment or in holding it down.

Measures for promoting integration and combating discrimination of persons in vulnerable position at the labour market are aimed at securing appropriate conditions for full social-economic integration of the vulnerable groups at the labour market by improving their employability, according to labour market workforce demand; promotion of entrepreneurship; fostering territorial mobility; subsidized employment; creation of skills with wide area of application and possibilities for active labour market behaviour.

The Integration of People with Disabilities Act was adopted in 2004. The Act provides for specific measures for the labour market integration of people with disabilities, in order to provide them with the possibility to live an independent and decent life. It also introduces financial incentives for employers to hire persons with disabilities, like financial assistance for adapting working environment to the needs of the disabled person, tax preferences for improving working environment for the worker with disability, insurance payment concessions, etc.

In order to find employment for persons with disabilities and make their social integration easier, there are a number of initiatives for employment, promotion of entrepreneurship, motivation and vocational training. There is a great social impact from the support that is presented to unemployed persons with disabilities, their relatives who take care of them, unemployed teachers, who tutor children with different kind of disabilities, and employers who hire persons with disabilities (mental; sensory; with 71% or higher level of disability; disabled soldiers; persons who have successfully completed drugs rehabilitation programmes.)

Question B

Cooperation of employers' and workers' organizations, as well as of the relevant NGO's is sought when developing and implementing antidiscrimination policy.

Opinion of the confederation of Independent Trade Unions in Bulgaria (CITUB)

a. For the time being the co-operation of employers' and workers' organisations in promoting the acceptance and observance of the policy of non-discrimination is not sought enough. We remind that the Discrimination Protection Act was prepared, discussed and adopted without participation of the social partners. It was neither discussed within the National Council for Tripartite Cooperation notwithstanding of existence of significant number of dispositions concerning labour and labour relations, although the social partners have repeatedly raised this issue. There is not enough information whether the structures of social partners at different levels have been sought for cooperation. Up to now the participation of employers' and workers' organisations in implementation of the policy of non-discrimination at national level is in the limited shape of public discussions, because of the government. Different organizations within the CITUB have organized their own seminars in this field, printed materials and carried out internal explanatory campaign.

b. Educational measures on observance the implementation of this policy are rather exceptional, the measures are limited in scope. They are implemented mainly in some schools with mixed classes. There are some educational initiatives from NGOs, as well as from trade unions (CITUB), there are some projects in the field, but it seems that most measures come from the civil society, not from the state.

Question C

The Republic of Bulgaria makes determined efforts to bring its national legislation in line with international standards in the combating discrimination. These efforts take shape in the September 2003 Discrimination Protection Act. In order to ensure efficient protection against all forms of discrimination, including in case of trade-union activity, the Act provides for shifting the burden of proof, as well as a possibility for rewarding compensation adequate to the damage caused.

(For further information, see the Report on Article 20 of the ESC (r).

Opinion of the confederation of Independent Trade Unions in Bulgaria (CITUB)

There are legal guarantees but for the time being they are not observed in practice. Dismissal for trade union activity is not uncommon case, there is also practice of discrimination in selection and promotion, but it is rather under-covered and cases of such practices are not always possible for prove. There are no grave sanctions for employers and managers, who have tolerated such actions. Unfortunately the jurisprudence of the implementation of the Discrimination Protection Act is poor.

Questions D, E, F, G

Penal Code:

Art. 155. (1) (Amend., SG 28/82, SG 10/93, SG 62/97, SG 92/02, SG 26/04) Person who inclines another person to prostitution or procures to fornication or coition shall be punished by imprisonment for up to three years and a fine of 300 to 600 BGN.

(2) (Amend., SG 10/93; SG 62/97) Person who provides systematically premises to different persons for sexual intercourse acts or for fornication shall be punished by imprisonment of up to five years and by a fine of one hundred to five hundred BGN.

(3) (New, SG 62/97, amend. 92/02) Where the acts under Paras. 1 and 2 have been committed from mercenary the punishment shall be imprisonment for one up to six years and a fine shall be imposed of 500 to 1000 BGN.

(4) (New, SG 21/00) Person who has inclined or compelled another person to use narcotic substances and/or their analogues for the purpose of prostituting, procures to coition, homosexual acts or fornication shall be punished by imprisonment of five to fifteen years and a fine of twenty thousand to fifty thousand BGN.

(5) (New, SG 21/00) If the act has been committed:

1. (Amend., SG 92/02) by a person acting under an order or fulfils a decision of an organized crime group;
 2. against a minor, underage or non corpus mentis;
 3. against more than two persons;
 4. repeatedly,
- the punishment shall be imprisonment of ten to twenty years and a fine of one hundred thousand to three hundred thousand BGN.

Section IX

Trafficking of persons (New, SG 92/02)

Art.159a. (1) Person who gathers, transports, hides, or receives individuals or groups of persons for the purpose of using them for acts of debauchery, forced labour, removing their organs, or keeping them in forced subordination, notwithstanding of their consent, shall be

punished by imprisonment of one to eight years and a fine of up to 8000 BGN.

(2) Where the act under Par. 1 has been committed:

1. against person under the age of eighteen;
2. by using force or misleading the person;
3. by abduction or unlawful deprivation of liberty;
4. by using his/her dependency;
5. by abuse of power;
6. by promising, giving, or receiving benefits,

the punishment shall be imprisonment of two to ten years and a fine of up to 10000 BGN.

Article 159b. (1) Person who gathers, transports, hides, or receives individuals or groups of persons and takes them across the border of the country for the purposes specified under Article 159a, paragraph 1, shall be punished by imprisonment of three to eight years and a fine of up to 10 000 BGN.

Combating Trafficking in Human Beings Act (SG 46 from 20 May 2003 r.)

This Act regulates the cooperation, competencies and tasks of state institutions, implementing the combat of trafficking of human beings; the status and tasks of asylums, centres and commissions under this Act for protection and assistance to the victims of trafficking; the prevention and counteraction measures against trafficking of human beings; the measures for protection and assistance to the victims of trafficking of human beings, especially to women and children; granting of statute of special protection to those victims of trafficking who cooperate with the investigation. The Act aims at ensuring cooperation and coordination between state and local authorities, as well as between them and relevant NGOs, for prevention and counteraction against trafficking of human beings and assistance in formulating national policy in this field.

On 4 September 2003 the Government of the Republic of Bulgaria adopted a National Plan against Commercial Sexual Exploitation of Children. The National Plan provides for efficient measures for the prevention of sexual exploitation and the elimination of the phenomenon in all of its forms – child pornography, prostitution, trafficking and trade of children, as well as providing children-victims with appropriate services. The plan unites the actions of all authorities in the field of combating children sexual exploitation and provides for the non-government partners' participation.

The National Plan emphasizes on three main approaches: prevention, punishment of criminals and protection and rehabilitation of children-victims of sexual exploitation. Prevention of this phenomenon is fostered by creating supportive environment for all persons and institutions who work with children – schools, healthcare system, emphasizing on general practitioners, social workers and police. Preventive measures will also include internet providers' representatives who can contribute very much to the establishment of safe environment for children. The Plan also provides for the development of a mechanism for early detection of the problem and application of all possible means of prosecution, apprehension and punishment of the perpetrators. New forms of social services will also be introduced, which will be aimed at children and families at risk. Such services are the crisis and consultation centres. The aim is to prevent further abuse of child-victims and achievement of their full rehabilitation and reintegration in society.

Coordination of the Plan's implementation is assigned to the Minister of Internal Affairs and the Chairperson of the State Agency for Child Protection (SACP.)

On the other hand, in order to prevent trafficking of human beings, the Ministry of Labour and Social Policy carries out wide-spread campaigns for raising public awareness on the hidden risks of illicit job offers, on living and working legally abroad, etc. In this aspect the Ministry of Labour and Social Policy is working in cooperation with NGOs, employers' and

workers' organizations, as well as with international organizations, like the IOM, with which the Ministry has signed a Memorandum for Joint Activities (5 February 2004.)

The implementation of a German-financed joint project of the State Agency for Child Protection and the IOM *Return, Reintegration and Care for Minors Victims of Trafficking* has started. The SACP responsibilities under this project consist in coordination of assistance to the families of children who have been repatriated from abroad, in order to support their reintegration.

The SACP is also a partner of the Animus Foundation in a project for counteracting trafficking of children in the field of training local experts and monitoring services, rendered by the Animus Foundation to children victims of trafficking.

Within the framework of an IOM project for assisting a specialized centre for temporary accommodation of migrants from vulnerable social groups, the Home for Temporary Accommodation of Minors and Under-aged Persons under the Capital Internal Affairs Directorate underwent major repairs. The project implementation resulted in the conditions in the home being brought up to European standards for this sort of institutions. The purpose of the Home is to give shelter and care to minor and under-age persons, who have been victims of trafficking and have been brought back by air or land to the whole Western region of Bulgaria, as well as for police protection under the Child Protection Act.

Question G

The right of prisoner to receive appropriate work is set in Article 24, Paragraph 1 of the Punishment Implementation Act (PIA.)

The procedure for providing a prisoner with work requires for the prison administration to take into account the person's age, gender, health condition and ability to work, needs of rehabilitation and re-education, professional skills and interests (Article 64 of the PIA.) The expression of the prisoner's will to start a working consists in a written application on his/her behalf in front of the prison authorities.

Working is a personal right of the prisoner, which is materialized by statement of the prisoner to the prison authorities, including special statement in case of working for private companies and other kinds of legal entities or sole traders. Therefore, the work that prisoners who serve their sentences inside or outside of prisons do is **voluntary**, not forced.

Placement of imprisoned persons to jobs for private enterprises is done not only upon receiving an explicit written statement of intent by the prisoner, but also under the strict observation of requirements under Article 61, Paragraph 2 of the PIA – the contractor must provide the necessary hygiene and living conditions, safe and healthy working conditions, as well as security for the imprisoned persons on contractual basis.

In case the private enterprise does not comply with the these requirements, the prison authorities may suspend the prisoner from work until the violation of regulations has been sorted out.

When signing a contract with companies, legal entities or a sole traders, the provisions of Article 62 of the PIA shall be observed, regarding the payment from the contracting party of the due remuneration for the job done by the prisoner to the prison itself, in line with existing payment systems, plus all the supplements established for workers.

According to Order LS-03-416 from 1991 of the minister of Justice, coordinated with the Minister of Finances, imprisoned persons are entitled to a 40% of the remuneration, based on the national minimum wage, while the rest of the remuneration goes into the Prison Affairs Fund (Article 64b, Paragraph 1, Item 3 of the PIA.)

Imprisoned persons are not subject of social security under Article 4 of the Social Security Code, due to the fact that they rely entirely on support from the budget, do not work under employment contract and the period of time they work in prison does not count as length of

service.

Under the provisions of Article 40, Paragraph 2, Item 5 and Paragraph 3 of the Health Security Act, imprisoned and arrested persons shall be insured based on 6% of ½ of the minimum insurance income at the expense of the State Budget.

Combating Minors' and Under-aged Persons Anti-social Behaviour Act

Article 13. (Amended – SG 53, 1975, SG 75, 1988, SG 110, 1996, SG 66, 2004) (1) Minors and Under-aged who commit anti-social acts, as well as under-aged who commit crimes, exempted from criminal liability under Article 61 of the Penal Code shall be imposed the following instructive measures:

9. the minor shall be obliged to repair all caused damages by his/her own work if this is within his/her possibilities;

10. the minor shall be obliged to do certain work of public benefit;

Article 13, Paragraph (10) (Former Paragraph 9 – SG 96, 2004) When imposing the instructive measure under Paragraph 1, Item 10, the exact time needed to carry out the specific work must be set while its duration may not exceed 40 hours. In order to implement the measure, the mayor of the municipality (region or town) where the minor's current address is, has to set the kind of work to be done, the means and rules for its implementation, bearing in mind the minor's age, education, health condition and other circumstances that may be relevant to the implementation of the measure.

Article 1, Paragraph 3

Question A

Employment Promotion Act

Article 18. (1) Each Bulgarian citizen actively seeking work may register with the respective regional subdivision of the Employment Agency.

(2) Persons actively seeking work shall register in any of the following groups:

1. Unemployed persons;
2. Employed persons willing to change their job;
3. Students willing to working during the time free of studies;
4. (Amend., SG 38/05) persons who has received the right to, and persons receiving pension for insurance period and old age or professional pension for early retirement.

(3) The rights under this Chapter may also be exercised by:

1. Foreigners with permit for permanent stay in Republic of Bulgaria;
2. Persons granted asylum;
3. (Amend., SG 26/03) Persons granted refugee status or humanitarian status;
4. Persons envisioned in an international agreement, to which Republic of Bulgaria is a party.

(4) The registration shall be based on the permanent or current address. The terms and conditions for registration shall be set out in the Rules on the Implementation of this Law.

(5) (Amend., SG 26/03)The person shall declare his or her status under paragraph (2) upon registration. The person shall advise the relevant subdivision of the Employment Agency of any change of stated circumstances within seven days.

(6) The registration of the persons under paragraphs (2) and (3) shall be certified in a manner prescribed by the Rules on the Implementation of this Law.

Art. 27. (1) (Amend. – SG 26 of 2003) Employers and job seekers shall be entitled to

receive job brokerage services.

(2) (Amend. – SG 26 of 2003) Job brokerage services shall be organized and provided by:

1. The Employment Agency;
2. Natural persons and/or legal entities, with over 50% Bulgarian participation, and which are registered under the Bulgarian laws.

(3) The Employment Agency shall provide job brokerage services:

1. Free of charge - when hiring Bulgarian citizens and the persons referred to in Article 18, paragraph (3);
2. Free of charge - when hiring Bulgarian citizens abroad and foreigners in this country under international agreements, to which Republic of Bulgaria is a party;
3. Under agreements with foreign employers and licensed job brokerage agencies, which pay the job brokerage costs, and with foreign counterparts for hiring Bulgarian citizens in other countries.

During the first nine months of 2004, 273 637 persons have started a new job by using the job brokerage services of the Employment Agency's territorial units, with 145 051 of them finding jobs at the primary labour market.

Administrative data from the Employment Agency data regarding the activity of job brokerage agencies⁶ for the period between 1 January and 30 September 2004 shows the following results:

- the number of registered persons who seek jobs through the job brokerage agencies is 47 518, of which 17 513 women, 16 246 young people under the age of 29 and 21 251 university graduates;
- the number of persons having found jobs by job brokerage agencies is 13 744, 3 898 of which are women, 4 642 are young people under the age of 29, 4 692 are university graduates.

As a result of control activities regarding the lawful job brokerage activity implemented by the General Labour Inspectorate Executive Agency (the specialized supervision authority), it was established that violations of job brokerage services regulations in the first nine months of 2004 have almost doubled, compared to the same period in 2003. The number of violations is 209, which represents 61% of the total number of Employment Promotion Act violations, while in the same period of 2003 the number was 124 violations or 39% of the total number of EPA violations.

There is a positive fact of decreasing the number of violators offering job brokerage services without the necessary permit/registration. For the first nine months of 2004 their number is 14, in comparison to 25 during the same period the previous year. Nevertheless, the total of violations from job brokerage agencies with registration/permit has increased. Their number of established violations for the first nine months of 2004 is 195, while for the same period in 2003 it has been 2003. The most common violations are the following:

- imperfections in the job brokerage contracts with persons, seeking employment (Article 23, Paragraph 2 of the Regulation for the Conditions and Order for Job Brokerage Services (RCOJBS);
- lack of a register for the persons, who have been provided with job (Article 24 of the RCOJBS);
- organizations failing to report to the General Labour Inspectorate Executive Agency the opening of new branches in places different than that of their initial court registration (Article 26, Paragraph 2 of the RCOIMAFE);

⁶ Summarized data on Employment Agency-registered job brokerage agencies

- offering paid job brokerage services to persons seeking employment (Article 4, Paragraph 1, Item 2 of the RCOJBS);
- rendering job brokerage services to persons seeking employment without Employment Agency registration of a job brokerage contract with a foreign employer (Article 30, Paragraph 1 of the RCOJBS);
- sending people to work abroad without the necessary work permit or failure to present copies of the work permits to the Employment Agency (Article 33, Paragraph 1, Item 2 of the RCOJBS);
- failure to sign contracts with persons seeking employment (Article 23, Paragraph 1, Item 1 of the RCOJBS);
- lack of information in job brokerage contracts with the ship-operators regarding the names of the vessels that seafarers are hired on (Article 35, Paragraph 3, Item 2 of the RCOJBS);
- failure to keep the Maritime Administration Executive Agency certified lists of sailors that have been sent to work (Article 41, Paragraph 1, Item 3 of the RCOJBS).

Based on Article 22, Paragraph 6 of the Employment Promotion Act, the Council of Ministers adopted with Decree 242 from 8 September 2004 a Regulation for the Order of Rendering Job brokerage Services by the Employment Agency to Foreign Employers for Employing Bulgarian Citizens. The Regulation provides that the Employment Agency shall render job brokerage services to foreign employers, only in case there are certain guarantees for the protection of Bulgarian citizens' interests and rights, as well as the working conditions and remuneration is above the minimum in the host country. The implementation of the Regulation shall provide for good opportunities for Bulgarian citizens to work legally abroad.

Question B

In order to optimize work and provide more efficient administration of the activities of the Employment Agency in 2004 was adopted a new Structural Regulation (adopted by Council of Ministers Decree 125, 11 June 2004, SG 53, 22 June 2004, in force from 22 June 2004). According to the new Regulation, the Employment Agency's staff, including its territorial units, equals 3141 pay-roll officers.

More significant changes in EA activity, that are expected to give results in 2005 are connected with the methodological management of the Agency's territorial units the Regional Employment Service Directorates and the Employment Office Directorates; organization of the activity of the financial supervisors who work under the direct management of the Executive Director; improvement of the administration audit and control over the activity of the Agency's territorial units.

The new working model for the Employment Office Directorates emphasizes on the implementation of primary segmentation of unemployed persons by carrying out an administrative interview, followed by secondary segmentation through a qualifying interview for persons with a bigger potential who should be directed towards the primary labour market. As early as the day of his/her Employment Office Directorate registration, the unemployed person is offered a choice from the available job offers. This also happens on each of his/her following visits. Persons with inadequate or insufficient professional skills are directed towards vocational training or appropriate labour market measures and programmes.

Improving quality of job brokerage services and increasing chances of finding a job through individual approach is achieved through better knowledge and specification of employers' needs and requirements; better knowledge and specification of the qualities that

each person looking for employment possesses and lacks; more efficient selection of persons looking for employment, according to general and specific employer requirements; increasing the number of Employment Office Directorate registered job offers.

Work on the implementation of the one-stop-shop service principal will continue. Implementation of the core elements of the basic (process) and the enhanced (one-stop-shop) models started towards the end of 2003 and the beginning of 2004 in some Employment Office Directorates in the towns of Montana, Kazanlak, Plovdiv and Pirdop. At a further stage the Employment Office Directorates in Velingrad and Pazardzhik were also included. The one-stop-shop service mode was introduced in the Employment Office Directorates in the cities of Montana, Pazardzhik and Velingrad, where the facilities allowed for the differentiation of front and back-office areas.

Question C

In 2004 Bulgaria ratified the ILO Convention No 181 on Private Employment Agencies, 1997 which will enter into force for Bulgaria on 24 March 2006 and denounced ILO Convention No 34 concerning Fee-charging Employment Agencies.

The ratification of Convention 181 will harmonize Bulgarian national legislation in the field of job brokerage services by physical and legal persons with ILO requirements and to a great extent will bring it closer to the EU member-states applicable legislation. The system for workers' protection against unfair practices on behalf from some employment agencies will also be improved by introducing regulations for the prevention and abolition of such practices through imposing sanctions and suspensions on private agencies that practice them.

Article 27, Paragraph 2, 2 of the Employment Promotion Act provides that the Employment Agency is not the only organization that has the right to render job brokerage services in the field of employment. This sort of activity may be exercised also by physical and legal persons with over 50% Bulgarian participation, registered under Bulgarian law. This provision lays down the foundations for private organizations' participation in the process of rendering job brokerage services to persons seeking employment and thus creates the conditions for the existence of real competitive relations between the Employment Agencies and private employment agencies in the field of employment promotion.

As of 30 September 2004 the Employment Agency has registered under the RCOJBS (adopted with Council of Ministers Decree 107 of 17 May 2003) the following entities:

- 109 companies, exercising job brokerage activity for finding employment in the Republic of Bulgaria;
- 77 companies, exercising job brokerage activity for finding employment abroad;
- 40 companies, exercising job brokerage activity for finding employment for seafarers.

The number of registered contracts with foreign employers is 17, while the number of contracts with foreign ship-owners is 23.

Under the Regulation, adopted with Council of Ministers Decree 103 of 1998 the entities that continue working in this field are:

- 55 companies, exercising job brokerage activity for finding employment in the Republic of Bulgaria;
- 30 companies, exercising job brokerage activity for finding employment abroad;
- 18 companies, exercising mediator activity for finding employment for seafarers.

The biggest is the number of job offers in employment agencies for Bulgaria – 15 570.

From the total number of persons registered as job-seekers by employment agencies the

biggest share are looking for a job in Bulgaria – 67.1% (31 889), while that of persons looking for a job abroad are 1.6% (755). The portion of seafarers registered as job-seekers is 313% (14 874).

The most prolific employment mediator during the first nine months of 2004 were again those working in the Bulgarian labour market, scoring 60.3% of all employment agreements, signed through mediators. The smallest portion of person who found a job through an employment agency are those working abroad – only 1.9%. The sailors' share equals 37.8% of the total.

Question D

No changes were introduced in relevant legislation.

Opinion of the Confederation of Independent Trade Unions in Bulgaria (CITUB)

The participation of representatives of employers' and workers' organizations in the organisation and operation of the employment services is at consultative level, which do not provide for enough possibilities for determination of the policy of these services (not the employment policy in general). Better option would be to restore by law the possibility of tripartite supervision of the Employment agency, which has existed until the end of 2001.

Article 1, Paragraph 4

Question A

Employment Promotion Act

Art. 17. (1) Persons actively seeking work shall be entitled to use the following services under this Law:

5. Vocational and motivational training;
6. Involvement in employment promotion programmes and measures.

Art. 26. Job brokerage services shall include:

4. Orientation to vocational and/or motivational training;

Art. 65. (2) The terms and conditions for the organisation of vocational orientation, information and consultation shall be set out in the Rules on the Implementation of this Law.

Data on persons taking part in different forms of career orientation in 2004

№	Regional Employment Office Directorate	Self informed Persons	Individually Informed Persons	Group Orientated Persons
1.	Burgas	683	9395	5228
2.	Varna	10380	41929	12274

3.	Lovech	665	7876	3549
4.	Montana	501	10937	2404
5.	Plovdiv	1288	23602	3936
6.	Rousse	642	20299	4103
7.	Sofia	3512	22751	4309
8.	Blagoevgrad	233	6115	3207
9.	Haskovo	355	11336	1180
Total		18259	154240	40190

As data shows, individual career orientation is the first choice of information and consultation for most unemployed and employed persons. During the year 154 240 jobseekers have had individual career information and consultation. The number of individually-consulted persons is up by 34.9% (with 39 882 persons), compared to 2003. This increase is due to the widening of the Employment Office services. A priority in individual work is providing information on the substance of jobs, the skills market, the content of training programmes, labour market conditions and development, rights and duties, arising from Employment Office registration, preferences under the Employment Promotion Act, etc. 2004 is characterized by increasing interest amongst unemployed persons in working abroad and taking part in vocational training projects under the PHARE Programme. Jobseekers show greatest interest towards jobs in the field of tourism, construction and services.

In 2004 some 40 190 persons took part in group exercises in career orientation. Different groups comprise unemployed persons, employed persons, students and parents, employers and others. Different forms of work are applied, like group career information, group consultation, rendering employment office services, presentations of Bulgarian-German centres for vocational training, meetings with employers and training institutions, selection exercises for participation in training courses and starting work, presentations of national and regional employment programmes and projects, presentations of different occupations and education institutions, thematic discussions for university students, meetings with social partners, etc.

In 2004 the Integration of People with Disabilities Act was adopted. In order to find employment for persons with disabilities and to make their work integration easier, there is a scope of initiatives for employment, promotion of entrepreneurship, motivation and vocational skills training, etc.

For the period between January and September 2004 the number of persons who took part in activities in this field is 2 133 (79.9% of the planned) and 38 in training and qualification programmes at a total cost of 3 689 549 BGN (48% of the initially planned).

Question B (C)

(Vocational rehabilitation – under Article 65 of the Employment Promotion Act vocational rehabilitation is included as a kind of vocational training)

Different activities in the field of promoting the development of human resources and the lifelong learning are coordinated with the European Employment Strategy and are specifically

based on:

- The 2002 Joint Assessment of Employment Priorities in Bulgaria Report, which sets the following main tasks: ensuring additional training resources, urgent increase in resources and targeting of training measures, improving the conditions for access to training, improving the quality of training, etc.
- The 2003 Employment Strategy for the 2004 – 2010 period comprises specific directions and measures in the field of human resources development: improvement of the education system in order for it to provide high quality basic vocational training, elderly people training in order to improve their employability, establishment and development of a national vocational training system, identification of training needs, etc.
- The 2005-2010 Continuous Vocational Training Strategy /adopted by the Council of Ministers on 14 October 2004/ includes priorities directly connected with the development of the human resources: improving the access conditions to continuous vocational training, providing effective cooperation between institutions, ensuring high quality of education, increasing investment in continuous vocational training.

The implementation of the Continuous Vocational Training Strategy for 2005 envisages intensification of the activity of the National Advisory Council on Vocational Training of the Labour Force to the Minister of Labour and Social Policy. The Council coordinates the development of the national policy and strategies in the field of vocational training for both unemployed and employed persons, as well as coordination and cooperation in lifelong learning.

Under the 2005-2010 Continuous Vocational Training Strategy, Priority 4 *Increasing Investment in Continuous Vocational Training* the measures for promotion of continuous vocational training for unemployed persons according to the specific needs of different regions and target groups will be enhanced.

The MLSP structural units for organization and implementation of vocational training (Bulgarian-German vocational training centres in Pazardzhik, Stara Zagora and Pleven, National Vocational Development Centre) shall provide vocational training for unemployed and employed persons under the Employment Promotion Act; career consultation and information; development and adaptation of training programmes, improvement the methods of teaching adults; assisting in the development of professional skills of MLSP and other relevant authorities administration, related to the implementation of the employment policy. National and international vocational training and employment projects will be implemented.

Vocational qualification in 2004

During the year conditions appeared for achieving more effective training that would be more adequate to the labour market needs. For the first time ever as in other European countries a nationwide survey on employers' needs of workers with certain skills was carried out. Based on the survey results, the authorities developed a list of occupations and topics, on which they would conduct vocational training during the period between July 2004 and July 2005. The practice of following up training courses with probations, which turned out to be a useful way to consolidate the skills and knowledge acquired during the courses, was carried on and the correlation between training and practical application was improved.

31 426 unemployed persons have taken part in vocational training, 46% (14 460 persons) of whom have started a training course under different programmes and measures with a training module.

The percentage of unemployed persons with primary education is increasing significantly (by 8.3 points) from 17.4% to 25%. The same is for the persons with initial or lower level of education that reaches 8.8%, (from 3,7%) gaining 5.1 points from the same period the previous year. Nevertheless, the trend of persons with high school education representing the

biggest group – 51% of all persons who have started professional training, is preserved.

In terms of age structure the percentage of young people under the age of 29 continues to be quite significant – 44.1% (13 871 persons). Improving their skills and knowledge makes easier their adaptation to new employers' professional requirements.

As a result of the survey on business needs of certain jobs, the largest number of unemployed persons took part in training for cooks (10.9%), for pc operators (9.4%), waiters and bartenders (5.9%). These are followed by trainings for skilled tailors, specialists in finances and accountancy, hairdressers, etc.

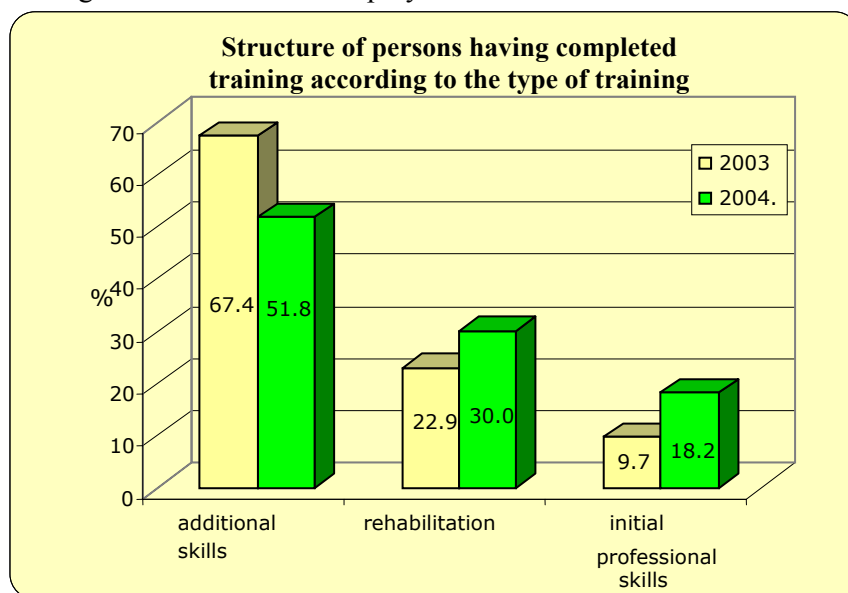
30 986 unemployed persons have completed training (including 15 281 under training programmes and measures). In comparison to the previous year their number is up by 2 743 persons (21.9%.) 2004 sees an increase in the share of basic vocational skills training and rehabilitation against additional skills training. The reason for this sort of dynamics is the growth in the number of vocational trainings demanded by the market. The biggest share still goes to the additional skills trainings – 8 166 persons. This represents some 51.8% of all persons to have completed training. Additional skills training for unemployed persons is necessary because of the need for constant improvement in labour force competitive power.

Employment Offices have organized 1 469 courses on vocational skills for unemployed persons, 77.5% of which with a duration of over three months. The duration of training is extended which makes for better mastering of skills and knowledge.

The high number of persons to find employment after passing through vocational training is preserved – 21 594 started working which is 50.8% up from the 2003 level. Of those only 23.2% were trained under a preliminary contract with an employer for a concrete position.

The growing trend in motivation training that developed over the last few years is also present in 2004. The number of persons to take part in training aimed at assisting unemployed persons in finding appropriate occupation or including them in vocational training is 4 896, 360 more than in 2003.

Vocational training for employed persons is carried out as a preventive measure for preserving and maintaining the level of employment and for improving labour force adaptability at the labour market. The number of employed persons to take part in vocational training in 2004 is 11 685. Employment Offices have carried out 351 such training courses.



The number of National Agency for Vocational Training and Education licensed vocational training centres is growing – 220 by the end September of 2004

Programmes and projects

- National Programme Computer Training for Young People;
- Establishment of a Regional Crafts Training Centre for the Towns of Apriltzi, Gabrovo and Montana Project;
- Project for Young People who Dropped out of School;
- National Classification of Occupations Project;
- Research of Employers' Needs in Labour Force Professional Skills Project;
- Medical Staff Project;
- Promotion of Vocational Training for Adults and Employment in Bulgaria Project;
- Centres for Evening and Saturday-Sunday Vocational Training of the Middle Class in Bulgaria Project (Flanders – Bulgaria, described in Addendum 1, Block 6);
- PHARE Programme 2002, Project BG 0202.03 Lifelong Learning and Professional Training and Education;
- Leonardo da Vinci Programme

Measures under the Employment Promotion Act under the 2005 National Employment Promotion Plan include:

- creation of employment for vocational training for professional qualification and/or probation for unemployed persons under the age of 29 (Article 41 of the Employment Promotion Act);
- providing vocational training during working hours (Article 43 of the EPA);
- encouragement of employers to hire unemployed persons as replacements of staff who is away on training (Article 45 of the EPA);
- preserving staff employment for a period of six months and inclusion in vocational training in case of diminution or stopping work for more than 15 days (Article 57, Paragraph 2 of the EPA);
- preserving staff employment for a period of 12 months and inclusion in vocational training in case of diminution or stopping work for more than 15 days (Article 57, Paragraph 3 of the EPA);
- improving labour force qualification (unemployed persons) through creating jobs for training and acquiring vocational qualification through probation and/or apprenticeship (Article 46 of the EPA);
- promotion of increasing professional skills of self-employed persons (Article 47, Paragraph 1 and Article 83 of the EPA);
- promotion of acquiring professional qualification in connection to the Microcredit Guarantee Fund Project (Article 48a of the EPA);
- encouragement of unemployed persons who exercise independent agricultural activity to acquire vocational qualification (Article 49a, Paragraph 2 of the Employment Promotion Act);
- professional skills training (Article 63, Paragraph 1, Items 1, 3 and 4 of the EPA);
- motivation training (Article 63, Paragraph 2 of the EPA.)

Questions and observations made by the European Committee of Social Rights

The Committee concludes that the situation in Bulgaria is not in conformity with Article 1, Para 2 of the Revised Charter on the grounds that:

- the Labour Code does not provide for sufficient and proportional compensation in case of discriminatory dismissal.

See the information on Article 1, Paragraph 2 and Art. 20 of the Report.

- foreign workers working in Bulgaria for foreign employers do not have the same procedural safeguard.

According to Article 360, Paragraph 1 of the Labour Code, which settles the jurisdiction of labour disputes, these are considered by courts of law under the procedure set by the Civil Proceedings Code (CPC), to the extent that the Labour Code does not provide for something different.

Under Article 79, Paragraph 1 of the Civil Proceedings Code all civil cases except for those under the jurisdiction of the regional court as a first instance, fall under the jurisdiction of the local court. The claim is brought in front of the court that has the jurisdiction over the region of the defendant's residence or seat (Article 81 of the CPC.) Defendant in labour disputes initiated by the worker is the employer.

The provisions of Article 361 of the Labour Code set the jurisdiction of labour disputes with the participation of foreign nationals. Under this article labour disputes between workers of foreign nationality and employers, both foreign citizens and mixed ownership enterprises that have their headquarters in Bulgaria, in cases when the work is being done inside the country are under the jurisdiction of the court in charge of the area of the employer's headquarters, in case the two parties agree otherwise.

The second possibility under Bulgarian legislation is the so-called contractual jurisdiction. It is agreed upon between the parties in the labour contract. In case there is no such agreement the Bulgarian law has to be applied. Therefore, the conclusion is that workers of foreign citizenship are granted the same rights and in some cases even more rights than workers of Bulgarian citizenship.

The Committee requests data on unemployment amongst ethnic minorities.

No such surveys have been done. All ethnic minority members are Bulgarian citizens and the surveys do not take account of ethnic origin.

The Committee requests more information on the implementation of anti-discrimination legislation.

In order to have for more information on the implementation of the Discrimination Protection Act it is necessary that certain period of time elapses so that the respective jurisprudence can be created and analyzed.

Opinion of the confederation of Independent Trade Unions in Bulgaria (CITUB)

In the practice the more common is the under-covered and hard to prove discrimination by age and in some regions – by ethnicity. The facts available in this field can not always be used because there are procedures, used by employers for justify the admittance of such practices.

However it should be noted that after the adoption of Discrimination Protection Act there is a visible decrease in the number of public job vacancies announcements where a requirement for age is displayed concerning the upper limit (35-40 years), but such announcements are not fully disappeared.

The discrimination based on trade union membership is rather common case in the shape of preliminary declarations for non membership in trade union, dismissals, threats and harassment, lack of promotion etc, but the majority of concerned persons do not dare to take the respective legal actions and present the factual situation. The main reason for that is the high unemployment and fear of dismissal.

The Committee asks whether foreigners are excluded from certain categories of employment.

There are no such categories.

The Committee asks how courts have interpreted Art 127 from Civil Proceedings Code.
See the information on Article 20 of the Report.

The Committee wishes to know whether Bulgarian law provides for a period of compulsory work for persons refusing compulsory military service and, if so, how long this lasts and the employment conditions of those concerned.

Replacement of Military Obligations by an Alternative Service Act

Art. 6. (1) (Amended SG 50, 2003) Alternative service is carried out within the armed forces, departments and organizations supported by the budget, in state and municipal enterprises on job positions that do not require carrying a weapon.

(2) (Amended SG 50, 2003) Alternative service can not be carried out in cooperatives, in non-profit associations and foundations, in political parties, coalitions and associations with political aims, nor in trade-union organizations.

Art. 15. (Amended SG 50, 2003) The period of peacetime alternative service is one and a half times longer than that of conscript military service.

Art. 16. The utmost age for beginning the fulfilment of peacetime alternative service is 30 years.

Art. 17. (1) Those persons set to carry out peacetime alternative service shall start its fulfilment at the age of 18.

(2) The start of the fulfilment of peacetime alternative service is set by a decision by the Alternative Service Commission.

Art. 27. (Amended SG 50, 2003) (1) During the period of carrying out his peacetime alternative service the person has the right to remuneration to the amount set in the Regulation for the implementation of this Act. The remuneration is paid under the regulations of Chapter Twelve, Section IV of the Labour Code.

(5) The period of time during which a person fulfils his peacetime alternative service, as well as the time during which he makes use of his leave under Article 27, Paragraph 3, shall be deemed part of his work and insurance length of service.

Art. 31a. (New SG 50, 2003) (1) During the first 4 months of peacetime alternative service citizens may have their working hours reduced to 4 a day, in case the employer agrees and the citizen takes part in training courses that are organized under the regulations of the Vocational Education and Training Act and are related to the nature of the job he is doing.

Art. 38. (1) The employer with whom a person carries out his alternative service has the obligation to provide him with:

1. (Amended SG 50, 2003) remuneration in the amount set by the Regulation for the implementation of this Act;

2. additional remuneration for hazardous working conditions in case such is paid for the respective position;

3. safe and healthy working conditions, as well as free food, anti-toxins and other means to neutralize the harmful effects of working environment;

4. special working clothes and personal safety means in case such are due for the respective position;

6. funds for intercity transportation when taking the legally established leave to the place where the person lives and back.

The Committee asks for the ministerial orders laying down the remuneration for prisoners to be appended to Bulgaria's next report.

According Order LS-03-416 from 1991 of the Minister of Justice, coordinated with the Minister of Finances, imprisoned persons are entitled to a 40% remuneration, based on the national minimum wage, with the rest of the remuneration going into the Prison Affairs Fund (Article 64b, Paragraph 1, Item 3 of the PIA.)

The Committee asks what are the conditions for issuing permits and who supervises the performance of private employment services.

See the information for Article 1, paragraph 3 of the Report.

The Committee would like to know what share of Employment Agency staff remains in direct contact with the employers.

There is no such data.

Opinion of the trade unions in “Promyana” Alliance

1. The objectives of the Employment Strategy itself are formulated in ambitious way, but they are not realistic because the negative impact in short-term period (8-10 years) from the accession of Bulgaria to the EU is not taken into account. Bulgarian companies are not adapted to the criteria for economic activity in the EU. The free market will cause cases of bankruptcy and formation of a new economic structure.
2. The main accent should be put on promotion of entrepreneurship and economic activity for active persons, not the compensation measures for “post-factum” unemployed.
3. State should make efforts for intermediary activities for incorporation of Bulgarian producers in the economic structures of EU partners. This is the way for combination of absolute and relative Bulgarian advantages (by providing access to such advantages for European partners) with the effectiveness of the developed production structures within the EU (by access of Bulgarian national producers to such structures).
4. The calculation of unemployment rate by the National Statistical Institute and its number being 12,1% does not represent the real unemployment in Bulgaria because of the imperfection of definition of unemployed persons. This fact is supported by the high relative share of the long-term unemployed – 52,6%.
5. The high average share (74,5%) of the job offers for unemployed persons without qualification reflects very alarming negative trend for low technology development of the Bulgarian economy, which becomes accessory periphery of the EU.

ARTICLE 5 THE RIGHT TO ORGANISE

Question A

a. Please indicate whether any, and if so what, categories of workers and employers are prohibited by law from forming organisations, or restricted in doing so.

There are no changes in the Bulgarian legislation compared to the previous Report in this field.

Please indicate, inter alia:

– the existence of legislation or special regulations applicable to the forming of organisations by civil servants and other persons employed by the public authorities at central or local level;

There are no changes in the Bulgarian legislation compared to the previous Report in this field.

According to the CITUB there is a Federation of the Independent Trade Unions from the State Administration and Organizations within the CITUB. The Federation was founded on 23-24 April 1990. It has 19 675 members united in 539 trade union organizations. The Federation is a voluntary national association of independent and equal in rights branch associations (trade unions, unions and regional trade union organizations) and trade union organizations of people working in public administration bodies and local self-government; public utilities, community services and public organizations for fulfilment of common goals and tasks formulated by its members for protecting their rights and interests.

Other organizations of civil servants are the Professional Association of Civil Servants and the National Trade Union of the Civil Servants from the Financial Institutions and Controlling Bodies. These trade unions were duly registered and entered in the Register of the Non-Profit Making Organizations

– to what extent the rights provided for in this Article apply to members of the armed forces and of the police, explaining in particular the nature and functions of any staff associations which may be available to them;

There are no changes in the Bulgarian legislation compared to the previous Report in this field.

– whether nationals of other Contracting Parties lawfully resident or working regularly in the territory of your country may join or be a founding member of a trade union. Please indicate in particular whether they may hold positions in the administration or management of a trade union;

According to the new wording of article 8, Para 3 of the Labour Code, SG 52 from 2004:

(3) (Amended - SG, No. 52/2004) In the exercise of labour rights and duties no direct or indirect discrimination, privileges or restrictions shall be allowed on grounds of ethnicity, origin, sex, sexual orientation, race, skin colour, age, political and religious convictions, affiliation to trade union and other public organizations and movements, family and property status, mental or physical disability, as well as of differences in the term of the employment contract or the duration of working time.

– the eligibility of workers, nationals of other Contracting Parties, for election to

consultation bodies at the enterprise level such as works councils.

There are no changes in the Bulgarian legislation compared to the previous Report in this field.

In connection with the working conditions groups mentioned in the First National Report we would like to make reference to the following amendments:

According to the new wording of article 28 of the Law on Safety and Health at Work:

Article 28

(1) (amended - SG, No. 18/2003) Working conditions groups shall be established in companies and in other undertakings and organisations with less than 50 employees, as well as in the structural units of the companies, undertakings and organisations referred to in Article 27 paragraph (1).

...

Article 32 (amended - SG, No. 18/2003)

(1) In cooperatives with 50 and more members, as well in cooperatives with less than 50 members there shall be established respectively committee or group on working conditions.

(2) The representatives of the committees and groups on working conditions shall be elected by the General Assembly of the cooperative. The chairperson of the cooperative shall be chairperson of the committee or group on working conditions.

b. Please indicate any conditions of registration or otherwise with which employers' and workers' organisations must comply when they are founded and the provisions with which they must comply in the course of their existence.

There are no changes in the Bulgarian legislation compared to the previous Report in this field.

c. Please indicate the measures intended to guarantee the exercise of the freedom to organise and in particular those to protect workers' organisations from any interference by employers and by the state. Please indicate how such protection from outside interference applies to employers' organisations.

There are no changes in the Bulgarian legislation compared to the previous Report in this field.

Opinion of the confederation of Independent Trade Unions in Bulgaria (CITUB)

Unfortunately the existing legal measures are not enough. There is a need of measures in the field of administrative and penal law.

d. Please indicate, where appropriate, any statutory provisions regarding the affiliation of employers' and workers' organisations with national federations of organisations and with international organisations of the same type.

According to article 5 of the Freedom of Association and Protection of the Right to Organise Convention N 87, 1948, of the ILO, in force for Bulgaria since 08.06.1960:

Article 5

Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.

Regarding the membership of workers' and employers' organizations in international workers' and employers' organizations:

The CITUB and the Confederation of Labour Podkrepa are members of the ICFTU and ECTU.

The Association of the Organizations of Bulgarian Employers, which members are the Bulgarian Chamber of Commerce and Industry, the Bulgarian Industrial Association, the Union of Private Bulgarian Entrepreneurs – Vazrazdane, the Union for Private Enterprise and the Association of Industrial Capital in Bulgaria, is member of the IOE. The Bulgarian Industrial Association is also member of the UNICE.

Question B

a. Please describe how the right to join a trade union is protected in law and in practice and indicate whether any, and if so which, categories of workers are prohibited from joining a trade union or restricted in doing so.

There are no changes in the Bulgarian legislation compared to the previous Report in this field.

b. Please indicate whether and how the right of workers not to join a union is protected in law and in practice. Please indicate in particular whether examples exist in practice of an obligation to belong to a trade union (closed shop clauses, etc.) and what are the measures taken in this regard.

There are no changes in the Bulgarian legislation compared to the previous Report in this field.

Question C

a. Please furnish a complete description of any representativity criteria, i.e. any conditions which trade unions must fulfil in order to be considered representative.

Regarding the previous Report the amendments in the Bulgarian legislation are as follows:

By Decree № 152 of 11.07.2003 the Council of Ministers adopted Ordinance on the Procedures for Identifying the Presence of Criteria for Representation of Organizations of Workers and Employees and Organizations of Employers (prom. SG, 64/18.07.2003; amended by Decision № 9121 of 15.10.2003 of the Supreme Administrative Court, SG 93 of 21.10.2003, in force since 21.10.2003).

A copy of the above-mentioned Ordinance is attached to the present report (Appendix 4).

b. If such criteria exist, please also give information on the existence and type of appeal against decisions by the authority or authorities responsible for determining whether a trade union is representative or not. Please indicate the functions which are reserved for representative unions in respect of the negotiation and conclusion of collective agreements, participation in the nomination of various types of workers' representatives and participation in consultation bodies.

On the first question:

As previously mentioned, the Association of Democratic Syndicates (ADS) appealed the Council of Ministers Decision by which the representativeness of the syndicate was repealed. In 1999 the ADS and the National Trade Union (NTU) submitted a complaint to the Committee on Freedom of Association of the ILO and asked the restoration of their membership in the National Council for Tripartite Cooperation.

By Decree № 152/11.07.2003 the Council of Ministers adopted the Ordinance on the Procedures for Identifying the Presence of Criteria for Representation of Organizations of Workers and Employees and Organizations of Employers (attached to the present Report). On the basis of the Ordinance a trade unions poll was conducted at the end of 2003. Eight employers' and workers' organizations submitted requests to be included in the poll. The ADS and the NTU were not among these eight organizations.

In its Decision № 2134 of 10.03.2004 on administrative case № 10772/2003 initiated by the NTU, the Supreme Administrative Court concluded that at the moment of the entry into force of the text appealed in the above mentioned case (§ 1 of the Transitional Provisions of Decree № 152 of 2003 of the Council of Ministers), the complainant had not the capacity of representative trade union organization at national level. In this situation the plaintiff has not the right to take part in the National Council for Tripartite Cooperation and can not be a party in the collective bargaining at sectoral, branch and municipal level.

However, the plaintiff can make a request before the Council of Ministers, on the grounds of article 36, para 2 of the Labour Code to be recognized as representative organization at national level, after the submission of the necessary documents for identifying the presence of criteria under article 34 of the Labour Code, according to the Ordinance on the Procedures for Identifying the Presence of Criteria for Representation of Organizations of Workers and Employees and Organizations of Employers. Such a request has not been submitted so far.

On the second question:

The organizations of workers and employers which have not been recognized for representative are not entitled to participate in the social dialogue at national level, but they are entitled to take part in the social dialogue on enterprise level.

The law enables all trade union organizations to take part in the process of collective bargaining at enterprise level regardless the fact that they have been recognized as representative at national level or have not (article 51a of the Labour Code).

Opinion of the confederation of Independent Trade Unions in Bulgaria (CITUB)

After the last procedure for establishing the representativeness of the trade unions in 2003, a separate poll only for "Promyana" Alliance was carried out in 2005 on their request. Such a procedure is allowed by law but it was carried out without the participation of the other two representative at national level trade unions - CITUB and Confederation of Labour "Podkrepa", which has lead to suspicions for manipulated results. Besides, "Promyana" Alliance is not a pure trade union, i.e. it is some sort of hybrid civil-trade union formation, which has not only syndical, but other functions. The two trade unions - CITUB and Confederation of Labour "Podkrepa" expressed several times their protests before the government, to public briefings and by letters, as well as by request for publication of the poll data in the internet, but there were no reaction. Ultimately, this is one of the reasons for the two trade-unions to leave the National Council for Tripartite Cooperation in 2005 there is a request for a new poll, where all trade unions to participate at equal footing and in full

transparency. This request is done before the present government (currently in demission) and before the new one (not yet elected).

c. Please reply to the questions under a. and b. in respect of representativity of employers' organisations, except when negotiations at enterprise level are concerned.

On question a.:

The criteria for representativeness of employers' organizations are specified in the Labour Code as well as in the above-mentioned Ordinance on the Procedures for Identifying the Presence of Criteria for Representation of Organizations of Workers and Employees and Organizations of Employers.

On question b.:

For the time being six employers' organizations have the statute of representative organizations at national level: Bulgarian Industrial Association, Bulgarian Chamber of Commerce and Industry, Union for Private Enterprise, Union of Private Bulgarian Entrepreneurs – Vazrazhdane, The Employers' Association in Bulgaria and the Association of Industrial Capital in Bulgaria.

There are no appeals against the decisions for recognition of any employers' organization for representative at national level.

Opinion of the confederation of Independent Trade Unions in Bulgaria (CITUB)

The criteria for representativeness of employers' organisations in Bulgaria need improvements because the requirements for national representativeness are low, there is a need for differentiated criteria for organizations, incorporating small and micro enterprises. Moreover there should be legal differentiation between functions of employers' and business organizations, regardless whether or not there will be requirements for separate or same organizations for such purposes. Currently we have legislation which do not clearly specify whether an organization is really employer's (i.e. whether it has only employers' functions or both of them – employers' and business organization), because there are organizations which have predominantly functions of business organizations and they are recognized as representative employers' organizations at national level. Another common issue is the double or triple membership of an enterprise in several branch or nationally representative employers' organizations. It is obvious that freedom of associations allows so, but such practices require legal regulation of the representation process – i.e. each enterprise, each branch union have to state officially its preferences on the national representative organization of employers' which will be its representative in tripartite and bipartite consultations at national and regional level. The same goes for enterprises – each of them have to choose its representative (branch union) in the collective bargaining and tripartite consultations at branch/sectoral level.

Still, there is a weak institutionalization of employers' organizations in budgetary sphere and outside business.

Likewise the poll in 2003 for trade-unions, an establishment of criteria of representativeness of employers' organizations has been carried out. After the publication of the results in 2004, a total number of five were recognized as representative at national level. Later on during 2004/2005 an additional poll was conducted by request of two more organizations, one of which has been recognized as nationally representative, so that the number of nationally representative organizations became six.

Question D

Please indicate under what circumstances and on which conditions trade union representatives have access to the workplace. Please indicate also whether trade unions are entitled to hold meetings on the premises of the enterprise.

There are no changes in the Bulgarian legislation compared to the previous Report in this field.

Opinion of the confederation of Independent Trade Unions in Bulgaria (CITUB)

These issues are regulated by the legislation, but in practical terms it is quite often that the right to organize in this field is violated. As a matter of principle in organizations where no trade union members exist, especially those in underground economy and working in “semi-legal” way, the access of trade-unionists is very difficult and frequently impossible.

In enterprises where trade union representatives exist, they have in principle access to the workplace (at least trade union representatives who are at the enterprises), but they do not always have real possibility to hold meetings on the premises of the enterprise. Trade union representatives from other structures – regional, sectoral and national have sometimes restricted access even in the enterprises where trade union structures exist. Quite a lot of employers provide access to workplace of trade union representatives from all levels, but as a rule they are professional organizations who are traditionally opened to dialogue and seek cooperation with trade-unions.

Question E

Please give information on the measures taken to ensure protection against reprisals on grounds of trade union activities.

Apart from the Labour Code provisions referred to in the previous Report and providing for reinforced protection against dismissal of trade union figures in the enterprise, we would like to draw the Committee’s attention to the adoption of the *Discrimination Protection Act* on 16.09.2003 (prom. SG, 86/30.09.2003). This Act is result of efforts for harmonization of domestic legislation with the international standards. It provides for prohibition of discrimination in all spheres of public life including the labour relations (chapter 2, section 1).

The Act defines the direct and indirect discrimination on the basis of a range of grounds which are explicitly enumerated (art. 4, para 1). We consider that the enumerated grounds are in compliance with the reasons that should not be considered as justified for the termination of employment relationship, according to the Appendix to Article 24 of the ESC(r).

Regarding any grounds which are not pointed out in the Act, it provides for a prohibition of discrimination on the basis of grounds pointed out in another law or an international treaty on which Bulgaria is a party.

The Act provides for the establishment of a Commission on Protection against Discrimination (chapter 3) as an independent specialized public authority which shall implement the Act and sanction the acts of discrimination. The Commission shall be empowered to find violations under the Law, to rule prevention and suspension of the violations, the restoration of the *status quo* as well as to impose the sanctions. The envisaged fines are at the rate of 250-20 000 BGN.

The constitution of the Commission will be another possibility for adequate protection of workers and employees in cases of violation of their rights.

According to the Discrimination Protection Act, all persons concerned may choose the

legal proceedings apart from the administrative proceeding before the Commission. The legal protection shall include appropriate measures for stopping the violation, restoration of the *status quo* as well as compensations of the damages.

Opinion of the confederation of Independent Trade Unions in Bulgaria (CITUB)

There are no additional measures from those provided by the legislation, but obviously they are insufficient. Reprisals are rather economic and social consequences – dismissals, setting remunerations at some levels etc.

Questions and Comments of the European Committee of Social Rights

The Committee wishes to know whether trade unions and employers' associations fall into the category of non-profit-making organisations serving the general interest.

The Committee notes that trade unions and employers' associations are in practice federated at national level and wishes to know what the legal basis is for this. The report states that there is no specific legislation authorising trade unions and employers' associations to join international federations but again in practice they do appear to be affiliated to international trade union and employers' organisations.

According to § 2 of the Transitional and Final Provisions of the Law on Non-Profit-Making Companies the activity of organizations which perform trade union activity shall be regulated by a special law. Until the entry into force of such law, the Law on Non-Profit-Making Companies shall be applied to the trade union organizations.

Regarding the joining to international organizations, see the information submitted on question D in connection with the Article 5 of Freedom of Association and Protection of the Right to Organise Convention, 1948 (No 87) of the ILO which is in force for Bulgaria since 08.06.1960.

Right to join or not to join a trade union

According to observations on the report submitted by the Confederation of Independent Trade Unions of Bulgaria (CITUB) and the Association of Free Trade Union Organisations (OSSOB) under Article 23 of the Charter, employers in the "underground economy" and SMEs pressurise employees to give written undertakings not to join a trade union. The Committee wishes to know what penalties are imposed on employers guilty of such practices.

According to article 399 of the Labour Code the overall control over observance of labour legislation in all sectors and activities shall be exercised by the Executive Agency "General Labour Inspectorate" to the Minister of Labour and Social Policy.

Whenever controlling bodies establish violations involving data of a criminal offence or other violations of the law, they must inform the public prosecutor's office.

The Committee takes note, in the European Court of Human Rights' decision of 6 November 20031, of the characteristics of the unions of Bulgarian physicians (BMDU) and dentists (UDB) under the Act No. 83 of 1998 on doctors' and dentists' professional organisations (legal nature, functions and prerogatives). It notes that these "unions" do not constitute trade unions within the meaning of Article 5 of the Revised Charter. In order to decide whether the situation is in conformity with this provision, the Committee must know which bodies are empowered to negotiate doctors' and dentists' conditions of employment, including remuneration.

The professional organizations of physicians and dentists are public organizations which defend the professional rights of physicians and dentists. The labour and social security rights of physicians and dentists are defended by all workers' and employers' organizations in the health care branch.

Within the CITUB there is a Federation of the Trade Unions in the Health Care which comprises 23 623 members united in 404 trade union organizations.

The Federation of the Trade Unions in the Health Care is a voluntary association of free, equal in rights and autonomous trade union organizations of people working in the health care, medicine science and education, health services and social sphere in the public and private sector.

Within the Confederation of Labour Podkrepa there is Medical Federation.

In the absence of any relevant provisions in the Labour Code, the Committee asks what penalties may be imposed on employers or public authorities who impede trade union or employers' association activities, for example by dissolving, restricting, banning or otherwise illegally interfering with them.

See the information above regarding the control for observance of labour legislation exercised by the EA "GLI".

In connection with the Discrimination Protection Act, adopted in 2003, information on which is provided above, we would like to make reference on the following: with a view to the effective protection against all forms of discrimination including in case of trade union activity, the Act provides for a change of the burden of the proof in the legal proceeding (in case of allegation for discrimination the defendant should prove the absence of discrimination).

Opinion of the confederation of Independent Trade Unions in Bulgaria (CITUB)

Sanctions are really related with the provisions for the EA "GLI" but they are not sufficient. Sanctions by amendments of Criminal Code are needed.

The Committee asks how many hours off work employers are required to grant trade union representatives to pursue their union activities and undergo any associated training.

According to article 159 of the Labour Code:

Leave of Trade Union Functionaries

- (1) For the performance of trade union activities, the unpaid members of national, sectoral, and regional leaderships of trade union organizations, as well as the unpaid chairmen of the trade union leaderships in the enterprises shall be entitled to a paid leave of durations specified by the collective agreements, but not shorter than 25 hours for one calendar year.
- (2) The leave under the preceding paragraph shall be paid pursuant to Article 177, and may not be compensated with cash.
- (3) The trade union functionary shall choose when to use the leave under Para 1 and shall notify the employer in a timely manner. The time and duration of the leave used shall be accounted for in a special register with the employer.
- (4) The leave under Para 1 shall not be postponed for the following calendar year.

The Committee considers that where discrimination on the ground of trade union

activities has occurred, there must be adequate compensation proportionate to the damage suffered by the victim. It considers that the compensation must at least correspond to the wage that would have been payable between the date of the dismissal and the date of the court decision or reinstatement.

The Government of the Republic of Bulgaria examines in a serious manner the Committee's conclusion that the Bulgarian legislation does not provide for adequate and proportionate of the damages compensation for the victims of discriminatory dismissal. In the framework of its competences the Government makes efforts for the harmonization of national legislation with the Charter. An expression of these efforts is the adoption of the *Discrimination Protection Act* on 16.09.2003, information on which is submitted above (and in the Report on Art. 20).

With a view to the effective protection against all forms of discrimination including in case of trade union activity, the Act provides for a possibility for a compensation adequate of the damages.

More detailed information on the practical aspects of the Law would be submitted after certain period necessary for its applying by Bulgarian tribunals.

It wishes to know how employees are protected against anti-trade union discrimination in areas other than dismissal.

See the Discrimination Protection act.

Representativeness

The Committee notes that all trade unions, including "non-representative" ones, may take part in collective bargaining at enterprise level (Article 51a of the Labour Code) and represent their members before the courts (Article 45). The Committee wishes to know whether this interpretation is correct.

Yes, it is.

Personal scope

In their observations, several trade unions complain about the over-general nature of the Civil Service Act, which would weaken the protection of their right to organise and make it impossible for them to take part in collective bargaining. Since there is insufficient evidence to support these allegations the Committee asks for the next report to include the Government's comment to these observations as well as more precise information on the situation in law and in practice.

In connection with the request of the European Committee of Social Rights we would like to submit the following information:

According to the provision of article 7, Para 4 of the Civil Service Act (CSA), while holding civil service there shall not be discrimination, privileges or restrictions on the basis of a membership in trade union organizations.

The right of the civil servants to freely found associations, to join them and to leave them is guaranteed under article 44 of the Act.

The Act enables representatives of trade union organizations of civil servants to take part in the competition commissions for selection of candidates for civil service (art. 106, Para 2 of the SCA).

Representatives of trade unions can take part in the process of appraisal of civil servants and express opinion in case of disagreement of any civil servant with the appraisal

given. (art. 29 of the Ordinance on the Conditions and Procedures for Appraisal of Civil Servants).

According to the Council of Ministers Decision № 860 of 02.11.2004, the issues concerning the social security relations and the incomes from the public service shall be discussed in the National Council for Tripartite Cooperation.

The above-mentioned legal provisions does not harm or impede the civil servants' right to organize, nor the participation of trade unions in the discussion on the issues of economic and social interest for the civil servants.

We would like to make reference on the fact that, despite the absence of the right of collective bargaining in the narrow sense of this term, according to article 44, Para 3 of the CSA, the trade union organizations represent and defend the rights of civil servants on the civil service and social security issues through proposals, requests and participation in drafting the internal regulations and ordinances related to the civil service relations. The issues which are regulated by imperative legal regulations can not be subject of collective bargaining.

The conclusion that the right of association of civil servants is not impeded is supported by the existence of trade unions of the civil servants – the Professional Association of Civil Servants and the National Trade Union of the Civil Servants from the Financial Institutions and Controlling Bodies. These trade unions were duly registered and entered in the Register of the Non-Profit Making Organizations.

Regarding the National Police Trade Union and in order to assess the conformity to Article 5 of the Revised Charter, the Committee asks :

- who established the national police trade union,**
- whether officers and sergeants must belong to it and/or have formed independent trade unions,**
- whether the police trade union and any other association of police officers enjoy such trade union prerogatives as responsibility for discussing conditions of employment and remuneration and the right of assembly.**

The National Police Trade Union (NPTU) was founded on 12.05.1990 by officers and sergeants from the executive staff of the Ministry of the Interior. The trade union is completely independent from the management personnel of the Ministry at all levels. The trade union is a non-profit making organization registered under the Non-Profit Making Organizations Act.

The objective of the trade union is to defend the interests of the ordinary officials of the Ministry and to be a constructive opposition of the official management. The membership in the NPTU is voluntary. The labour conditions in the Ministry of the Interior are discussed in the ministerial Council on Labour Conditions. The President of the NPTU is at the same time Secretary of the Council. Representatives of the trade union take part in the Councils on Labour Conditions to the Regional Directions of the Ministry of the Interior.

From 1996 the councils do not discuss the amount of remunerations in the Ministry because, on the insistence of the trade union, it was decided that they would be derivatives of the average wage in the budget sector.

According to the Ministry of the Interior Act the trade union structures shall have the right to hold assemblies up to 10 hours per year within the working hours. Out of the working hours the duration of the assemblies is not limited.

Regarding the right of foreigners to can take part in Bulgarian trade union activities the Committee asks whether the conditions laid down in Order No. 1 of 15 August 2002 also apply to nationals of other parties to the Charter and the Revised Charter wishing to

found a Bulgarian trade union.

Yes.

ARTICLE 6

THE RIGHT TO BARGAIN COLLECTIVELY

Article 6 Para. 1

**"With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:
to promote joint consultation between workers and employers;"**

Please indicate the legislative or other steps taken to encourage joint consultation between workers and employers in your country. In what way do the public authorities encourage or participate in such consultation? Please give particulars on the bodies responsible for such consultation, at the national, regional, or local levels as the case may be, and on the procedures entailed, together with information on the issues covered (financial issues, social issues, working conditions, etc.) and on the sectors of the economy to which the procedures apply.

There are not legal changes compared to the last Report.

Opinion of the CITUB

According to the law, consultations may be carried out either by tripartite structures (with participation of the state) or at bipartite basis. Unfortunately in the tripartite structures, especially in the National council for Tripartite Cooperation there are constant attempts to limit the scope of the topics. In 2002 there was an attempt to modify the Labour Code with purpose to revoke the disposition concerning living level as matter of consultations at national tripartite level (resulting in the rest of levels). After the unsuccess of this attempt in 2003-2004 there were discussions about the scope of "living level" to be discussed at national level. The duration of discussions in the commissions was long because of the government's disagreement on some aspects of living level such as regional policy, social infrastructures, fiscal policy, environment and even education and health care etc to be included in legal document, regulating the activity of the NCTC. At the end the government agreed with the common view of the nationally representative organizations of employers and of workers and the issue for the scope of the living level as a matter of tripartite consultations has found its legal base in 2004.

Restrictions in discussed topics exist in practice as well. Because of the restrictions and formalization of consultations in 2005, the two nationally representative trade unions CITUB and CF "Podkrepa" discontinued their activity in the National Council for Tripartite Cooperation until the end of government's mandate.

Questions and Comments of the European Committee of Social Rights

The Committee has always considered that the situation is in conformity with Article 6§1 of the Charter where joint consultation place within the framework of tripartite co-operation bodies as long as it brings together employers and workers or their organisations on terms of equality, but on order to enable it to establish whether there is joint consultation in all areas of common interest –occupational problems (working conditions, vocational and in-service training, occupational risks), economic problems (business organisation and management, working hours, production rates, staff structure and numbers and so on), and social matters (social security, social welfare and so on) (Conclusions V, p. 45; Conclusions VII, pp. 35-36), the Committee asks for more

detailed information on consultations in the National Council for Tripartite Cooperation.

The Labour Code (LC) provides that the state regulates any labour and directly related relations, social security relations and relations referring to the living level after consultations and dialogue with the workers and employers and their representative organizations in spirit of cooperation, mutual concessions and observance of the interests of either party. The scope of topics concerning living level, which is subject to consultations, is determined with a legislative act issued by the Council of Ministers upon proposal of the National Council for Tripartite Cooperation. Cooperation and consultations are obligatory whenever legislative acts are adopted in reference to the issues and sectors as described above.

Cooperation and consultations on national level are carried out within the National Council for Tripartite Cooperation, which comprises representatives of the Council of Ministers and of nationally representative organizations of trade unions and employers' organizations. The chairman of the National Council for Tripartite Cooperation has issued Rules for Organization and Work of the Councils for Tripartite Cooperation (promulgated in State Gazette, issue 57 of 26.06.01, enforced since 30.05.01). These Rules regulate the organization and work of the National Council for Tripartite Cooperation on the one side and the same of sector, branch and municipal councils for tripartite cooperation on the other side.

The National Council for Tripartite Cooperation is a body established with the purpose to carry out consultations and cooperation on national level concerning issues of labour and directly related relations, social security relations, as well as issues of living level. The National Council for Tripartite Cooperation discusses and adopts opinion statements on legislative bills referring to issues of labour and directly related relations, safety and health at work, employment, unemployment and vocational qualifications, public and health insurance, incomes and living level, issues concerning the budget policy, social consequences of economy restructuring and privatization.

The National Council for Tripartite Cooperation coordinates the work, on national level, over programs concerning issues of the social dialogue, national and international financing where all representative parties at the National Council for Tripartite Cooperation participate. The National Council for Tripartite Cooperation consists of permanent members – two officials of the Council of Ministers, including one deputy prime minister, and two delegates of the representative organizations of workers and employers. The National Council for Tripartite Cooperation is presided by a deputy prime minister.

The secretariat of the National Council for Tripartite Cooperation consists of a secretary and a technical secretary – both officials of the Administration of the Council of Ministers, and two advisers appointed by the representative organizations of workers and employers. The Secretariat provides for the organization of work, technical and administrative services to the National Council for Tripartite Cooperation and to its members, as well as for the operative coordination and cooperation of the National Council for Tripartite Cooperation with the representative organizations of workers and employers. The Secretariat provides for the operative cooperation of the National Council for Tripartite Cooperation with the Administration of the Council of Ministers and other executive administrations, as well as with the parliamentary committees and the Administration of the President of the Republic of Bulgaria.

The National Council for Tripartite Cooperation has permanent committees working on the issues of incomes and living level, social security relations, labour legislation, social

consequences of economy restructuring and privatization, budget policy. The committees consist of two members each empowered by every member of the National Council for Tripartite Cooperation. The sessions of the committees can be attended, upon invitation, by chiefs and experts of bodies and institutions being depositors of the bills for discussion at the National Council for Tripartite Cooperation or have a direct interest thereto. The National Council for Tripartite Cooperation may decide to establish working groups to discuss other issues as well beyond those described above.

The National Council for Tripartite Cooperation adopts its decisions during sessions. When an agreement is reached, as written down in the proceedings, on the issues discussed at the permanent committees, the decisions of the National Council for Tripartite Cooperation can be adopted also in work sequence. The National Council for Tripartite Cooperation holds regular sessions under a three-month schedule, as preliminarily approved by the Council. The schedule is developed on the basis of the operative Action Plan of the Council of Ministers and taking into consideration the suggestions made by members of the Council. To discuss, upon request by whosoever member, any unscheduled issues, the National Council for Tripartite Cooperation holds extraordinary sessions. The National Council for Tripartite Cooperation adopts its decisions with general agreement of all attending permanent members of the Council or by their substitutes whenever the former are absent. The record of proceedings prepared at each session reflects all issues discussed during the session of the National Council for Tripartite Cooperation, the decisions adopted and any opinion statements submitted on them. The record of proceedings is signed by the chairman of the National Council for Tripartite Cooperation and each attending member of the Council. In case that a permanent Council member is absent, the record of proceedings is signed by the person acting for him/her at the session. Then a copy of the signed record of every Council session is circulated to all members of the council. In case that the Council discussions included also bills, a copy of the record, accompanied by all written opinion statements, if any, shall be submitted within two days at the Directorate "Governmental Chancellery" at the Council of Ministers or at the respective body, which had asked for opinion statement on them.

During sessions the committees of the National Council for Tripartite Cooperation discuss and prepare opinions on the bills submitted at the Council and also on issues appointed to their review by the Council's chairman or upon decision of the Council. The chairman of the National Council for Tripartite Cooperation appoints the committee to review bills and issues of relevant competence, and sets the term for the committee to produce opinions on them. Concerning issues of safety and health at work, employment, unemployment and vocational qualification, the chairperson of the National Council for Tripartite Cooperation requests the National Council for Working Conditions and the National Council for Unemployment Prevention and Employment Promotion to issue their opinion. The chairmen of the committees, after coordination with the secretary of the National Council for Tripartite Cooperation, fix the date, hour and agenda of the session. Then the secretary of the National Council for Tripartite Cooperation informs the council members thereof, by sending the approved agenda and relevant materials not later than two working days prior to the session date. The committees' sessions are held at the building of the Council of Ministers. The committees hold regular sessions whenever they are attended by representatives of all three parties. Whenever it is impossible for either party to attend, they can be represented by duly authorized representatives.

During the committees' sessions a record of proceedings is being held, which is signed by all attending members. On the basis of this record, a report is prepared and signed by the chairman of the committee. It is then sent to the Secretariat of the National Council for Tripartite Cooperation with the session's record of proceedings enclosed thereto.

On national level, the social dialogue is regulated also by other legislation and

regulations providing for tripartite management of the social funds – the Social Security Code, the Act on Safety and Health at Work.

Social partners participate in the following tripartite structures:

- National Council for Tripartite Cooperation and its committees;
- Controlling body of the National Social Security Institute;
- Assembly of representatives and Management body of the National Health Insurance Fund;
- Controlling body of the National Institute for Conciliation and Arbitration;
- Controlling body of the Guaranteed Workers' Claims Funds
- National Council for Employment Promotion;
- National consultative council for vocational qualification of the workforce (to the Minister of Labour and social Policy);
- National Council on Working Conditions;
- Management body of the Working Conditions Fund;
- Management body of the Social Assistance Fund;
- Management body of the Social Investment Fund;
- Economic and Social Council;
- National Council on Rehabilitation and Social Integration
- Council on Social Assistance;
- Consultative Commission on equal opportunities of women and men and disadvantaged groups in the field of work (to the Minister of Labour and Social Policy);
- Council on economic Growth to the Council of Ministers.

Under the Economic and Social Council Act, adopted in the beginning of April 2001, and in view with the promotion of the social dialogue as part of the National Program for adoption of the *acquis communautaire* of the European Union, the Economic and Social Council was created. It has mainly a consultative function, similar to analogue bodies in most of the EU Member countries. The Economic and Social Council embodies the will not only of social partners, but also of civil society structures interested in the economic and social development. It aims to promote the active and wider participation of the society in the social and economic life based on the principles of democratic, social and rule-of-law state by functioning at the same time as a permanent institution for the realization of social dialogue and consultations over the economic and social policy between the government and the civil society.

The Committee asks for information in the next report on whether employers' and employees' organisations have themselves established joint consultative bodies and whether joint consultative bodies exist in the public service.

The Labour Code contains no provisions regulating the issues of the Directive 94/45/EC of 22 September 1994 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. No initial researches have been made to this end. Given the transnational character of the Directive, which does not provide for complete implementation prior to the date of accession to the European Union, it will be transposed in two stages: the first comprising the protection of the Bulgarian representatives into the European Workers' Council, and the second stage providing for the development of legislation to fully transpose the Directive which to enter into force on the date of accession of the Republic of Bulgaria into the European Union.

Bulgaria has made a very important step towards the promotion of autonomous

bilateral dialogue which is the opportunity for the action of a collective labour agreement concluded within the sector/branch and signed by all representative organisations of workers and employers to spread over all enterprises within the sector/branch. Thus the social partners are given the opportunity to regulate the labour and directly related relations.

On 12 April 2005 it was signed the General Framework for National Economic and Social Pact of Bulgaria until 2010 – *For strong economy of Bulgaria, for decent work and life of people*. The document was signed by the chairmen of the Association of Employers in Bulgaria, the Bulgarian Investment and Business Associations (BIBA) and the Confederation of Independent Trade Unions in Bulgaria (CITUB) for consideration by the political forces and participants in Elections 2005. The objective is that after elections the final text of the Economic and Social Pact to be worked out. The Pact shall reflect the commitments of the government to representatives of the business and work organisations. The document shall be open for signatures by other workers' representative organisations as well.

On 29 April 2005 five employers' organizations which are members of the Association of Bulgarian Employers' Organizations – AICB, BIA, BCCI, BUPE "Vazrajane" and UPI and trade unions CITUB and CL "Podkrepa" signed an Address to the political parties participating in Parliamentary elections in 2005, containing common proposals of employers and trade unions for the economic and social policy up to 2010 in order to define main principles and priorities of social, political and economic development of the country and measures for their implementation.

Such initiatives should be considered as attempts of Bulgaria to implement the good practices adopted from the countries of the Northern Europe, where trade unions and employers sit around the table without over-confrontations, negotiate the disputes to reach agreement and issue a common opinion to start talks with the government.

Article 6, Paragraph 2

Question A

Please give a description of the existing collective bargaining machinery and its results in both the private and public sector (indications of the number of negotiations and agreements concluded and other indicators or evaluation criteria).

Opinion of the CITUB

There are some omissions in the law concerning the possibilities of bargaining at all levels. For instance the possibility is missing for national labour agreement, for collective labour agreements at district level and for collective labour agreements at municipal level, concerning the rights of workers in private sector. For the budgetary sector further improvements of the legislation is needed, because the notion of employer and employers' organizations there in practice is difficult to define.

The mechanism for negotiations and bargaining from 2001 is quite difficult in practice. Many employers find reasons to delay negotiations and conclusion of new collective labour agreements, and some of them practically refuse to do that. From 2001 there are attempts to sign the National framework agreement for common conditions and scope of sectoral and branch collective labour agreements, as provided by the Labour Code. Although in 2002 and in 2003 the most of the nationally representative employers' and workers' organizations have come to mutual compromises for the content of the agreement, at the last moment one or another employers' organization was refusing to sign it, which resulted in refusals from the other employers' organizations. No serious reasons for such refusals have been presented. In 2004 and 2005 no practical negotiations for such agreements have been carried out. Although the national agreement has not been signed, in most sectors and branches in 2002, 2003, 2004 and 2005 new collective agreements were signed, but some

employers made use of this delay of negotiations or even have not concluded new collective agreements. This is true for the chemical and pharmaceutical industry, some branches of light and food-processing industry. In 2002-2004 there were not collective labour agreement in sector machinery construction, but from 2004 there is such.

Among the reasons for difficulties in negotiations at sectoral and branch level are the insufficient institutionalization of employers' organizations in some sectors and branches, the increasing number of nationally representative employers' organizations as well as the pressure from non-representative organizations or some employers, who are not members of employers' organizations.

The Committee asks what proportion of employees are covered by collective agreements.

There is no such official statistics.

Opinion of the CITUB

For 2005 the number of operative collective labour agreements in sectors and branches is 69 (data of CITUB). In several municipalities there are collective agreements for the enterprises funded by the municipal budget (education, culture etc.), as well as big number of collective agreements at enterprise level, business organizations, budget and other non-commercial organizations, but there are no precise statistics for this level. It would be good to create a monitoring system for analysis and dynamics of the concluded collective agreements and for this purpose the recourses of the National Institute for Conciliation and Arbitration could be used for instance.

According to observations made by several Bulgarian trade unions, employers often fail to comply with this requirement in practice and delay the negotiations. The Committee asks for the Government's comments on this subject, and in particular on the effectiveness of the penalties for non-compliance.

According to Art. 52 of the Labour Code employers are obliged to:

- Negotiate to conclude a collective agreement;
- Make available to the workers' representatives the collective agreements concluded which bind the parties on the basis of to sectoral, regional or organizational affiliation;
- Make available to the workers' representatives timely, authentic and understandable information on their economic and financial position which is significant for the conclusion of the collective agreement; provision of information the disclosure of which could cause damages to the employer may be refused or granted subject to requirement for confidentiality.

They are not allowed to refuse the performance of such negotiations even when the negotiated provisions seem to be unacceptable. The obligation as herein provided should refer only to the employer's obligation to negotiate, but does not cover any obligation to conclude a collective labour agreement. Paragraph 2 of the same Article provides for the employer's responsibility in case of non-fulfilment of the obligation to enter into bargaining. The non-fulfilment has to be guiltily, i.e. intentional or negligent. In case of dispute over failure to comply with this obligation, the guiltiness and the amount of incurred damages have to be established and proved. Such disputes are civil cases and shall be solved under the general civil proceedings, i.e. in a court lawsuit. Under this kind of dispute, plaintiff will be the

respective trade union organization, which is a party in the collective bargaining, and the defendant will be the respective employer, who according to the claim is charged with guilty failure to comply with the legal obligation to enter into bargaining and this failure has incurred damages. Paragraph 3 of Article 52 envisions the hypothesis for an employer to be charged with a guilty failure to perform. i.e. the delay – failure to perform the legal obligation to enter into bargaining in time. The delayed performance of this obligation incurs damages to the workers, whose interests the respective trade union organisation represents and defends: the collective labour agreement was not concluded in time and therefore any benefits otherwise acquirable shall be applied later, etc.

The state of delay starts after one month from the date of receipt by the employer of the invitation sent by the trade union management. This moment is also considered to be the starting moment to calculate the cost of incurred damages for guilty failure to comply with the legal obligation to enter into bargaining.

The effectiveness of sanctions in case of failure to comply with the legal obligation to enter into bargaining depends on the number of civil claims submitted and the number of sentences ruled on them for the benefit of trade union organisations.

Opinion of the Bulgarian Industrial Association

The BIA expresses surprise from the question of the European Committee's of Social Rights question concerning the effectiveness of the penalties for non-compliance to the obligation of collective negotiations. We would like to recall that Art. 6 Para. 2 of the European Social Charter requires from the governments **to promote** machinery for **voluntary** negotiations. This means voluntary negotiations, not voluntary conclusion of collective labour agreement

In this respect the BIA warns the European Committee of Social Right that in Bulgaria the Labour Code obliges employers and their organizations to make negotiations in a fixed term, while in case of refusal or delay to do so they are entitled to pay compensation for the damages occurred. We do not comment the legal nonsense to establish damages arising from non fulfilment of obligations, which are not negotiated yet.

Besides the Labour code do not allow employers and their organizations to propose draft collective agreement, which leads to more inequality of the parties.

The ILO Director General Report at the 92nd Session of the International Labour Conference "Organizing for social justice" states that in Bulgaria, Romania and Moldova collective bargaining are mandatory according to the labour legislation. According to the views of the Committee for freedom of association this is not consistent with the principle of voluntary collective negotiations and is heritage from the previous system.

We would like to point out that the BIA has always stimulated its members to negotiate and conclude collective labour agreements. In Bulgaria the sectoral organizations of the BIA are the ones to have concluded sectoral and branch collective labour agreements. For the time being there are 64 such agreements, signed only by sectoral members of the BIA. According to expert evaluations in the enterprises members of the BIA about 38% of the workers are covered by collective labour agreements.

We put this problem forward not only because this situation is not in conformity with Art. 6 Para. 2 of the ECH (r), but because the Bulgarian state created administrative obligation to negotiate instead of promoting "machinery for voluntary negotiations". We believe that such mechanism could be the recognition of the national representativeness of the employers' organizations with their participation in collective bargaining.

Opinion of the CITUB

More important violations (or detour of the law) are not related to refusal to negotiate but the prolongation of negotiations. The law, unfortunately, does not provide for a term for their bringing to the end.

In order to figure out how Section 51 of the Labour Code applies in practice at branch and industry levels and at local level, the Committee asks for the next report to explain the conditions of negotiation at these levels.

According to the Rules of Organisation and Activities of the Councils for Tripartite Cooperation, branch, sector and municipal council for tripartite cooperation are bodies to carry out consultancies and provide cooperation to settle any issues of labour and directly related relations, social security relations and issues concerning living level that are specific for respective branch, sector or municipality. The councils consist of permanent members – including two representatives of respective ministry, institution or municipal administration on one side, and of representative organisations of workers and employers on the other side, in accordance with Article 36, paragraph 3 of the Labour Code. The representativeness of the organisations of workers and employers is determined under Article 36, paragraph 4 of the Labour Code by means of a document issued by respective nationally representative organisations. The chairmen of the councils are appointed by the respective minister, head of institution or mayor of municipality among the members of the councils and after consultations with the representative organisations of workers and employees and of employers in respective councils for tripartite cooperation. The organisation and coordination of the work of the councils, as well as the administrative and technical services are executed by a secretary appointed by the respective ministry, institution or municipality.

With a special decision the councils can adopt the creation of commissions and/or working groups for respective branch, sector or municipality. The councils can adopt rules of the organisation of work of commissions and working groups. The members of the commissions and work groups are confirmed by the respective council. The chairman of the council convenes sessions and approves the agenda. A sessions of the council can be held upon request by any representative of the organisations of workers and employers who also submit the agenda of the session. The secretary shall inform the members of the council on the date, hour and place to hold the session and shall send them all necessary materials.

The sessions of the councils are held and considered regular if they are attended by not less than two thirds of the permanent members, among which representatives of all three participating parties. If any of the permanent members is unable to attend, he/she can be replaced by other participants of the councils, as appointed under Article 36, paragraph 3 of the Labour Code for each separate case. The decisions of the council are adopted with general agreement of all attending permanent members of the council and, if absent, with the votes of their representatives. For the issues discussed at the council, adopted decisions and expressed statements the secretary shall work out a record of proceedings. The record will be signed by all attending members of the council. In case that a permanent member is absent, the record will be signed by the person representing him/her. A copy of the signed record of proceedings of each session shall be circulated to all members of the council. A copy of the record of proceedings, accompanied with the written statements, if any, will be submitted to the bodies under Article 3e, paragraph 4, items 2 and 3 of the Labour Code.

The Committee asks what proportion of employees are covered by collective agreements.

There is no such statistics in Bulgaria.

Opinion of the CITUB

According to internal data of CITUB – 35-38 % (including sectoral, branch, municipal, departmental, national companies, associations and enterprises)

According to the report the state may not intervene in collective bargaining. However the Committee notes from the observations of the national trade union Promyana that in May 2002 the Minister of Education and Science was a formal signatory to a collective agreement in higher education. The Committee asks for the Government's comments and in particular for further information on this particular case and the frequency of such practices.

In recent years Bulgaria has adopted the practice that the Minister of Education and Sciences negotiates with the teachers' trade union and concludes an agreement concerning the secondary education with its representatives, which is incorrectly qualified as a collective labour agreement.

Question B

There are no changes in the legislation compared to the previous report.

Question C

There are no changes in the legislation compared to the previous report.

Opinion of the CITUB

The state does not have the possibility to intervene in the process of collective labour bargaining at any level. The only right that the state has is those in Art. 51b, Para. 3 of the Labour Code – the right of the Minister of Labour and Social Policy to extend the application of the industry or branch level collective agreement or of individual clauses thereof to all enterprises of that industry or branch. Up to now this right has not been exercised by the Minister of Labour and Social Policy, although there are several such requests, according to the law. This does not assist the process of collective bargaining, it does hamper it.

Article 6 Para. 3

Question A

Please describe such machinery as exists by virtue either of law, collective agreements or practice for the settlement of disputes by:

- a. conciliation;**
- b. arbitration or court procedure;**
- c. other methods of dispute resolution.**

There are no changes in the legislation compared to the previous report.

Question B

In so far as certain machinery may be compulsory, please describe:

- the sanctions imposed by law or by collective agreements used for its enforcement;**
- their significance in practice.**

There are no changes in the legislation compared to the previous report.

Question C

Please describe the procedures provided, whether by law, staff regulations or practice, for settling disputes between public sector employees and the administration, and show whether existing procedures are open to them.

The Committee concludes that the situation in Bulgaria is not in conformity with Article 6§3 of the Revised Charter because there is no conciliation or arbitration procedure in the public service.

The government of the Republic of Bulgaria is considering with serious attention the conclusion of the Committee saying that the Bulgarian legislation does not provide for conciliation or arbitration procedure in the public service. Within its competences the government constantly puts efforts in the harmonization of the national legislation with the European Social Charter, including technical assistance from international organisations. (In 2002 Bulgaria hosted a consultancy mission of the International Labour Organisation. In the mission report there is a recommendation concerning the amendment of the Civil Service Act in view with the introduction of a machinery to settle collective disputes within the state administration, such as negotiations among parties or a procedure of mediation and arbitration, which to provide guarantees for objectivity and independence. Such procedure should be structured in a way inspiring trust among the interested parties. In the follow-up of the mission, a tripartite seminar was organized and held with the participation of representatives of the Ministry of Labour and Social Policy, the representative organisations of workers and employers and consultants of the International Labour Organisation. During the seminar discussion was held on the recommendations and suggestions made in the report and new ideas were tabled for discussion. It was agreed that a new working group will be set up to prepare drafts of legislation amendments on the grounds of the converged opinions during the seminar).

As of the moment, the work and consultations among the parties are still continuing in view with the agreement of a mutually satisfactory result concerning the introduction of a machinery of conciliation and arbitration for civil service.

In order to assess whether the situation is in conformity with Article 6§3 of the revised Charter, the Committee wishes to know if the arbitration referred to in Section 4.1 of Act No. 21 may lead to a decision binding on the party who did not request the procedure and who never had agreed to participate in it.

Pursuant to Article 4, paragraph 1 of the Collective Labour Disputes Settlement Act, whenever there is no agreement reached or either party quits negotiations, any party can request for assistance by the means of mediation and/or voluntary arbitration by trade union and employers' organisations and/or the National Institute for Conciliation and Arbitration.

Under the Rules on Mediation and Arbitration for Settlement of Collective Labour Disputes by the National Institute for Conciliation and Arbitration, the mediation is a means for voluntary settlement of a collective labour dispute by the parties with the mediation of a third party – mediator. The mediator assists the parties to reach an agreement to settle their dispute through mutual concessions, compromises and mutual respect of interests. The mediation is carried out in cases of a collective labour dispute when there is not agreement reached previously through direct talks among disputing parties or any of the parties had refused to participate in the talks.

The mediator does not decide or settle the dispute in substance, but assists the parties to bring closer their positions and reach an agreement themselves to settle voluntarily the collective labour dispute.

Whenever there is a lack of mutual agreement to recourse to mediation, either party can request for the opening of a procedure of mediation, by sending a written request thereof to the National Institute for Conciliation and Arbitration with a copy of the request being sent to the other party of the dispute. The request shall include the parties of the dispute; the reason, description of the subject of dispute and the claims addressed to the other party; the names, addresses and telephone numbers of representatives, if any.

Within seven days from the receipt of the copy, the informed party shall submit to the National Institute for Conciliation and Arbitration and to the other party, in written form, a declaration of agreement. If the request is not made within the specified term, the procedure for mediation is considered to be unaccepted.

The mediator cannot impose the parties any form of agreement.

The mediation ends with a signature of an agreement to settle the collective labour dispute by means of reaching an agreement to start a procedure of arbitration.

The arbitration is a means to settle a collective labour dispute through an arbiter or through an arbitration commission with the participation of involved parties.

The arbitration is carried out in relation to a collective labour dispute after no agreement was reached through direct negotiations among the parties, but when there is a mutual consent to reach such.

The procedure of arbitration is launched with a written request thereof signed by both disputing parties.

The procedure of arbitration ends with submitting a written agreement on the subject of dispute as agreed between the parties to settle voluntarily the collective labour dispute or with an arbitration decision.

Therefore, to carry out a procedure of mediation or arbitration, it is necessary to reach the agreement of both parties.

The Collective Disputes Settlement Act provides for an obligatory arbitration only when there is no written agreement between employer and workers to provide during the strike, conditions indispensable to carry out activities, which if stopped will create danger on the satisfactory functioning and services provided to households, transport and community centres, the possible suspension of television and radio broadcasting, incurrence of irreparable damages on public or personal properties or the nature and public order. In this case the dispute shall be refereed to a sole arbiter or an arbitration commission composed of arbiters, included in the List of Arbiters, appointed by the Council of Ministers or a body authorized for this purpose.

Pursuant to § 1 of the final and additional provisions of the Collective Labour Disputes Settlement Act, every agreement reached among the parties during negotiations, arbitration or strike shall be obligatory for either party and is subject to immediate enforcement. Disputes related to the execution of agreements and arbitration decisions shall be considered under the order set for the consideration of disputes concerning the execution of collective labour agreements.

Article 6 Para. 4

The Committee concludes that the situation in Bulgaria is not in conformity with Article 6§4 of the Revised Charter on the grounds that:

– strikes are unlawful in the health, energy and telecommunications sectors (Section 16.4 of the Settlement of Employment Disputes Act, No. 21 of 13 March 1990);

- **public officials only have a statutory right to take part in symbolic strikes and are banned from collectively withdrawing their labour (Section 47 of the Civil Service Act, No. 67 of 27 July 1999);**
- **ordinary employees of the Ministry of Defence and any establishments responsible to that ministry are denied the right to strike (Section 274.2 of Act No. 112 of 1995).**

First ground of non-conformity:

In relation with the right to strike in the sectors of energy, telecommunications and healthcare, it is necessary to point out on the efforts of the government to reach a solution of compromise. The discussion with the social partners on this issue and the preparation of amendment and supplement of the Collective Disputes Settlement Act has been on the way for more than two years now.

In the meantime, numerous expert consultations were held and it was taken into consideration that the Committee on the Freedom of Association at the International Labour Organisation has issued an opinion that the Telephony Sector can be considered as a sector providing main services where strike could be limited, even prohibited.

Therefore the draft law submitted for consideration at the Council of Ministers provided a prohibition of strike in the sector of energy alone. In the process of consideration of the draft law and the discussions on it held in the National Council on Tripartite Cooperation, the Ministry of Transport and Communications has rejected the possibility to allow an effective strike in the sector of communications because of the obvious danger to threaten in this way the national security, life and health of the population, the environment, etc.

The Ministry of Health was also reasons over the possibility to allow effective strikes in the sector of healthcare on the grounds of the imminent threat to provide sufficient health services to the population.

In the process of coordination it was considered also Decision 14 of the Constitutional Court of 1996 under Article 50 of the Constitution. The quoted Decision rules that any limitations to the right to strike of employees and workers is allowable in view with the provisions of Article 4, paragraph 2, Article 28 and Article 52, paragraphs 3 and 57 of the Constitution, so far as the effective suspension of work in the system of healthcare and communications could result in imminent and real danger for the life, security and health of the whole or part of the population.

In view with the limitations to the right to strike in quoted sectors, another mechanism was established to solve any collective labour disputes, besides the possibilities to settle disputes already set up under Articles 3 and 4 of the Collective Disputes Settlement Act, through enlargement of the scope of obligatory arbitration.

The draft law on the amendment and supplement of the Collective Disputes Settlement Act envisions the insertion of a new Article 16a:

"Article 16a. Whenever the parties to a collective labour dispute concerning activities under Article 16, item 6 fail to reach an agreement through bargaining under Articles 3 and 4a, the dispute shall be referred for consideration by the National Institute on Conciliation and Arbitration. Within three working days from the date of receipt of the request, the director of the National Institute on Conciliation and Arbitration shall appoint a sole arbiter or an arbitration commission composed of arbiters, included in the List under Article 4, paragraph 7, item 5, who will be responsible to settle the dispute under Article 6."

The dispute shall be considered on the grounds of a written request submitted by the interested parties or their representatives. The disputing parties can agree on the number of sessions to be held to consider the dispute and on the periods of time to span between the different sessions. Unless they do so, the dispute shall be considered in no more than two sessions with the period between them not exceeding 7 days. The arbitration decisions shall

be issued in compliance with the actual legislation and regulations, in written form and within three days from the date of the last session. It is subject to execution by the parties to the collective labour dispute.

Second ground of non-conformity:

The government of the Republic of Bulgaria is considering with serious attention the conclusion of the Committee saying that the Bulgarian legislation does not provide for procedures for conciliation and arbitration for civil service. Within its competences the government constantly puts efforts in the harmonization of the national legislation with the European Social Charter(r), including technical assistance from international organisations. (In 2002 Bulgaria hosted a consultancy mission of the International Labour Organisation. In the report on the mission there is a recommendation concerning the amendment of the Civil Service Act in view to provide civil servants with the right to effective strike. The report recommends that Article 47 of the State Officials Act omits the text: “without suspending the execution of the state official duties”. It shall also provided for the minimum services as agreed mutually by the parties.

Third ground of non-conformity:

Because the officials at the Ministry of Defence – civil persons and officials on duty at other bodies and structures of the Ministry of Defence are also categorized as “civil servants”, the above statement concerning civil servants shall be considered in view therewith as well.

Opinion of the CITUB

It is now five years that Republic of Bulgaria fails to meet the obligation under Art. 6, Para. 4 of the ESC(r) to provide for satisfactory implementation of one of the basic labour rights – the right to strike in communications, healthcare and energy. For the time being the disposition of Art. 16, Para, 4 of the Collective Labour Disputes Settlement Act provides that the strike is not allowed to workers in health care, communications and in production, distribution and provision of electric energy, as well as for workers under employment relationship in the Ministry of Defence, Ministry of Interior, court, prosecutor’s and investigating authorities. This means that the Bulgarian state establishes absolute ban on strikes for those working in healthcare, energy and communications.

Republic of Bulgaria has limited the right to strike of the civil servants. According to Art. 47 of the civil Service Act, civil servants in Bulgaria have the right only to symbolic strike actions, not to effective-ones.

Another issue is that for those workers who are allowed to take a strike, there are bureaucratic and groundless complicated procedures which are of nature to prevent exercising this right. We could therefore say they do not have absolute right to strike, but there are limitations imposed by Art. 14 of the Collective Labour Disputes Act.

Having in mind the above-stated, the CITUB considers that, contrary to the requirements of Art. 6, Para.4 of the ESC(r), with the provision of Art. 16 of the Collective Labour Disputes Settlement Act , without any other compensation machinery for effective protection of the interests in collective labour dispute of workers in healthcare, communications and energy, the right to strike is fully denied.

We believe that with such limitation of the right to strike, established by law, the State does not protect public order, national security, public health or morality, nor guarantees the rights and freedom of the others, but places at unequal footing one group of workers compared to the others.

As result of the democratic changes and decentralization of the labour relations, the MLSP initiated in 2003 the creation of a working group for preparing amendment to the Collective Labour Disputes Settlement Act.

In the working group there were representatives of the government and all nationally representative organizations of employers and workers.

After a consensus among the participants have been reached, the following dispositions were agreed upon:

- the right to effective strike for civil servants;
- Repeal of the absolute ban for strike of workers in health care system and communications. For these sectors it was agreed for preliminary agreements between parties to collective agreements on minimum services during strike. The ban for strike was preserved only for workers in energy sector. For collective labour disputes settlement in this field a compulsory arbitration was introduced.

The prepared amendments in the Collective Labour Disputes Settlement Act, coordinated with your recommendations was accepted by all social partners in the National Council for Tripartite Cooperation. The CITUB was badly surprised to know that during the session of the Council of Ministers, after objections made by the Minister of Communications and the Minister of Health, the proposed amendments in Art. 16, Item 4 have not been adopted. This situation reconfirmed the absolute ban to strike in the above mentioned 3 sectors.

We consider that Bulgarian state does not have reasons for not allowing these workers to have the right to strike, which leads on the one hand to non-fulfilment of the main principles of the Revised Charter as respecting rights and freedoms of the others, protection of public health and national security, and on the other-to limitation of the constitutionally established right to strike to a number of Bulgarian workers.

The proposed new Art.16a from the amendments and supplements to the Collective Labour Disputes Settlement Act provided for mandatory arbitration of the National Institute for Mediation and Arbitration upon proposal of one party, in case of non agreement during collective labour dispute after negotiations or mediation. Our experts believe that such replacing strike mechanism is not reliable when it comes to collective labour disputes. This is so because in such a case the mandatory arbitration shall administer justice as specialized jurisdiction. According to Art. 119 of the Bulgarian Constitution, the justice in Bulgaria is implemented only by courts. It is therefore inadmissible for specialized jurisdictions to administer justice. The conclusion is that the decision of the mandatory arbitration according to the new Art. 16a, cannot be enforced by the possible state duress. In case of denial to comply with the decision, the collective labour dispute remains unsettled.

As stated above the agreement reached in the National council For Tripartite Cooperation on the amendments of the Collective Labour Disputes Settlement Act has not been accepted to the Council of Ministers. The adopted amendments have not included the field of the absolute ban to strike. At 21 November 2003 the Council of Ministers introduced the bill at the National Assembly. Up to now, the bill have been considered at first reading in the Commission of Labour and Social Policy.

For us the amendments in the Collective Labour Disputes Settlement Act are necessary in order to improve the procedure for peaceful settlement of collective labour disputes and liberalizing the conditions for guarantying the right to strike with minimum service functioning at the sectors of healthcare, energy and communications, and for the civil servants as well.

Therefore we consider that the present situation, where an absolute ban for strike exists in the three sectors, as well as the inaction of the State concerning compensatory mechanisms for effective protection of labour and social rights of workers in these sectors by amending and supplementing the Collective Labour Disputes Settlement Act, the unchanged legislation concerning the right of effective strike of civil servants, is unsatisfactory fulfilment

of obligations under At.6, Para 4 of the ESC(r).

Question A

There are no changes in the legislation compared to the previous report.

Question B

There are no changes in the legislation compared to the previous report.

Question C

There are no changes in the legislation compared to the previous report.

To ensure that the voting requirements do not, in practice, make it very difficult to exercise the right to strike, the Committee asks for information on the voting method used and the required quorum.

So far as the quorum required is concerned, the general assembly of workers (or the meeting of plenipotentiaries) cannot be opened and work, as well as adopt valid decisions, unless it is attended by more than a half of all workers (or from the plenipotentiaries). This is considered to be the quorum necessary for holding a regular general meeting (or meeting of plenipotentiaries).

“Simple majority” to adopt decisions by the general assembly is considered to be the majority of workers attending the meeting. The rule says: the general assembly adopts its decisions through a simple majority of all attending members. It means half of all workers attending the meeting.

Question D

There are no changes in the legislation compared to the previous report.

Question F

There are no changes in the legislation compared to the previous report. Following to request made by the BIA, we state that lockouts are not allowed.

Procedural requirements linked to collective action

The Committee asks how the requirement for employees or their representatives to indicate the proposed duration of a strike is applied in practice, in particular how precise the information must be and the consequences of extending a strike beyond the time indicated.

Pursuant to Article 22, paragraph 1 of the Collective Labour Disputes Settlement Act, anybody who violates the provisions of Article 11, paragraphs 3 and 5, i.e. the workers or their representatives are obliged to inform in written form the employer or his/her representative, at least seven days prior to the date of start of the strike, to appoint its duration, and the body to manage the strike, shall be imposed a fine varying from 0.2 to 1 BGN, unless a graver sanction is provided by law. Such violations are recorded with acts issued by the authorities engaged with the state control on labour, while sanction ordinances are issued by the chairperson of the executive committee of the municipal council as per location of

violation. The establishment of violations, the issue, appeal and enforcement of penal ordinances are carried out in accordance with the Administrative Violations and Sanctions Act.

The Committee asks for the justification for the provision of Article 14 of the Collective Disputes Settlement Act and the sectors to which it could apply.

The right to strike is granted to workers in all economic sectors and branches, except from those explicitly stated by law.

The obligation under Article 14 to provide conditions necessary to carry out the strike activities, which if stopped will create danger on the satisfactory functioning and services provided to households, transport and community centres, the possible suspension of television and radio broadcasting, incurrence of irreparable damages on public or personal properties or on the nature and public order, shall be considered in relation with the necessity to provide for the minimum conditions of normal functioning of economy and preservation of social peace for the period of strike. Lack of such obligation would create imminent danger to deprive citizens from goods and services of first necessity, of immediate and correct information, of property rights' violation, of environmental damages and violation of the public order.

ARTICLE 7

THE RIGHT OF CHILDREN AND YOUNG PERSONS TO PROTECTION

Article 7 Para. 1

Question A

Please indicate whether the minimum age of admission to employment is regulated by legislation. If so, please send the relevant texts.

There are no changes in the legislation compared to the previous report.

Please indicate whether the minimum age of admission to employment applies to all categories of work, including agricultural work, domestic work and work carried out in family enterprises.

There are no changes in the legislation compared to the previous report.

Question B

Please state whether your country's legislation dealing with minimum age allows derogations. if so, please state the derogations provided for in general by law or granted by an authority.

There are no changes in the legislation compared to the previous report.

Please provide a definition of “light work” and, if appropriate, the list of such of work.

There are no changes in the legislation compared to the previous report.

Question C

Please indicate the measures taken to combat illegal child labour and to implement in practice the relevant legislation and regulations.

In addition to the provisions described in the previous report, we would like to point out the provisions of Article 192a of the Penal Code adopted in 2004 which incriminates the admission to employment of a person aged under 18 without a preliminary permit as required by law:

Penal Code

Article 192a. (previously the permit as required by law admits to employment person under the age of 18 shall be subject to imprisonment of up to six months and a fine of 500 to 1000 BGN.

(2) If the criminal act under paragraph 1 is committed in relation to a person under the age of 16, the sentence will be imprisonment of up to one year and a fine of 1000 to 3000 BGN.

(3) If the criminal act under paragraph 1 is committed again, the sentence will be imprisonment of up to one year and a fine of 1000 to 3000 BGN, and under paragraph 2 - imprisonment of up to three years and a fine of 2000 to 5000 BGN.

Article 7 Para. 2

Question A

There are no changes in the legislation compared to the previous report.

Question B

There are no changes in the legislation compared to the previous report.

Question C

The labour legislation of Bulgaria regulate the admission to labour practices of under-aged children and includes mechanisms to control the performance of such labour. The institution engaged with the control on such labour is the Executive Agency «General Labour Inspectorate».

According to the results obtained by analysis of inspections and permits issued for admission to employment of under-aged children, the largest part of under-aged children are employed in the following economic sectors: sewer industry, public nutrition, tourism, commerce, agriculture and forestry. According to the Survey from 2000, mentioned by the ECSR in the Conclusions, 6.4 % of children aged between 5 and 17 years are engaged with labour activities. It is important to say that this percentage comprises also children helping with the family households and industries, so far as the duration of such activities do not exceed one hour daily and does not threaten the moral and healthy growth of children. In the majority of cases the labour performed by under-aged children has educative character. In most cases the labour performed by under-aged children has a seasonal character and is related to the execution of low-qualified works. In some enterprises where such activities are carried out the parents are working there and they are usually assisting their children to perform the work.

The active social policy of the government provides for the formation of a prevention culture of workers, including persons under 18 years of age, and the subsequent development of the system of prevention by means of development of the legislation, education and training, social dialogue, common social responsibility, economic initiatives and partnership between all work performers.

To implement these tasks, on the grounds of signed agreements and other types of accords for mutual activities, the Ministry of Labour and Social Policy, the Ministry of Interior, the Ministry of Health, the State Agency for Child Protection, non-governmental organisations and media have channelled their common efforts.

To strengthen the control on economic activities involving the admission of under-aged persons to employment and observation of relevant legislation and regulations and the imposition of grave sanctions to employers admitting children to work beyond the adopted legal rules, the Executive Agency «General Labour Inspectorate» has undertaken measures to strengthen its administrative capacity. The expected results include reduction of the number of children admitted to employment without due legal permit to work by the Executive Agency «General Labour Inspectorate» and under terms and conditions in violation of sanitary and hygiene regulations.

As a result of inspection activities in 2004, a total number of 27540 enterprises were controlled, which makes for 10.9 % of all commercial subjects incorporated in the country, which employ workforce. The controlled enterprises showed a total of 1296405 employed persons, or 60.5 % of the total employment in the country, including 54 % males and 46 % females. During the inspections in 2004 it was found that a total number of 1944 persons under the age of 18 are employed – 0.15 % of all employees in the enterprises subject to inspections.

In 2004 a total number of 5418 requests for work permits to under-aged children were submitted at the Executive Agency «General Labour Inspectorate» (under Articles 302 and

303 of the Labour Code), including 292 under Article 302 of the Labour Code, and 5126 under Article 303 of the Labour Code – 5126, which stands by 1199 more compared to data in 2003. A considerable growth in the number of requested permits of work was found at employers submitting requests at the Executive Agency «General Labour Inspectorate», mainly because of fear in the face of administrative and penal responsibility after this act was incriminated pursuant to Article 192a of the Penal Code.

In 2004 the Executive Agency «General Labour Inspectorate» issued a total of 5096 permits to work, including 237 under Article 302 of the Labour Code, and 4859 under Article 303 of the Labour Code.

The economic activities where the majority of permits were requested and issued in 2004 include: hotels and restaurants, retail trade with automobiles and motorcycles, and production of clothing. These sectors prevail with small and medium sized enterprises where the character of work allows for seasonal employment without any serious requirements for occupational qualification and good conditions at work.

The legal violations concerning the protection of labour performed by under-aged children as found during those inspections are related to the imperative prohibition concerning night work under Article 140, paragraph 4, item 1, over-time work under Article 147, paragraph 1, item 1 of the Labour code, and the observation of the legally determined working time, holidays and rests, etc.

Compared to the total number of found violations of employment relations, the number of violations concerning the admission of under-aged children to employment is relatively low, but this could be explained with the short term of employment for under-aged children.

The total number of violations concerning the protection of work performed by under-aged children as found during those inspections stands at 138 or 0.3 % of the total number of violations at work and 96 less than in 2003. The majority of violations concerning the protection of work performed by under-aged children as found during those inspections refer to admission to employment without the duly issued permit of work by the Executive Agency «General Labour Inspectorate», where the number of violations stand at 101.

After the legal amendments to the Penal Code enforced as of 30.03.2004 the act of admission to employment without the duly issued permit of work by the Executive Agency «General Labour Inspectorate» is incriminated. On this grounds a total of 84 signals were sent to the public prosecution by the Executive Agency «General Labour Inspectorate».

Article 7 Para. 3

Question A

There are no changes in the legislation compared to the previous report.

Question B

Please indicate the statutory maximum duration of any work performed by children still subject to compulsory education before or after school hours and during weekends and school holidays.

There are no changes in the legislation compared to the previous report.

Please indicate the nature of the work performed by these children.

There are no changes in the legislation compared to the previous report.

Question C

We would like to pay attention to item IV of the appended National Strategy for Child Protection for the period of 2004-2006, where one of the purposes include: “**Guarantees for equal access of children to high-quality education and learning in view with efficient social realization**”. To implement this purpose the following measures are planned to be undertaken:

1. Promotion of integration of children originating from ethnic minority communities to the national education system.
2. Integrated education for children with specific education needs.
3. Increase of the quality of education for children with specific education needs.
4. Enlargement of health education in school with the purpose of prevention of HIV/AIDS and sexually transmitted diseases, as well as against drug addictions.
5. Enlargement of civil studies for children on the primary stage of education as part of the obligatory curriculum in primary schools.
6. Provision of wider and equal access to new information technologies and teaching children into responsible behaviour during work in the World Wide Web.
7. Provision of appropriate education and vocational training for children at street.
8. Increase of occupational qualification for teachers and instructors.

Concerning this issue see also the National Program for Child Protection for 2005 (Appendix 5): Fields of priority and operative purposes

II. Creation of better conditions for children at street to exercise their rights, as guaranteed in the UN Convention on the Rights of Children and the Child Protection Act and the purposes and activities related thereto.

Article 7 Para. 4

Question A

In addition to the information included in the previous report, we would like to inform of the amendment to Article 113 of the Labour Code, which regulates the working time under an employment contract for additional work:

Pursuant to this article, the maximum length of working time under an employment contract, together with the working time under the main employment relationship, cannot contradict the minimal uninterrupted daily and weekly rest as specified under the Labour Code. The new paragraph 2 envisions that in the cases of paragraph 1, the working time for persons under the age of 18 cannot exceed 40 hours weekly.

Question B

Please indicate if any workers are not covered by provisions of this nature, whether contained in legislation, collective agreements or other measures and, if so:

a. please provide statistics showing what proportion of all workers is not covered;

There are no changes in the legislation compared to the previous report.

b. please give the reasons for which certain workers are not covered;

There are no changes in the legislation compared to the previous report.

c. please state what special measures have been taken on behalf of workers under eighteen years who do not benefit from any limitation of their hours of work.

With comparison to the previous report, the following amendments to the national legislation were adopted:

Labour Code

Article 62. (Amended - State Gazette, issue 100 of 1992, Amended and Supplemented, issue 2 of 1996) (1) The employment contract shall be concluded in writing. (2) (New - SG, No. 2/1996) Employment relations shall also arise where no employment contract concluded in writing is available, but the employer has admitted the employee to work, and he/she has commenced the performance of such work. In such cases the existence of employment relations may be ascertained by all means of evidence. (3) (New paragraph - State Gazette, issue 120 of 2002) Within three days from the date of conclusion or amendment of the employment contract and within seven days from the date of termination the employer shall send a notice thereof to the respective territorial department of the National Social Security Institute. (4) (New paragraph - State Gazette, issue 120 of 2002) The data included in the notice and the order of sending shall be regulated in a regulation by the Minister of Labour and Social Policy after coordination with the Director of the National Social Security Institute and the Chairperson of the National Statistical Institute. (5) (previous paragraph 3 - State Gazette, issue 120 of 2002) Upon conclusion of the employment contract the employer shall introduce the employee to the labour obligations ensuing from the position occupied or the nature of the work performed. (6) (previous paragraph 4 - State Gazette, issue 120 of 2002) The documents required for the conclusion of the employment contract shall be specified by the Minister of Labour and Social Policy

Regulation № 5 of 29.12.2002 on the contents and order of sending the notice under Article 62, paragraph 4 of the Labour Code

Article 1. (1) (Supplemented - State Gazette, issue 88 of 2004) The employer shall inform the respective territorial department of the National Social Security Institute as per address of registration about any conclusion, amendment or termination of employment contracts, by sending a notice and notice of change of employer under Article 123, paragraph 1 of the Labour Code.

(2) The sending is executed by:

1. submitting the notice to the respective territorial department of the National Social Security Institute;
2. Internet with an electronic signature when the employer has a certificate of a universal electronic signature;
3. registered mail.

...

Article 4. (1) (Supplemented - State Gazette, issue 88 of 2004) After the receipt of notices the respective territorial department of the National Social Security Institute shall issue a reference which includes a list of all verified notices and a list of non-admitted notices accompanied with a description of the reason for non-admittance. The reference shall be

verified by an official of the respective territorial department of the National Social Security Institute and handed down to a representative of the employer with registered mail or by Internet.

(2) The employer shall correct any mistakes in the notices, if this is the reason for their non-admittance, and then send them back within three days from the date of receipt of notices or reference under paragraph 1.

(3) The employer shall hand down to the worker, before admitting to employment, a written copy of the verified notice. This act shall be certified with the signature of the worker put down against his/her name in the reference of verified notices.

(4) The employer shall store the references and submit them, upon request, to the controlling bodies of the Executive Agency “General Labour Inspectorate” and to the National Social Security Institute.

Question C

In relation to the implementation of the right to vocational training of young persons, we shall present some of the key items included in the *Action Plan on the Protection of Children at Street for the period 2003-2005*

...

Purpose 2. Providing life in proper family surroundings, appropriate living standard for children at street, access to education, health care, vocational education, protection against any forms of abuse and violence

Main activities:

2.2. Creation of opportunities for individual education and professional preparation of children who dropped out from the general education schools through changes into the regulations within the system of the Ministry of Education and Sciences.

The authority responsible is the Minister of Education and Sciences partnered by the State Agency for Child Protection, the Employment Agency, the State Agency for Refugees, non-governmental organisations.

2.3. Development of a system of control on attendance at kindergartens and pre-school classes by children living in families in risk. Providing information for persons who take care for children not attending school.

The authority responsible is the Minister of Education and Sciences partnered by the Ministry of Interior, municipalities, non-governmental organisations.

...

2.6. Development of programs for specialized childcare institutions to prepare children for individual life.

The authority responsible is the Minister of Education and Sciences partnered by non-governmental organisations.

We would also like to pay attention to the project **“BG 0202.03 – Lifelong learning and vocational education and training”**, which aims to improve the adaptiveness and competitive capacity of the workforce in view with the dynamics on the labour market through implementation of system of Lifelong Learning.

The Ministry of Labour and Social Policy is the executive agency under this project. For the

technical implementation of the project is responsible the Ministry of Education and Sciences, which is also a beneficiary to the project.

The target group of the project includes regular students and working students at the age of 16-29, who need increase of qualification, minority groups, disabled people and persons who dropped out from school, as well as unemployed young persons aged between 16 and 18 years.

The target group includes also instructors and trainers at school, the management at schools, redundant (jobless) young teachers and trainers at enterprises, whose participation at the project will contribute for the establishment of a modern and dynamic system for occupational qualification of teachers and trainers. the target group includes also employers who will be beneficiary under the grant scheme.

Question D

So far as the legislation is concerned, it is applicable to all categories of young persons.

The measures described herein above as part of different projects are targeted towards certain groups of young persons depending on their status and needs.

Question E

See the reply given to the previous question.

Article 7 Para. 5

Question A

Labour Code

Contract for apprenticeship

Article 230. (1) The apprenticeship contract binds the employer to train the novice while working in a specified profession or speciality; and the novice to master it.

(2) The contract shall set down the forms, the place and the duration of training, which cannot be longer than 6 months, the compensation due by the parties in case of non-performance as well as other issues related to the training.

(3) The parties shall set down in the contract the period of mandatory work by the trainee with the employer after successful completion of the training course, and the employer shall provide work in accordance with the acquired qualification. That period shall not be longer than 3 years.

(4) During the training the trainee shall receive labour remuneration in proportion with the work done but not less than 90 per cent of the minimum work salary decreed for the country.

...

Article 232. (1) After successful completion of the training the employer, in accordance with the apprenticeship contract, must appoint the trainee to a job corresponding to the acquired qualification, and the trainee must take up the job and work during the agreed period.

(2) In case the employer fails to provide a trainee, who has successfully completed his training, with a job corresponding to the acquired qualification he shall be liable in the amount of the gross labour remuneration for the corresponding position for the period when such work was not provided, but for not more than 3 months, unless otherwise agreed upon.

Question B

There is no such statistical information.

Article 7 Para. 6

Question A

There are no changes in the legislation compared to the previous report.

Question B

See above the information provided in relation with the contract for apprenticeship.

Question C

There are no changes in the legislation compared to the previous report.

Question D

There are no changes in the legislation compared to the previous report.

Question E

Besides the measures described in the previous report, see also the information provided under paragraph 4 concerning the measures and projects implemented by the Ministry of Labour and Social Policy.

Article 7 Para. 7

There are no changes in the legislation compared to the previous report.

Article 7 Para. 8

Question A

There are no changes in the legislation compared to the previous report.

Question B

There are no changes in the legislation compared to the previous report.

Question C

There are no changes in the legislation compared to the previous report.

Question D

There are no changes in the legislation compared to the previous report.

Question E

There are no changes in the legislation compared to the previous report.

Question F

See the information in relation to the controlling activities of the Executive Agency “General Labour Inspectorate”.

Article 7 Para. 9

There are no changes in the legislation compared to the previous report.

Article 7 Para. 10

Question A

There are no changes in the legislation compared to the previous report.

Question B

Please describe the measures to protect young persons who are in fact exposed to physical or moral danger at their work.

There are no changes in the legislation compared to the previous report.

Please describe, in particular, the measures taken (stopping of work, transfer, vocational guidance, etc.) when a physical disorder is noted in young persons in the course of their work.

See the information in relation to the controlling activities of the Executive Agency “General Labour Inspectorate”.

Question C

On 5 September 2003, under Decision № 614/2003 of the Council of Ministers, adopted under the initiative of the State Agency for Child Protection, the government approved the National Action Plan on Fight against Sexual Exploitation of Children with Commercial Purposes (Appendix 8) for the period 2003-2005. The main objectives of the Plan include the adoption of effective measures to avoid sexual exploitation and eradication of this phenomenon in all its performances, such as child pornography, prostitution, child trafficking and commerce, sexual tourism; unification of the efforts of all institutions to work for the fight against sexual exploitation of children, and lastly, the role of the partners from the non-governmental sector to counteract this phenomenon.

Publication and circulation of the Plan

In February 2004 the book titled “Sexual exploitation of children with commercial purposes” was published. It was circulated on national and local level, including to the regional police departments; regional healthcare centres; regional social assistance directorates; child protection departments; regional education inspectorates, central and local commissions on fight against anti-social behaviour of minor and under-aged children. The book is circulated also through the network of regional centres of the International Organisation for Migration in the country, with publications sent also to the institutions specialized at care and services for disabled children, institutions specialized at care and services for children without family care, as well as the boarding schools and social-pedagogical institutions.

The book was circulated with the assistance of experts by the Agency through various meetings, round tables, seminars, courses, etc.

Coordination expert council

Given the specific role of the State Agency for Child Protection as a national coordinator, an intergovernmental working group was established at the National Council on Child Protection with the purpose to coordinate the execution of activities under the National Action Plan. The working group included representatives of all ministries having relation to the problem – the Ministry of Interior, the Ministry of Health, the Ministry of Education and Sciences, the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Culture, the Ministry of Sports and Youth, as well as non-governmental organisations – the Foundation “Animus Association”, the Foundation “Centre Nadya”, the Foundation “Partners Bulgaria”, the Gavrosh Association Varna, the Bulgarian Association on Family Planning and Sexual Health, the Bulgarian Gender Researches Foundation, the Care International – Bulgaria Foundation, the Foundation “Neglected Children”.

The working group has grown into a Coordination expert council. The Council was officially institutionalized with an order by the National Coordinator from 1 April 2004 to include representatives of state institutions engaged with the implementation of the plan. It also envisioned the opportunity to include other experts and representatives of state institutions and non-governmental organisations working on the problems of sexual exploitation of children with commercial purposes.

In 2004 the main accent in the activities of the State Agency for Child Protection under the plan was the institutionalization of the working group and increase of the qualification of experts engaged with this problem, increase of the public attention towards the problem and also the launch of a national telephone “hot line” for children.

Specialized web site “Sexual exploitation of children with commercial purposes”

At the same period the Agency launched a specialized web site dedicated to the “Sexual exploitation of children with commercial purposes”, www.stopech.sacp.government.bg. Its main purpose is to provide complete information concerning the problem, including legislation and regulations, national documents, international standards, links to governmental and non-governmental organisations, and by giving the opportunity to register signals on violated children rights. Until now, the form for sending signals was used to receive information about:

- Illegal and dangerous contents circulated through the Internet, as well as distribution of materials with pornographic contents of under-aged children – 3;
- Violence of children and child negligence, including ill-treatment at school – 12;

- Search for help, consultancy, including professional advises by the State Agency for Child Protection, including by professionals from the system of child protection;
- Requests for inspections of the activities of non-governmental organisations and schools – 7.

From all the signals above four were anonymous.

Guide for Best Practices for specialists engaged with crimes against children

Following a proposal made during the Second National Conference “Sexual exploitation of children with commercial purposes” by the director of sector “Crimes against children” from the National Central Bureau of Interpol, to translate and publish a Guide of Interpol for best practices of specialists engaged with crimes against children, the State Agency for Child Protection initiated the implementation of this idea. With the support of the Regional Bureau of UNICEF, the guide was translated. Now an update is forthcoming. It is necessary to point out that the Agency is main partner of the National Central Bureau of Interpol. The State Agency for Child Protection has leading documents of Interpol in the field of child protection against violence.

National telephone “hot line” for children

Experts from the State Agency for Child Protection together with the Child Helpline International carried out meetings with representatives of the three telecommunication companies operating in Bulgaria. These meetings had the purpose to present the idea of opening a National telephone hot line for children and to engage the providers of telephone services to open a free-dial number for the whole country. For more publicity and commitment to the problems, the State Agency for Child Protection held a meeting with representatives of Child Helpline International and experts of key ministries and non-governmental organisations, including representatives of BTC EAD, Mobil-Tel EAD, Cosmo Bulgaria Mobile EAD. The State Agency for Child Protection addressed the Ministry of Transport and Communications and the Commission on Regulation of Communications with a proposal to include a free-dial telephone number (telephone hot line for children) to the codes for access to emergency services, as regulated in the Regulation on the rules for distribution and procedures to use, reservation and withdraw of numbers, addresses and names. The network of telecommunication partners attracted also representatives of public telephone services through pay-phone set machines. It was seen as success to unify all telecommunication companies in Bulgaria around the idea to release a short free three-dial number. Experts from the State Agency for Child Protection participated in several international conferences to exchange experience and share good practices. Bulgaria, despite yet without a nationwide accessible hot line for children, also demonstrated good practices in the negotiations with telecommunication companies in the country.

Coordination mechanism

In the process of coordination with the state institutions and non-governmental organisations, the Agency has adopted also the leading role in the preparation of so-called “Coordination mechanism for reference and care in cases of non-attended Bulgarian children returning from abroad”. According to experts engaged with this problem, the mechanism will fill in empty niches in the already established institutional partnership and thus will give more opportunities for response to this phenomenon of unattended minor and under-aged children upon return to the homeland. The problem must be considered in the context of the overall situation of child trafficking in the country.

Ethics Code of workers in the tourism sector in relation to prevention of trafficking and sexual exploitation of children

Through its network of partners, the State Agency for Child Protection started working on the project “Cooperation between the public and private sector for prevention of trafficking and sexual exploitation of children in the sector of tourism.” This is a project implemented with the partnership of the Organisation for Security and Cooperation in Europe and the Bulgarian non-governmental foundation Animus Association – La Strada, the Austrian non-governmental organisation “Respect” – Institute for Integrated Tourism and Development, and the Romanian non-governmental organisation “Save the Children”. Through this project, a new approach in the fight against trafficking and sexual exploitation of children with commercial purposes was adopted in Bulgaria. On 11 May 2005 the Ethics Code for prevention of trafficking and sexual abuse of children in the sector of tourism was signed by the State Agency for Child Protection, the foundation Animus Association and the first representatives of tourism industry in the country, who declared readiness to introduce measures for child protection against sexual exploitation in their activities. Those were the Bulgarian Hotels and Restaurants Association, the Bulgarian Tourism Chamber, the Bulgarian Association of Tour Operators and Tourism Agents, the Bulgarian Business Leaders Forum, the Bulgarian Bureau for Convention Tourism, Hotels P.M.K., Hotel Ambassador, Radisson SAS, Grand Hotel Sofia, taxi-driver company OK SuperTrans, tour operator Correctly Travel, and the agency for youth travel Usit Colours Bulgaria.

Work in cases of Bulgarian children unattended abroad – victims of work and sexual exploitation

Since 2002 the State Agency for Child Protection, as a specialized body on the child policy in Bulgaria, has worked on cases involving children unattended abroad who become victims to work and sexual exploitation in the countries of the European Union. To counteract this new social phenomenon in Bulgaria, which emerged after the visa regime was removed, the Agency identified national and local partners and took on the functions of coordination of processes to repatriate children.

Since 2003 the Agency has the authorities related to the enforcement of the Fight on Human Beings Trafficking Act (Article 21) and the secondary legislation related to it. The Agency is a member of the National Commission for Fight against Human Trafficking and partakes in the preparation of legislation and regulations concerning the fight against trafficking related to children.

The information about children is received from abroad under three channels mainly – the Ministry of Foreign Affairs (consular missions), the Ministry of Interior, and the missions of the International Organisation for Migration in various countries. The Agency is also part of the process to repatriation and reintegration of children.

Since 2004 upon the initiative of the State Agency for Child Protection and under the so-called “Coordination Mechanism for reference and care in cases of children unattended abroad and returned to homeland”. It clearly describes the commitments and activities of each organisation in view with the channels to receive the signal.

In 2004 a total number of 41 children were repatriated and by now, in 2005, the Agency has signalled a total of 7 cases of children of this category. Immediate actions were undertaken to return the children back to the country and plans for their reintegration are worked out.

According to data by the Ministry of Interior related to sexual exploitation of children used for commercial purposes for the period of 01.01. – 31.12.2004:

- 2 minor and 9 under-aged children became victims to human trafficking;
- 45 minor and under-aged children were seized in foreign countries for crimes or begging.

Question D

Please indicate the measures taken to protect children and young persons against all forms of violence, exploitation or ill-treatment (including sexual abuse) to which they may be subjected, including within the family.

Please indicate the extent of the problem (if possible, with data) and the measures taken or planned in order to guarantee children and young persons the protection to which they are entitled, including not only preventive but also other measures.

Please also describe the preventive measures taken against smoking, drug and alcohol abuse, including multiple addiction, as well as against sexually transmitted diseases.

In reference to Question One:

There are no changes in the legislation compared to the previous report.

In reference to the practical measures adopted with the purpose of protection of young persons, see the information provided herein above as part of the response to Question C.

In reference to Question Two:

Detailed information on this issue is presented in relation with the provisions of Article 11 of The European Social Charter(revised) "The Right to Protection of Health" in the Third National Report of the Republic of Bulgaria.

Question E

Compared to the previous report, amendments to the national legislation were adopted as follows:

Child Protection Act

Article 17a. (New - State Gazette, issue 36 of 2003) The Chairperson of the State Agency for Child Protection has the following powers:

1. (Amended - State Gazette, issue 28 of 2005) develops the state policy on child protection together with the Minister of Labour and Social Policy, the Minister of Health, the Minister of Education and Sciences, the Minister of Justice, the Minister of Interior, the Minister of Culture and Tourism, the Minister of Finance, the Minister of Youth and Sports, the Director of the National Social Security Institute, the Secretary of the Central Commission on the fight against anti-social behaviour of minor and under-aged children at the Council of Ministers and together with the National Association of Municipalities in the Republic of Bulgaria;

2. develops and controls the implementation of national and regional programs on the implementation of child protection;

3. monitors and analyses the implementation of the state policy on child protection and issues methodical instructions to the departments of child protection addressed to the Social Assistance Directorates;

4. (Amended - State Gazette, issue 63 of 2003) works out a Regulation on the criteria and standards of social services for children concerning the implementation of measures under Article 4, paragraph 1, items 1, 2, 4 and 5 and submits it for approval by the Minister of Labour and Social Policy;

5. issues licenses for natural persons, regulated under the provisions of the Trade Act, and to legal entities for the provision of social services to children under the age of 18 under

the terms and conditions of Chapter Four "a";

6. assists the Minister of Labour and Social Policy, the Minister of Health, the Minister of Education and Sciences, the Minister of Justice, the Minister of Interior and the Minister of Foreign Affairs in their work concerning the development and implementation of a policy of integration into the policies of the European Union in the field of child protection;

7. can represent the state in international organisations and programs in the field of child protection after due powers granted with a decision of the Council of Ministers;

8. develops and participates in the discussion of draft laws and regulations in the field of child protection;

9. creates and maintains a national information system for:

a) children in need of special protection;

b) children who can be adopted;

c) foster parents and applicants for foster parents;

d) specialized childcare institutions;

e) non-governmental legal entities engaged with programs in the field of child protection;

f) other information which is important for the child protection;

10. assists non-governmental legal entities in their activities in the field of child protection;

11. organizes and carries out scientific, research and education activities in the field of child protection;

12. develops rules on the structure, organisation and activities of the National Council on Child Protection which shall be adopted by the Council of Ministers;

13. organizes and manages the activities of the National Council on Child Protection in his/her capacity of chairperson of the council;

14. organizes inspections on the observation of the rights of children by all state, municipal and private schools, kindergartens and crèches, servicing departments, medical institutions, Social Assistance Directorates and non-governmental legal entities engaged with programs in the field of child protection and in cases of violation of child rights shall issue mandatory instructions personally or by duly empowered official;

15. carries out monitoring and control of specialized childcare institutions in the field of child rights protection and issues mandatory instructions;

16. submits on a regular annual basis a report on the activities of the Agency to the Council of Ministers.

National Council on Child Protection

Article 18. (1) (Amended - State Gazette, issue 75 of 2002, issue 36 of 2003, issue 28 of 2005) The National Council on Child Protection shall be established at the State Agency for Child Protection with consultative functions and participation of representatives of the Ministry of Labour and Social Policy, the Ministry of Health, the Ministry of Education and Sciences, the Ministry of Justice, the Ministry of Interior, the Ministry of Culture and Tourism, the Ministry of Finance, the Ministry of Youth and Sports, the Director of the National Social Security Institute, the Secretary of the Central commission on the fight against anti-social behaviour of minor and under-aged children at the Council of Ministers and together of the National Association of Municipalities in the Republic of Bulgaria, as well as non-governmental legal entities engaged with programs in the field of child protection.

(2) The structure, organisation and functions of the National Council on Child Protection are stipulated with rules adopted by the Council of Ministers.

Functions of the State Agency for Child Protection

Article 19. (Revoked - State Gazette, issue 36 of 2003).

Social Assistance Directorates

Article 20. (1) (Amended - State Gazette, issue 36 of 2003) The Social Assistance Directorate is a specialized body in the field of child protection within each municipality where a Child Protection Department is also established.

(2) (Amended - State Gazette, issue 36 of 2003) The Social Assistance Directorate works in cooperation with state institutions and non-governmental legal entities engaged with programs in the field of child protection.

Child Protection Commission

Article 20a. (New - State Gazette, issue 36 of 2003) (1) At the Social Assistance Directorate a Child Protection Commission is created with consultative functions and representation of municipal administrations, Social Assistance Directorate, regional police departments, regional inspectorates of education and sciences, regional centres of health, local commissions on the fight against anti-social behaviour of minor and under-aged children, as well as non-governmental legal entities engaged with programs in the field of child protection.

(2) The chairperson of the commission under paragraph 1 is the director of the Social Assistance Directorate.

Functions of the Social Assistance Directorate

Article 21. (Amended - State Gazette, issue 36 of 2003) (1) Under the present law the Social Assistance Directorate:

1. implements the current activities in the field of child protection within the municipality and submits suggestions to the municipal council concerning a municipal program for child protection;
2. determines and carries out specific measures in the field of child protection and controls the implementation of these measures;
3. carries out inspections after signals and complaints over violations of the rights of children and issues mandatory instructions for the remedy of any violations;
4. gives advises and consultations referring to the growth and education of children;
5. provides information on the services offered and provides assistance and help to families and parents of children in need;
6. composes and updates registers of actual state for:
 - a) children in need of special protection;
 - b) children under police protection;
 - c) children who can be adopted;
 - d) children placed at families of relatives;
 - e) children placed in foster families;
 - f) children placed in specialized childcare institutions;
 - g) applicants and approved foster families;
 - h) non-governmental legal entities engaged with programs in the field of child protection;
 - i) adopters and applicant adopters;
7. assists and cooperates with non-governmental legal entities engaged with programs in the field of child protection;
8. assists the professional orientation and qualification of children in risk, including those who graduated at high schools after completing 18 years of age;
9. organizes education and consultation activities of foster parents and provides for their recruitment;
10. in case of emergency signals the police, prosecution and court authorities which shall immediately undertake steps to protect the children;

11. organizes immediate help to children in emergency situation, including in the cases under Article 41 after due 48-hour police protection is over;

12. makes proposals for an appointment of trustee councils and guardians;

13. researches the applicants for adopters and issues written statement on their suitability to adopt a children; issues opinion statements in the cases envisioned in the Family Code; organizes consultations and education of applicant adopters and provides for monitoring on the child in the post-adoption period within one year from the date of adoption;

14. submits claims for limitation or revocation of parental rights in the interest of the child or enters into ongoing proceedings as a party thereto;

15. in the cases under Article 15, paragraph 6 prepares written reports and statements; the notice shall include: the subject of proceedings: the parties involved; the specific task formulated ex officio or on the grounds of either party in the proceeding; a term of execution that cannot be less than 14 days from the date of receipt of the notice at the Social Assistance Directorate; prior to submitting the report to the requesting institution, the parents or the person appointed with parental rights are entitled to get acquainted with it.

(2) The director of the Social Assistance Directorate appoints the persons to carry out the functions under Article 15, paragraph 6.

Cooperation with the body of trusteeship or guardianship

Article 22. Social Assistance Directorate shall work in cooperation with the body of trusteeship or guardianship.

Act on the fight against anti-social behaviour of minor and under-aged children

II. Commissions on the fight against anti-social behaviour of minor and under-aged children

(Title Amended - issue 11 of 1961)

Article 4. (Amended - issue 11 of 1961) (1) (Amended - State Gazette, issue 53 of 1975, issue 63 of 1976, issue 75 of 1988, issue 110 of 1996, issue 66 of 2004, issue 28 of 2005) The Council of Ministers of the Republic of Bulgaria establishes a central Commission on the fight against anti-social behaviour of minor and under-aged children to include: chairperson – Deputy Prime Minister of the Republic of Bulgaria; Deputy Chairperson – Deputy Minister of Education and Sciences, Deputy Minister of Labour and Social Policy and Deputy Minister of Interior; secretary and members – Deputy Minister of Justice, Deputy Minister of Health, Deputy Minister of Finance, Deputy Minister of Culture and Tourism, Deputy Minister of Youth and Sports, Deputy Chairperson of the State Agency for Child Protection, Deputy Chairperson of the Supreme Cassation Court; a deputy of Chief Prosecutor and a deputy of the director of the National Investigation Service.

(2) (New paragraph - State Gazette, issue 110 of 1996, Supplemented, issue 66 of 2004) The central commission on the fight against anti-social behaviour of minor and under-aged children is a legal entity on budget funding with address of headquarters in Sofia, a secondary user with budget credits. The size of staff and the tasks of the Commission are defined by the Council of Ministers.

(3) (New paragraph - State Gazette, issue 53 of 1975, Amended, issue 75 of 1988, previous paragraph 2, issue 110 of 1996) The payroll of the Central Commission is defined by its chairperson.

(4) (Previous paragraph 2 - State Gazette, issue 53 of 1975, previous paragraph 3, Amended, issue 110 of 1996, issue 66 of 2004) The central commission on the fight against anti-social behaviour of minor and under-aged children appoints employees on official and employment relations.

(5) (New paragraph - State Gazette, issue 66 of 2004) The central commission on the

fight against anti-social activities of minor and under-aged children shall establish a centre for qualification of staff for fight against anti-social behaviour of minor and under-aged children.

Article 46a – revoked.

Questions and comments of the European Committee of Social Rights

Paragraph 1

The Committee concludes that the situation in Bulgaria is not in conformity with Article 7§1

of the Revised Charter because of the high number of children under 15 years of age working illegally.

The Committee asks to be informed of the results of the National Plan Against Child Labour, it also requests information on the number of cases of illegal employment of children (under 15 years of age) detected by the Labour Inspectorate and the sanctions imposed.

In reference to the conclusions of the European Committee of Social Rights concerning the large number of children under 15 years of age working illegally, we would like to point out the following:

In accordance with Article 6, § 1 of the Convention № 182 of the International Labour Organisation on the worst forms of child labour, a National Action Plan is worked out to counteract the worst forms of child labour in the Republic of Bulgaria.

The state policy in the field of protection of child labour comprises children admissible, under the law, to employment. This legal protection includes three main groups of issues: minimal age to admit to employment; ban to perform night work and over-time work, and obligatory medical checks. Special regulations provide for additional measures of protection and also a list of works that are hard and hazardous for the life and health of children.

Concerning the number of cases of illegal employment of children recorded by the General Labour Inspectorate, see the information herein supplied in reference to the controlling activities by the Inspectorate and the sanctions imposed in such cases.

In conformity with the information supplied in the previous report, in accordance with the National Plan to eradicate the worst forms of child labour a working group was set up to work on the problem “Sexual exploitation of children”. A project of National Action Plan for Fight against Sexual Exploitation of Children with Commercial Purposes was developed. The text was approved in 2003. More information on this issue is provided in reference to the response supplied to Question “C” of paragraph 10.

Enclosed to the present Report we submit the following appendices:

- National Child Strategy 2004-2006 (Appendix 5);
- National Program for Child Protection in 2004 (Appendix 6);
- National Program for Child Protection in 2005 (Appendix 7);
- National Action Plan for Fight against Sexual Exploitation of Children with Commercial Purposes (Appendix 8);
- National Strategy for Protection of the Rights of Children at Street for the period of 2003-2005 (Appendix 9).

Paragraph 2

The report makes no mention if and under what circumstances derogations from the prohibition on dangerous and unhealthy work may be made. The Committee asks

whether young persons can ever be permitted to perform dangerous or unhealthy work, such as that listed in *Ordinance No 4 on Jobs Banned for Persons aged 15 to 18*, for example during vocational training or apprenticeship and if so under what conditions.

No exceptions are allowed.

Paragraph 3

The Committee wishes to receive information on the system in place for regulating the work of children in cultural, artistic, sports or advertising activities (for example individual authorisation /licensing system), more precisely what activities are covered, the existence of any minimum age for participation as well as information on limits to working/performing/training time (both during school term and holidays) and mandatory rest periods. It wishes to receive further information on the nature of the work etc undertaken by children engaged in cultural, artistic, sports or advertising activities before ruling definitively on the issue in this context.

These issues are regulated in the Regulation on the admission to employment of children aged under 15.

The Committee requests further information on the limits, which apply to the daily and weekly working time of children aged between 15 and 16 years during the school term. It also asks whether it is permitted to work before school begins, and whether there are limits to such work

For young persons aged under 18 a reduced work time is provided for.

Pursuant to Article 113 of the Labour Code, the maximum duration of the working hours under an employment contract for additional work, together with the duration of the working hours under the primary employment relationship, shall not violate the minimum uninterrupted daily and weekly rest established by this Code. The new paragraph 2 to this article envisions that in such cases when calculating the working time, the length of the working week shall not be more than 48 hours, and for workers under 18 years of age – not more than 40 hours.

Night work is not allowed for persons under 18 years of age (night work is any work performed by under-aged person between 20 ah 6 o'clock).

The Committee further seeks clarification of the period of annual leave; within the 26 days of annual leave is there a minimum uninterrupted period that must be observed, if so when does this occur?

The general terms and conditions of work leave are applied pursuant to the Labour Code:
Section II

Usage of the paid annual work leave

Ways to use the paid annual work leave

Article 172. (Amended - State Gazette, issue 100 of 1992, issue 25 of 2001) The annual paid leave shall be allowed to the employee all at once or in parts, whereas at least half of it shall be used in one part through the calendar year for which the leave is due.

Paragraph 4

The Committee concludes that the situation in Bulgaria is not in conformity with Article 7§4 because in practice, relevant legislation is not applied to the majority of young workers.

See the information provided in reference to paragraph 6.

Paragraph 5

The Committee recalls that Article 7§5 requires that apprentices be given an allowance representing at least one third of the fair starting wage of adult workers at the beginning of their apprenticeship and at least two thirds at the end of the apprenticeship. It therefore asks relevant information on the net value of apprentices' allowances at the end of their apprenticeship.

It asks whether young workers are entitled to the minimum wage or to a percentage of the minimum wage; what is the proportion of young workers whose remuneration is lower than the minimum wage, and to what extent.

In reference to the payment of apprentices, see the provisions of the contract for apprenticeship.

So far the rest of young persons employed under the Labour Code, the provisions of the Labour Code are applicable for the remuneration, as well as the regulations concerning work salary, supplementary and other labour remuneration.

Paragraphs 6, 8 and 9

In reference to the conclusion of the Committee that the situation in Bulgaria is not in compliance with Article 7, paragraphs 6, 8 and 9, due to the fact that most of working young persons are not covered by the legal protection of Bulgarian legislation, we would like to note the following:

In order to create knowledge of the negative impact on child development and growth by child admission to hazardous forms of work and the increase of information supply of both parents and children on the consequences of illegal performance of child labour, information materials, leaflets and electronic information programs are circulated through the mass media.

There are also measures undertaken to material assistance of children. Under the Family Allowances for Children Act, monthly allowances are provided for to children in low-income families until they complete their high education (but not after the child completes 20 years). The only condition is that the child attends school regularly.

The National Employment Action Plan includes numerous programs aimed to sustain and improve the quality of human resources with the purpose of labour realization to lead to improved living standard. The main target groups include unemployed individuals with low level of education and low competitive capacity on the labour market.

The Ministry of Labour and Social Policy has implemented the National Program "From Social Assistance to Employment". The program is designed for long-term unemployed people who face grave material difficulties and receive monthly social benefits. The purpose of the program is to provide these people with the opportunity to earn their emolument and avoid that their children leave school to go to work.

With the purpose to return children to their normal way of life and provide them with access to education and occupational formation, on a regular basis, creative and sports events are organized to reduce the number of cases when under-aged children are admitted to employment illegally.

Paragraph 7

The European Committee of Social Rights asks whether young workers may waive their right to a paid annual leave and whether the leave may be suspended in the case of illness or accident.

Paid annual leave at work is a subjective right of the worker. According to Art. 8, Para. 4 of the Labour code, any renunciation of labour rights shall be considered null and void.

Pursuant to Article 176 of the Labour Code the use of the annual paid leave may be postponed for the following calendar year:

1. (Amended - SG, No. 25/2001) by the employer - due to important production reasons, pursuant to the provisions of Article 173, paragraph (5), sentence 3;
2. by the employee - in case he/she uses another type of leave, or upon his/her request with the consent of the employer.

Where the leave has been postponed or has not been used by the end of the respective calendar year, the employer shall be bound to ensure its use during the following calendar year, but not later than six months as from the end of the calendar year for which the leave has been due. Where the employer has not permitted the use of the leave in the cases and as per the terms under paragraph (2), the employee shall be entitled to choose the time for using it himself, notifying the employer of such time in writing at least two weeks in advance. The unused part of the annual paid leave may be used by the employee up to the termination of the employment relationship.

Pursuant to Article 175 of the Labour Code, in case that during the use of the annual paid leave the employee is allowed with another type of paid or unpaid leave, upon his/her request the use of the annual paid leave shall be interrupted and the remainder shall be used later by agreement between him and the employer. In addition to the cases under the preceding paragraph, the employee's leave may be interrupted by the mutual consent of the parties expressed in writing. In case of illness it not necessary to request for interruption by worker, only the patient's chart has to be presented.

Paragraph 10

The Committee recalls that a series of Charter and Revised Charter provisions deal with the protection of children and young people:

- **Article 7§§1 and 3: prohibition of child labour;**
- **Article 7§§4 to 9: protection of young persons at work;**
- **Article 11: prevention of alcohol addiction, drug abuse, and transmission of infectious diseases;**
- **Article 16: legal, economic and social protection of the family;**
- **Article 17: status of the child; children in public care; protection from ill treatment and abuse, including sexual abuse; young offenders; right to education.**

In the next report, the Committee asks to be informed under Article 17, about the protection of children in vulnerable situations, and under Article 11, about alcohol, drug abuse, and transmission of infectious diseases.

Detailed information on Art. 11 is presented in the Third National Report of the Republic of Bulgaria. So far the provisions of Article 17 are concerned, here we present the following information:

Activities in implementation of the National Strategy and the Action Plan for Protection of the Rights of Children at Street for the period 2003-2005:

In 2003 the State Agency for Child Protection initiated and coordinated the activities

under the National Strategy for Protection of Children at Street for the period 2003 – 2005.

It was developed after thorough analysis and identification of the reasons resulting in children going on the streets and as a result of a wide discussion on the problems of this group of children and their families with representatives of governmental and non-governmental organisations.

After the adoption of the Strategy by the Council of Ministers, the State Agency for Child Protection worked out and coordinated an Action Plan on the protection of the rights of homeless children for the period 2003-2005 formulating clear purposes and specific commitment appointed to various institutions.

The main strategic purposes of the Plan include the guarantees for observation of civil and political rights of homeless children in conformity with the UN Convention of Rights of Children and the principles laid down in the Child Protection Act. The planned activities are designed to reduce the number of children at street and avoid the possible reasons for this phenomenon by providing assistance to the child and his/her family.

After the Council of Ministers adopted the Action Plan for Protection of the Rights of Homeless Children for the period of 2003-2005, the State Agency for Child Protection created a mechanism for coordination to provide for its implementation. With an order by the chairperson of the State Agency for Child Protection, an intergovernmental working group was established to monitor, coordinate and control the implementation of the Strategy and the Action Plan. The group included representatives of various institutions, including the State Agency for Child Protection, the National Police Service, the Sofia Directorate for Interior Affairs, the Central Commission the fight against anti-social behaviour of minor and under-aged children, the Ministry of Labour and Social Policy, the Social Assistance Agency, the Child Protection Departments, the State Agency for Refugees and the Home for temporary placement of children aged between 3 and 18. The activities of the group were assisted also by the Ministry of Health, the National Association of Municipalities in the Republic of Bulgaria, the National Health Fund and the Daily Youth Centre “16+”.

As a result of the organized working meetings within the intergovernmental working group, conditions were created for cooperation among the state institutions, municipal administrations and non-governmental organisations. In enforcement of powers under Article 17a, item 2 of the Child Protection Act, the chairperson of the State Agency for Child Protection shall request, at every three months, information from institutions engaged with the implementation of certain activities as planned.

In reference to the development of municipal social services designed for assistance of families in the childcare and the commitments of municipal mayors under the Action Plan, information was collected from a total of 18 districts in the country, concerning the social services provided for children in the region, child protection activities planned in municipal strategies and also information on the municipalities where the problem “children at street” is quite acute. Currently an analysis is being prepared on the development of social services for children and families throughout the country with the purpose to promote the best practices in this field.

In implementation of powers under Article 17 a, item 5 of the Child Protection Act, the chairperson of the State Agency for Child Protection issues licenses to providers of social services for children. Pursuant to Articles 43b and 43d of the Child Protection Act, upon request by the Commission on licensing, and in reference to Article 35, paragraph 1 of the Rules on Implementation of the Child Protection Act.

As of May 2005 the State Agency for Child Protection has licensed 8 providers of social services to children at street, and another 20 for the overall country – the most often type of services include “Daily centre”, “Shelter”, “Crisis centre” and “Centre for temporary accommodation”.

The Child Protection Departments work in cooperation with non-governmental

organisations and municipal administration in the field of provision of social services for children at street. An example thereof is the Social Assistance Directorate in the municipality of Kyustendil, where the municipality partners a project under which a daily centre for work with children at street is established. Similarly, in the city of Pazardjik a shelter for children at street is functioning thanks to the work of the Social Assistance Agency.

The project “Reform on the increase of welfare of the children in Bulgaria” envisions the establishment of daily centres for children at street in the following pilot municipalities: Plovdiv, Shoumen, Bourgas, Rousse, Sofia, as well as the establishment of a shelter with the possibility to place as much as 12 children in the city of Sliven.

In Sofia the repair works in the Daily centre “Trust, Hope, Love” are already over, equipment is purchased and delivered.

In Rousse and Sliven construction and repair works are now over, tender procedures for the purchase of equipment and furniture delivery are under way.

In Shoumen, Bourgas, and Plovdiv the repair works in the daily centres for work with homeless children are still ongoing.

For all five daily centres for work with homeless children, procedures are announced to elect providers of social services, which are expected to be over by June 2005.

In the course of one year these activities will be funded by Bulgarian co-financing under the project.

In Vidin and Stara Zagora, departments for temporary placement of Mother and Baby, Centres for family-type placement are opened in six municipalities and sheltered homes in 9 municipalities.

In reference to the creation of alternative forms of care and services for children at risk, since October 2004 a campaign has been launched to develop the foster care throughout the country and recruit applicants for foster families through all regional media in the district centres.

With the financial support of UNICEF, the State Agency for Child Protection implements a project named “Development of foster care in the region of Vratsa” to introduce foster care in all ten municipalities in the region. Information material are worked out (video clip, audio clip, slogans, leaflets) to organize an information campaign on foster care.

The State Agency for Child Protection organized courses on foster care for the social workers of the Child Protection Departments, the commissions on the fight against anti-social behaviour of minor and under-aged children and the role of municipalities as providers of social services under the joint project with UNICEF in the region of Vratsa.

The foster care services are developed in a total of 76 municipalities, while placement at family and relatives in 178 municipalities.

With the purpose to regulate the partnership concerning the problem-solving of the group of children at street, the Social Assistance Agency, the State Agency for Child Protection and the Ministry of Interior signed an agreement of cooperation. They also developed an Action plan against begging children as part of the Action plan for protection of the rights of children at street under Article 6 of the Child Protection Act. An interaction was carried out between the specialized units of the Ministry of Interior, working with children seized in regional police departments, Child Protection Departments and the State Agency for Child Protection.

Mobile teams for work at street are already functioning in the country under the Action Plan on begging children, created at the Child Protection Departments together with the Ministry of Interior and non-governmental organisations. Local units undertake measures under the Child Protection Act concerning children, parents and accompanying persons. The State Agency for Child Protection receives information on the tours made and then prepare analysis on the present situation in the country.

As a result of the intergovernmental cooperation and analysis of the acquired experience, a mechanism for identification and monitoring is being worked out to track down

cases of children who became victims to various forms of abuse and ill-treatment. In reference thereto, on 15 April 2005 a working meeting of the intergovernmental group was held to develop this mechanism.

Within the project “Reform on the increase of welfare of the children in Bulgaria” national information system, on national and municipal level, is developed. To optimize and update the program product designed for child protection, representatives of the State Agency for Child Protection, the Social Assistance Agency and the Child Protection Departments formed a working group.

Children at street are part of the cases in which social services are engaged and they are recorded in a the special register Children in Risk where the risk and the reason for is shall be clearly specified.

As of the moment the program product for child protection has reached the final stage of development and it is expected to test and implement it in the Child Protection Departments.

In reference to the necessity of individual assessment of the needs of children at street, an interinstitutional group was formed with participation of experts from the Social Assistance Agency, the Child Protection Departments, the State Agency for Child Protection and non-governmental organisations with the purpose to work out objective methods for assessment. The methods give the opportunity to prepare an objective assessment on each specific case, to identify the needs of each child, and to evaluate the opportunities to provide assistance to the family to raise its child. The methods are coordinated with the Chairperson of the State Agency for Child Protection and are submitted for consideration to the Social Assistance Agency and the introduction into the work of Child Protection Departments.

The problems concerning homeless children are reflected by media. There were press conferences held by the chairperson and deputy chairperson of the State Agency for Child Protection. Experts participate in radio and television broadcasts, publications and statements circulated in the press through which appeals for intolerance towards child begging is called for and for the increase of public sensitivity towards children begging on the streets.

Protection against sexual exploitation of children

The Committee asks up to which age a person is considered a minor.

With respect to child pornography, a proposal is pending for criminalising its production and possession. The Committee asks for information to be provided in the next report.

Pursuant to the actual Bulgarian legislation and regulations under-aged are children who have completed 14 years of age, but under 18. Minors are children under the age of 14.

Penal Code

Article 159. (Amended - State Gazette, issue 28 of 1982, issue 10 of 1993, issue 62 of 1997, issue 92 of 2002) (1) The person who creates, exhibits, broadcasts, offers, rents or distributes in any other way works with pornographic contents, shall be sentenced to imprisonment up to one year and a fine from 1000 to 3000 BGN.

(2) The person who creates, exhibits, broadcasts, offers, rents or distributes in any other way works with pornographic contents of a person under the age of 16, shall be sentenced to imprisonment up to three years and a fine from 3000 to 5000 BGN.

(3) For acts committed under paragraphs 1 and 2 the punishment shall be imprisonment up to five years and a fine up to 8000 BGN, if the works as described in the previous paragraph are created with the participation of a minor, under-aged or a person looking like thereof.

(4) For acts committed under paragraphs 1 – 3 upon order or in execution of a decision

adopted by a criminal group, the punishment shall be imprisonment from two to eight years and a fine of up to 10000 BGN and the court might decide to confiscate partially or wholly the property of the crime performer.

(5) The persons who hold pornographic material for the creation of which participated any minor or under-aged child, or a person looking like thereof, shall be punished with imprisonment of up to one year or a fine of 2000 BGN.

(6) The subject of crime shall be confiscated in favour of the state, and if missing or sold out, shall be paid the cost of it.

The Committee asks to be informed about its implementation, as well as about the incidence of children sexual exploitation and trafficking in Bulgaria. It also asks figures about prosecution of sexual exploitation crimes.

Information on this issue is provided under question “C” of paragraph 10.

Protection of children against other forms of exploitation, ill-treatment and abuse

The Committee asks the next report to provide information about the incidence of street children and the results achieved through the implementation of the National Strategy for Protection of the Rights of the Children at street for 2003-2005 has been elaborated and an Action Plan to implement it

In reference to the National Strategy for Protection of the Rights of Children at Street for the period of 2003-2005 r. and the Action Plan for implementation, see the information supplied herein above in reference to the provisions of Article 17 of The European Social Charter(revised).

The Committee asks for information about the results achieved through the Begging Children Project this project.

Begging children and children working at street

In reference to the implementation of the National Strategy for child Protection and the Action Plan for Protection of Children at street, in the end of March 2004 the State Agency for Child Protection initiated the signing of an Cooperation Agreement with the Ministry of Interior and the Agency for Social Assistance. Common activities were carried out in order to solve problems of children working and living at streets.

Several meetings were organized, where in cooperation with representatives of the police, Social Assistance Directorates and NGOs were analyzed the scope of the phenomenon Children at street, their acts, risks for them as well as legal ways to solve the problem . Multidisciplinary teams were created who started operating in biggest town in the country: Sofia, Plovdiv, Varna, Bourgas and Stara Zagora.

The work on prevention of children at risk was joined by the regional child protection departments.

According to data provided by the Social Assistance Agency, a total of 128 municipalities were included in mobile team tours, including 39 interinstitutional teams created on the basis of agreements for cooperation.

As a part of the Action Plan for work with begging children, in the beginning of September 2004 in Sofia were formed two interinstitutional teams to start checks concerning the children engaged with wiping car windcreens on some of biggest crossroads in the capital

city. During the organized tours by officials of the Sofia police, the Social Assistance Agency, the State Agency for Child Protection and non-governmental organisations, a total of 26 children were found to practice this kind of activity.

According to the analysis of data received at the State Agency for Child Protection, the number of begging children is on the decrease. Yet, increasing is the number of minor girls and boys who are involved into this kind of labour by force, the phenomenon is characterized with organisation. Many of begging children are constantly coming and going. It is often that they declare under disguised names. Most of them have families and go home to stay for the night. They live in unhealthy family climate, at poverty and bad hygiene. As a rule, adult members of the family do not work. Predominantly, those children are boys, of Roma origin, at school age, who do not attend schools while spending all day long on the streets. They are constant in their activities. Despite warnings by police officials and the work of social service authorities, most of begging children return back on the street.

It is hard to identify the exact number of these children due to the high latency, their easy mobility from one place to another, the lack of permanent address of registration and information thereof. The number of begging minor and under-aged children increases during holiday and weekend days, which adds difficulties to the work with them. They stay at train stations, market places, central streets, bigger crossroads, around churches, in front of luxury hotels, shops and bars.

Children begging and working on the street are exposed to many dangers related to their physical and psychological health. They can face deteriorated health, get addicted to drugs and alcohol, become victims to road accidents, violence, become involved into criminal activities and forced into prostitution.

Court statistics reveal that hardly any measures are undertaken towards the parents of such children. They remain out of responsibility, unsanctioned, even though there are actually legal possibilities to claim their responsibility.

In view with assessment of the needs of children at street the Social Assistance Agency formed an interinstitutional working group to work out methods and instructions for social workers how to implement the planned measures. It included collection of information about the child: name, age, address of residence/location, social behaviour, clarification of circumstances about the child's stay on the streets, information about parents. The collected information eases the individualized work with children and opens new horizons to undertake effective measures to solve this problem.

In implementation of the Plan for work with begging children, besides the authorities engaged with child protection in the sense of Article 6 of the Child Protection Act, at some locations the municipal administrations are also engaged with the problem, as well as regional education inspectorates, regional centres of healthcare, the local commissions on fight against anti-social behaviour of minor and under-aged children the Bulgarian Red Cross and non-governmental organisations. All this adds resources to the work with children at street, creates more opportunities to provide for their needs of food, clothing, shelter, medical care, education, consultancy, social assistance, etc.

The activities are targeted towards a specific group of children living in risky social conditions, who have left their families or have no family, such left without supervision, living continuously on the street, and who are under threat to become victims to violence or violators themselves.

The formed permanent multidisciplinary teams to watch out "on spot", observe, control, record, and register children on the streets, shall assist for the implementation of social work.

There is a schedule countrywide for carrying out the mobile tours. Locations are specified where the concentration of begging and street labouring children is considerably high. Children begging and working along the roads are found and registered. A

psychological contact is made with them. Schemes of team work are developed. There is a scheme to track down each case separately. Information is provided for persons who take care of such children.

In municipalities information databases comprise the information about minor and under-aged children on the streets.

There are mechanisms for their sustainable reintegration into their biological family, such as assessment, assistance, support, consultancy, case track-down, psychological and pedagogical support.

There are also ways to find the persons talking or forcing children into begging and due administrative and penal measures are undertaken towards them.

In cases when the behaviour of parents poses threat on the personality, education, health and property of the child, the Social Assistance Agency shall claim for revocation or limitation of parental rights.

Whenever there are information that children are forced into begging or working on the streets, these cases are immediately submitted to the prosecution authorities.

There are mechanisms developed for identification and track-down of the cases of children who became victims to various forms of violence and ill-treatment. Alternative forms of care are applied. Children are placed at shelters and institutions whenever their interests claim for that. If necessary and if there is any risk for their life and health, children are put under special police protection. Activities are organized to engage the leisure time of children originating from risky groups. Control on attending the schools is carried out on children from risky families. It is necessary to strengthen efforts towards establishing a negative public opinion and intolerance towards child begging. Preventive activities are under way to avoid children going onto the streets for begging and work.

By means of mass media information is supplied on the problems of begging and working children at street of minor or under age.

Methods for assessment and reporting on the work done are worked out by the mobile teams.

The main purpose is that children are detached from negative environment they grow in and provide them with protected ambient for normal physical, social and psychological development.

In November 2004 the Sofia municipality established a working group to prepare a draft decision to include the municipality into the engagements to solve the problems of children at street.

On March 30, 2005, one year after the start of the program for work with begging children, the municipal teams were joined by the Sofia regional prosecution office. Their efforts aimed at a better future for the children through protection of their legal rights and interests. Children must be separated from the negative environment they grow in and provide them with protected ambient for normal physical, social and psychological development, and the persons responsible for their joyless childhood must be punished.

According to an expert analysis by the State Agency for Child Protection, in 2004, a total of 707 minor and under-aged children were recorded as begging on the territory of the whole country, including 432 forced into begging by an adult who accompanied each child. It means that the phenomenon is organized and that children are subject to exploitation by interested persons.

The register of the State Agency for Child Protection include records of 471 children registered for begging who need social protection.

During the last five months the prosecution was signalled only by social services on 31 cases, when parents, sometimes other persons, forced children to beg or left them on the streets without proper care and control.

Expected results :

- Improvement of the activities in the field of child protection on the territory of the whole country;
- Sustainable reduction of the number of children begging or working on the streets;
- Organisation of immediate assistance to every child who come to emergency situation;
- Development of support aimed to provide assistance to families for growing their children;
- Isolation of begging children from this negative environment and provision of appropriate family climate of growth and life;
- wider participation of non-governmental organisations in the care and services for children at street.

The Committee asks if, in practice, the legal framework ensures the protection of children from ill-treatment and abuse.

In addition to the adopted, additional measures are undertaken its implementation. Strategies, plans and projects are under development and many of those are enforced as presented by the detailed information above.

An appropriate institutional framework is functioning to implement the legislation. More information for this purpose is presented under Question “F” to paragraph 10.

The Committee asks whether corporal punishment within and outside the family is explicitly prohibited by the existing legislation.

The Bulgarian legislation does not include explicit prohibition of corporal punishments. Pursuant to Article 11 of the Child Protection Act, each child shall have the right to protection against any activities which violate his/her dignity, education; any physical, psychological and other type of violence and forms of force coming into contradiction with his/her interests. Pursuant to &1 of the Supplementary Provisions to this law, children who became victims to abuse, violence, exploitation or any other act of inhuman or degrading treatment or punishment inside or outside the family are considered children at risk. Towards them the law envisions measures of special protection.

The protection of children who became victims to domestic violence is regulated by the Home Violence Protection Act (promulgated, State Gazette, issue 27 of 29.03.2005), a copy of which is enclosed herein.

Protection against the misuse of information technologies

The Committee observes that, as it stands, legislation does not yet appear to criminalise sexual offences conducted through the means of Internet.

The Committee asks to be informed about the national action plan implementation and whether legislation concerning Internet service providers or the adoption of codes of conduct by the providers themselves is foreseen in order to protect children from exploitation.

In reference to the protection of children against sexual abuse by means of the Internet, we would like to submit the following information:

In the period February-December 2002 the State Agency for Child Protection implemented the project “Internet and the Rights of Children” with the assistance of the UN Permanent Representation Office in Bulgaria.

The project was developed in conformity with key international documents and initiatives. It is based on the understanding that within the information society children are entitled to:

- equal access to new information technologies, including for children in disadvantaged position;
- access to Internet materials which give social and culture advantages to the child;
- freedom of speech and right to information obtainable through the new information and communication technologies;
- protection against hazardous or illegal contents in the Internet;
- protection against exploitation or involvement into illegal activities on the Internet.

In 2003, together with the Ministry of Education and Sciences, the State Agency for Child Protection held three regional discussions on the draft project of School Rules for Safe Work in Internet and for training of teachers under the program “Law and Ethics in the Information Society”.

With the purpose to achieve a sustainable effect of education and provide for qualified teachers to multiply its effect, on 26 June 2003 the State Agency for Child Protection and the Department for Information and Teachers’ Qualification at the Sofia University “St. Kliment Ohridsky” signed an agreement. To this end, in 2003 Sofia hosted a course to train teachers attended by professors from all three departments, as well as experts on philosophy and information technologies from the regional inspectorate at the Ministry of Education and Sciences.

ARTICLE 12

THE RIGHT TO SOCIAL SECURITY

Article 12, Para. 1

Question A

The Committee concludes that the situation in Bulgaria is not in conformity with Article 12§1 of the Revised Charter as the level of key social security benefits, including in particular unemployment benefits and old-age benefits, is not adequate.

The key factor to avoid and reduce the level of unemployment, poverty and social exclusion is the promotion of employment.

The implementation of a balanced and responsive policy of incomes, consistent with the economic situation in the country, helps for the increase of employment and for the limitation of unemployment. Such policy is a prerequisite to prevent loss of motivation of people at work.

The unemployment benefit is an important factor to guarantee incomes for unemployed persons and to maintain their relations with the labour market. With the purpose to stimulate unemployed persons to seek for and get work, it is necessary that payment corresponds to the level of professional skills.

Pursuant to Article 9 of the State Social Security Budget Act for 2003, (Promulgated, State Gazette, issue 119 of 27.12.2002) the minimal size of unemployment benefit is set at 70 BGN, and the maximum size – at 140 BGN.

In 2004 the minimal size of unemployment benefit was increased to 80 BGN. (Pursuant to Article 9 of the State Social Security Budget Act for 2004, promulgated, State Gazette, issue 112 of 2003). The change in the amount of the employment benefit for 2004 corresponds to the fluctuation of the national minimum wage, which is set to 120 BGN for 2004.. To avoid loss of motivation among the people employed at national minimum wage is necessary to maintain an effective balance between the national minimum wage and the minimal size of unemployment benefit.

The implementation of various financial measures is possible at the maintenance of the level of social protection of groups at risk on the labour market. The systems of unemployment benefits and of social assistance are organized and managed in a way that not only allow for the provision of finances for the subsistence of unemployed persons, but also stimulate them to be economically active, to seek for and accept employment.

In relation with the implementation of Article 100 of the Social Security Code, Ordinance № 111 of the Council of Ministers of 23 May 2003 (Promulgated, State Gazette, issue 51 of 3.06.2003) a new amount of the social pension for old age was set – 50.00 BGN, as of 1 June 2003, which is an increase of 7.2%. The new size of the social pension leads to changes in the minimal and maximal size of pensions and some additions to pensions, namely:

- the minimal size of pension for period of insurance and age /115% of the social pension / - 57.50 BGN;
- the minimal size of pension for invalidity due to general disease with reduced work capacity:
 - - more than 90% /140% of the social pension / - 70 BGN.
 - - from 71 to 90 % / 130% of the social pension / - 65 BGN.
 - - from 50 to 70.99 % /105% of the social pension / - 52.50 BGN.
- Minimal size of pension for invalidity due to accident at work and occupational

disease with reduced work capacity:

- - more than 90 % /150% of the social pension / - 75 BGN.
- - from 71 to 90 % / 140% of the social pension / - 70 BGN.
- - from 50 to 70.99 % /115% of the social pension / - 57.50 BGN.
- Minimal size of survivor's pension /90% of the social pension / - 45 BGN.

Since 1 January 2004 the maximum size of pensions increased to 420 BGN. As a result, approximately 153 000 pensioners, whose pensions were limited to 200 BGN, now receive their pensions in real size. Since 1 June 2004 the average size of pensions was increased by 5.8%. In the end of 2004 the average monthly size of pensions per pensioner was 124.76 BGN. (see Appendix 10).

UPDATE OF PENSIONS FOR 2003

The new minimal size of pensions as of 1 June 2003 is as follows:

Type of pension	Minimal size until 01.06.2003 / in BGN	Minimal size from 01.06.2003 / in BGN
1. Period of insurance and age – Article 68 of the Social Security Code: - pursuant to Article 68, paragraph 1-3 /115% of the social pension / - pursuant to Article 68, paragraph 4 /105% of the social pension /	53.64 48.97	57.50 52.50
2. Invalidity due to accident at work and occupational disease - Article 79 of the Social Security Code with reduced work capacity: - more than 90% /150% of the social pension / - from 71 to 90 % /140% of the social pension / - from 50 to 70.99 % /115% of the social pension /	69.96 65.30 53.64	75.00 70.00 57.50
3. Invalidity due to general disease – Article 74 of the Social Security Code with reduced work capacity: - more than 90 %/140% of the social pension / - from 71 to 90 % /130% of the social pension / - from 50 to 70.99 % /105% of the social pension /	65.30 60.63 48.97	70.00 65.00 52.50
4. Survivor's pensions – Article 81 of the Social Security Code /90% of the social pension /	41.98	45.00
5. Military invalidity – Article 85 of the Social Security Code a/ officers and sergeants with reduced work capacity: - more than 90 % /150% of the social pension / - from 71 to 90 % /140% of the social pension / - from 50 to 70.99 % /115% of the social pension / b/ sergeants with reduced work capacity: - more than 90 %/160% of the social pension / - from 71 to 90 % /150% of the social pension / - from 50 to 70.99 % /120% of the social pension /	69.96 65.30 53.64 74.62 69.96 55.97	75.00 70.00 57.50 88.00 75.00 60.00
6. Civil invalidity – Article 87 of the Social Security Code with reduced work capacity:		

- more than 90 %/150% of the social pension /	69.96	75.00
- from 71 to 90 % /140% of the social pension /	65.30	70.00
- from 50 to 70.99 % /115% of the social pension /	53.64	57.50

UPDATE OF PENSIONS FOR 2004

The new minimal size of pensions as of 1 June 2004 is as follows:

Type of pension	Minimal size until 01.06.2004 / in BGN	Minimal size from 01.06.2004 / in BGN
1. Period of insurance and age – Article 68 of the Social Security Code:		
- pursuant to Article 68, paragraph 1-3 /115% of the social pension /	57,50	60,95
- pursuant to Article 68, paragraph 4 /105% of the social pension /	52,50	55,65
2. Invalidity due to accident at work and occupational disease – Article 79 of the Social Security Code with reduced work capacity:		
– more than 90% /150% of the social pension /	75,00	79,50
- from 71 to 90 % /140% of the social pension /	70,00	74,20
– from 50 to 70.99 % /115% of the social pension /	57,50	60,95
3. Invalidity due to general disease – Article 74 of the Social Security Code with reduced work capacity:		
– more than 90% /140% of the social pension /	70,00	74,20
- from 71 to 90 % /130% of the social pension /	65,00	69,90
– from 50 to 70.99 % /105% of the social pension /	52,50	55,65
4. Survivor's pensions – Article 81 of the Social Security Code / 90% /150% of the social pension /	45,00	47,70
5. Military invalidity – Article 85 of the Social Security Code		
a/ officers and sergeants with reduced work capacity:		
– more than 90% /150% of the social pension /	75,00	79,50
– from 71 to 90 % /140% of the social pension /	70,00	74,20
– from 50 to 70.99 % /105% of the social pension /	57,50	60,95
6/ officers and sergeants with reduced work capacity:		
– more than 90% /160% of the social pension /	80,00	84,80
– from 71 to 90 % /150% of the social pension /	75,00	79,50
– from 50 to 70.99 % /120% of the social pension /	60,00	63,60
6. Civil invalidity – Article 87 of the Mandatory Social Security Code with reduced work capacity:		
– more than 90% /150% of the social pension /	75,00	79,50
– from 71 to 90 % /140% of the social pension /	70,00	74,20
– from 50 to 70.99 % /115% of the social pension /	57,50	60,95

The social invalidity pension under Article 90 of the Social Security Code for persons with reduced work capacity by more than 90% becomes 63.60 BGN (120% of 53,00 BGN), and for persons with reduced work capacity from 71% to 90% - 58.30 BGN. (110% of 53,00 BGN).

The maximum size of one or more pensions received, except from the supplements to them, are defined on annual basis under the State Social Security Budget Act. As of 1 January 2004 that size is set at 420.00 BGN and is not subject to change in relation to Article 100 of the Social Security Code.

- Supplement for assistance by attendant under Article 103 of the Social Security Code is set at 39.75 BGN (75% of 53.00 BGN).

- The supplement under Decree № 1611/85 is set at the amount of 26,50 BGN (50% of 53,00 BGN)

The supplement to pensions of war veterans is set at 26.50 BGN (50% of 53,00 BGN).

The level of poverty depends on the approach chosen to measure the poverty. According to international standards, under the level of ultimate poverty as part of one par dollar (PPP) daily in 2001 live about 0.1% of the population in Bulgaria. If a higher level of 2.15 par dollars (PPP) of poverty is applied, the share of ultimately poor people in Bulgaria, in 2001, was 7.9% (according to data supplied by the World Bank). Under the methods of EUROSTAT (60% of average median equalized income) and according to statistical data by the National Statistical Institute, in 2001 the poverty threshold⁷ in the country for one person was 639 Euro yearly (53,2 Euro monthly) with 15.5% relative share of poor households. The data available in 2003 shows that the share of poor people in Bulgaria stands at 14.1% at poverty threshold set at 843 € (or 70.25 € monthly).

In Bulgaria, there is not yet officially adopted poverty threshold to be used for the purposes of social policy. In October 2003 the Ministry of Labour and Social Policy, together with the National Statistical Institute, carried out a multi-target monitoring on the households, financed by the World Bank. This is the first of the kind research on the poverty in Bulgaria, which will make possible the definition of the poverty line, supply information such as who is poor, where are the worst forms of poverty concentrated, any regional aspects of poverty and what kind of policies should be adopted to reduce the level of poverty in Bulgaria. Definition and adoption of an official level of poverty will give a means to motivate a level of guaranteed minimum income for social assistance, in accordance with the minimum set of needs to be guaranteed to assisted persons and families, the development of various alternatives to define the size of national minimum wage and social pension and other minimal payments, given the levels and ratios between them and the adopted poverty threshold.

In view with the above, in recent years Bulgaria has carried out a successful reform in the field of income policies to link systematically the incomes from work with the work productivity and the increase of the size of minimum salary, minimal pensions and other minimal payments in conformity with the economic situation in the country and the engagements adopted to the European Union.

The Committee notes that total receipts from social security contributions was 2 198 billion BGL (1 137 billion €) in 2000 before dropping to 2 183 billion BGL (1 129 billion €) in 2001. At the same time spending on pensions went from 2 389 billion BGL (1 236 billion €) in 2000 to 2 558 billion BGL (1 323 billion €) in 2001. The report states that spending on pensions as a share of GDP was 9,4% in 2000, 9,0% in 2001 and 8,9% in 2002. The Committee asks that the next report contain the following information

⁷ Source: A work material of EUROSTAT.

relating to expenditure on and financing of social security (if possible calculated according to the Eurostat- ESSPROS methodology):

- total social protection expenditure per capita for the last 5 years;**
- total social protection expenditure as a percentage of GDP for the last 5 years;**
- total social protection receipts broken down by source (employers, employees, state and other sources) for the last 5 years.**

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(See Appendix 10)

The Committee asks how the state deals with delays in payment or refusals by employers to pay their social security contributions.

Each violation of the provisions of Part One of the Social Security Code, where the obligation to pay due social security contributions is specified, or of the related secondary legislation, or in case of failure to comply with mandatory order of a controlling authority, shall be sanctioned with a fine from 50 to 1000 BGN, unless graver sanction is provided for.

Any official who allows payment of remunerations without payment of social security contributions due on them shall be subject to fine in the amount of the unpaid contributions but not more than 20 000 BGN.

The person who draws up a document with false content or presents false data for the purpose of avoiding the payment of insurance contributions due for the state public insurance, and/or for additional compulsory pension insurance, shall be imposed a fine of BGN 500 for each individual case, unless subject to a more severe penalty. In case of a repeated violation the guilty person shall be imposed a fine of BGN 500 to 2000. Where the control bodies of the National Social Security Institute establish that documents with false contents have been drawn up with the purpose of avoiding the payment of insurance contributions due for the state public insurance, the health insurance and the compulsory pension insurance in large amounts, they shall be obligated to notify the prosecution authorities.

The control bodies of the National Social Security Institute shall draw up deficit deeds to the natural or legal persons:

- for the damages caused by them to the state public insurance by unpaid insurance contributions, incorrectly implemented insurance expenses and issued documents of false content or Repealed acts of the medical assessment, etc.;

- for unpaid contributions for health insurance;

- for unpaid payments for the additional compulsory pension insurance;

- simultaneously with the deficit deed; measures may be imposed for preliminary security of revenues for compulsory insurance contributions following the procedure of the Tax procedure code.

Penal ordinances shall be issued by the director of the NSSI regional offices or an official authorized by him/ her.

Establishment of violations, issuance and appeal of penal ordinances shall be regulated by the Administrative Violations and Penalties Act.

The Committee also asks how much undeclared work takes place and what the Government does to combat it.

Since the end of 2002, amendments to the Labour Code envisioned for obligatory registration of employment contracts. The employer is obliged to inform the respective territorial department of the National Social Security Institute as per address of registration about any conclusion, amendment or termination of the labour contracts, by sending a notice, within three days from the date of conclusion, or within seven days from the date of termination of a contract.

The data included in the notice and the terms of sending shall be regulated in a regulation by the Minister of Labour and Social Policy after coordination with the Director of the National Social Security Institute and the Chairperson of the National Statistical Institute.

The introduction of obligatory registration of employment contracts leads to increase of the coverage of insured persons and reduction of the share of informal sector, to participation of all active persons in the mandatory public social security and reduction of undeclared work.

As of the moment, it is impossible to quote exact percentages on the undeclared work. The information available is much more speculative than objective and is grounded on surface observations and publications in the Internet.

The Committee considers the lower limits fixed for these two types of benefits (sickness benefits and employment injury or disease) to be very low, but in view of the much higher rates paid on average, it reserves its position as to the adequacy of these benefits. It asks that the next report contain information on the number of workers who are entitled only to the base amounts.

(See Appendix 10)

Having noted that the average monthly unemployment benefit reported in 2002 was 101,27 BGL (52,40 €), the Committee wishes to know how many unemployed workers received less than this average per month.

There is no statistics of the number of such people in Bulgaria.

In connection with its conclusion under Article 1§2, the Committee requests that the next report states in detail in what cases and under what conditions the payment of unemployment benefits may be suspended.

Under the Social Security Code, the cash payment of unemployment benefits is terminated for the period during which the insured person receives benefits for temporary incapacity for work. In this case the unemployed person is obliged to declare the occurrence and end of circumstances as herein specified in a declaration. Cash payment of unemployment benefits will be resumed on the date when the grounds for termination thereof are not present and continued for the rest of respective period.

The termination of cash payments for unemployment benefits is regulated in the Social Security Code.

The payment of the cash unemployment benefit shall be terminated in the following cases: start of labour activity for which the person is subject to mandatory social security; termination of the registration by the Employment Agency; eligibility for pension for period of insurance and age or occupational pension for early retirement; death of the unemployed person.

The Employment Agency shall be obliged to notify immediately the National Social Security Institute in case of occurrence of these circumstances.

The person shall be obliged to declare to the respective territorial office of the National Social Security Institute the occurrence of these circumstances within 7 days.

If, during the period of receiving the cash benefit, the person begins exercising any activity, which is a reason for mandatory social security, which will terminate in less than nine months, the payment of cash benefit shall be resumed for the period remaining as at the date of termination.

He Committee asks whether the beneficiaries have a right to refuse job offers or vocational training which do not reflect their professional qualifications and work experience and, if so, for how long.

For the reference period, the Ministry of Labour and Social Policy has adopted measures to overcome long-term unemployment and groups at risk to reintegrate them in society through employment creation. The measures are directed to promote unemployed and inactive persons to adopt jobs, to improve their skills and to restore their working skills with the purpose to improve their adaptiveness to employment.

The National program “From Social Assistance to Employment” is developed in accordance with Article 31 of the Employment Promotion Act and in conformity with the provisions of Article 12b of the Social Assistance Act and the Rules of the implementation of the Social Assistance Act.

The main purposes of the program include: provision of employment and social integration of unemployed persons who receive monthly social assistance benefits, by creating work places with generally beneficial activities, such in the field of agriculture or procession of agricultural output, as well as in activities from the field of general production in enterprises without state and/or municipal participation. The increase of adaptiveness to employment by persons included in the program, through inclusion to such activities, lead to improved level of skills and professional qualification. Another result is also the increased competitiveness of unemployed persons who are entitled to monthly social assistance benefits, through inclusion into programs of training and professional qualification.

Pursuant to Article 12b, paragraph 2 of the Social Assistance Act, persons who refused to participate in programs of employment shall be deprived of the right to receive monthly social assistance benefits for a period of one year. In 2005 the number of these persons has reached 2108. They were sanctioned with termination of their registration at the territorial directorates “Labour Offices”. These persons can refuse jobs under the Program and in cases of a disease declared with a medical document. In 2005 the number of these people stands at 4312. They are not sanctioned with termination of the registration at the territorial directorates “Labour Offices”.

Pursuant to Article 20, paragraph 4, item 4 of the Employment Promotion Act, the registration of unemployed persons shall be terminated also in the cases when they refuse to accept a job place appropriate for their skills and professional background, and/or terminate participation in such training course and refuse to enrol in programs and join measures aimed to increase employment under this law.

It appears to the Committee that these (allowances) are restricted in scope (surviving spouse, pensioners in need of care, war veterans) and it therefore asks whether there are other, more general allowances (e.g. housing allowances) which ensure an adequate level of social security for pensioners.

More information on this issue could be found in the Third National Report of the Republic of Bulgaria concerning the implementation of the European Social Charter(revised)

in relation with the provisions of Article 14.

The Committee requests information on the number of pensioners receiving only the citizens' old-age and no further pensions or allowances.

(See Appendix 11.2)

The Committee asks that the next report contain information on the net average wage in the economy. It also wishes to receive an up-dated overview of the manner in which the various benefits are reviewed and adjusted.

(See Appendix 11.1)

The Committee asks to receive information on the total number of beneficiaries of maternity benefits and the total number of beneficiaries of child benefits

There is no such statistical data available.

Article 12 Para. 3

On the basis of the information provided in the report, the Committee acknowledges that Bulgaria has taken steps to progressively raise the level of the social security system. However, before reaching a conclusion as to the conformity of the situation, it asks that the next report provide the following information:

- statistics allowing the Committee to assess the personal coverage of the social security system and its branches (proportion of population covered, etc.) and showing trend in personal coverage over at least the last five years;**
- figures on total expenditure on social protection per capita and as a share of GDP for the last five years calculated according to the Eurostat-ESSPROS methodology;**
- figures allowing the Committee to assess trends in the real value of the various social security benefits, both short-term and long-term benefits over the last five years.**

(See Appendices 10 and 11)

Question A

Question B

As far as any other changes in the social security field are concerned, especially in so far as they are not aimed at bringing the system to a higher level, please include the following elements:

- the nature of the changes (field of application, conditions for granting allowances, amounts of allowance, lengths, etc.);**

For the reference period in the Bulgarian legislation were adopted many amendments in the field of social security. The most important amendment was the codification of all existing legal base in the field of social security. It became possible with the amendment of the Mandatory Public Social Security Code when it also adopted a new name – Social Security Code. The new code regulates the three pillars of the social security system in Bulgaria. The new Code shall govern the public relations with respect to:

1. the state public insurance for general disease, accident at work, occupational disease, maternity, unemployment, old-age and death;

2. the additional social security, which shall include:

- a) the additional compulsory pension insurance for old-age and death;
- b) the additional voluntary pension insurance for old-age, invalidity and death;
- c) the additional voluntary insurance for unemployment and/or professional qualification.

– the reasons given for the changes, the framework of social and economic policy they come within and their adequacy in the situation which gave rise to them;

The amendments were made in order to codify the matter of mandatory public insurance, the additional compulsory pension insurance, the additional voluntary pension insurance and the additional voluntary insurance for unemployment and professional qualification., to overcome established imperfections on their application, to update the legal dispositions concerning the respective public relations, to provide for better effectiveness of the state regulation and supervision for protection of insured person's rights. The changes were also needed in order to update the legal system with the trends of the EU countries and best international practices in the field of the additional pension insurance.

The amended legislation is a result of the explicit political will to incorporate the latest achievements of the social security system into the national legislation.

– the extent of the changes introduced (categories and numbers of people concerned, levels of allowances before and after alteration);

Changes in the personal coverage

In addition to the groups of persons described in the previous report who are mandatory insured for all social security risks, there are also the persons performing labour and receiving income on elective positions, as well as the clerks employed by the Bulgarian Orthodox Church and other religions as incorporated under the Religions Act.

Mandatory social security for invalidity due to general disease, for old age and death is available to duly registered agriculture producers and tobacco producers. For the insurers that are legal entities, their branches and sole traders they are now obliged to register at the territorial departments of the National Social Security Institute within seven days from court registration or the issue of an act of incorporation. Self-insured persons shall be registered at the territorial departments of the National Social Security Institute within seven days from the date of starting commercial activity.

The amount of social security contributions and the social security income

The size of state social security contributions are as follows:

- for persons working in conditions categorized as III category of labour, who are insured for all social risks - 35,5 %;
- for persons working in conditions categorized as I and II category of labour, who are insured for all social risks - 38,5 %;
- for persons who are insured for all social risks - 38,5 %;
- for persons who are insured for all social risks except unemployment - 32 %, if these persons work in conditions categorized as I and II category of labour, the social security contribution is set at 35 %;
- for persons who are insured for invalidity, old age, death, and for accident at work and occupational disease - 29 %, if these persons work in conditions categorized as I and II category of labour, the social security contribution is set at 32 %;

- for persons who are insured for all social risks except from accident at work and occupational disease and unemployment - 32 %, for persons who are insured for invalidity, old age, death - 29 %.

In all these cases described above the insured persons shall pay contributions varying from 0.4 to 1.1 % for work accident and occupational disease as provided for in the State Social Security Budget Act for each year per groups of economic activities.

Social security contributions for workers and employees and for persons under Article 4, paragraph 1, items 7 and 8 (see previous report) are due on the received gross monthly remuneration, not less than the minimum social security income under paragraph 2, item 3, and not more than the maximum monthly amount of the social security income. Social security contributions for workers and employees and for persons under Article 4, paragraph 1, items 5, 7 and 8 and paragraph 3, items 5 and 6 (see previous report) are divided between insurers and insured persons in the following ratio;

- a) in 2000 – 2001 – 80:20;
- b) in 2002 2004 – 75:25;
- c) in 2005 – 70:30;
- d) in 2006 – 65:35;
- e) in 2007 – 60:40
- f) in 2008 – 55:45;
- g) in 2009 and after – 50:50

Registered agriculture and tobacco producers whose activity is non-processed vegetal/animal production, shall not determine a final amount of their insured income. Social security contributions for such persons may be paid from funds for assistance of agriculture producers, in accordance with terms and conditions determined by the Council of Ministers.

For persons receiving income from activities on grounds different from art. 4, contributions shall be paid on the sum of their insured incomes, but on not more than the maximum monthly amount of the insured income as follows:

1. incomes from labour and/or official relations, from company management and control contracts and from labour activity as cooperative members;
2. insured income as sole traders, owners of, or partners in, commercial companies, freelance professionals and/or craftsmen, and farmers; registered agriculture producers and tobacco producers.
3. 3. income without employment relationship.

Terms for Payment of Social Security Contributions

Registered agriculture producers and tobacco producers only involved in farming and insured only for general sickness invalidity, old age and death, can pay their contributions by March 31 of the year following the year for which they are due.

Social Security Length of Participation

Length of participation shall be calculated in days, months, and years. The following shall be considered as length of participation:

1. the time during which persons have worked in accordance with the full legal working time, if contributions have been paid or are due on the paid remuneration, but not less than the minimum insured income for the respective occupation; when the person has worked part time, the length of participation shall be recognized in proportion with the legally determined working hours;

2. the time for which contributions have been paid or are due on not less than the minimum salary established for the country, for persons under art. 4, paragraph 1, item 5 and Art. 3, item 5; when the remuneration of persons under art. 4, paragraph 1, item 5, on which contributions have been paid, is smaller than the minimum salary established for the country, the length of participation shall be recognized in proportion with the latter;

3. the time for which contributions have been paid or are due on for the persons under Art. 4, Para. 1, Item 7 and 8 not less than the minimum insured income under art. 6, paragraph 2, item 3.

4. the time for which contributions have been paid by self-insured persons.

Recognized as length of participation without payment of contributions are also paid and unpaid leave for raising a small child;

Social security rights of insured for social security risks

Assistance in cash payable for invalidity due to general disease when the insured person does not have the necessary length of participation to receive pension for invalidity due to general disease, shall be set in amount equal to 60-day benefit for temporary work incapacity.

In relation of the entry into force 01.01.2005 of the new Health Act, the provisions concerning the expertise of working capacity, the bodies, the appeal and enforcement of the decisions are revoked in the Social Security Code for finding place in the Health Act.

Social security funds

Public social security funds under are allocated in: the Pensions Fund; the Non-Contributive Pensions Fund; the Accidents at Work and Occupational Disease Fund; the General Disease and Maternity Fund; the Unemployment Fund. The distribution of social security contributions as per funds is provided for under the State Social Security Budget Act.

Budget of social security funds

The State Social Security Budget Act provides for a general reserve of funds accumulated by calculated contributions on the basis of a social security technical plan. The reserve accumulates the returns from capital on deficit deeds.

Budget of the National Social Security Institute

The Budget of the National Social Security Institute is part of the entire budget of state social security and is drafted per paragraphs of budget classification.

The finances in the budget of the National Social Security Institute are accumulated also by fines, property sanctions and pecuniary interests as well as from subsidies (transfers) from the state budget.

Revenues to the Pensions Fund

Revenues of the Pensions Fund are collected from: social security contributions from insurers, insured persons and self-insured persons; social security contributions and revenues as provided for by other laws, social security contributions for invalidity due to general disease, old age and death; amounts from the state budget for social security contributions of civil servants, military staff and sums from the judiciary budget for judges, prosecutors, magistrates, and court officials, as well as budget transfers from the social security budget in the cases provided for in the Social Security Code, subsidies envisioned in the State Social Security Budget Act for respective calendar year, health insurance contributions for pensioners.

Revenues to the Non-Contributive Pensions Fund

Revenues to the Non-Contributive Pensions Fund are raised from: amounts from the republican budget for payment of pensions for which contributions are not due and for indexation, compensations and supplements thereto; supplements to pensions of war veterans; supplements of 20% to the pension or pensions of deceased spouse; supplement to pensions, set by the Political Civil Rehabilitation of Repressed Persons Act, fees determined in a tariff of the Council of Ministers; interest and dividends; donations and bequests.

Expenditures of the Non-Contributive Pensions Fund

The resources of the Non-Contributive Pensions Fund are used for payment of pensions for military invalidity, civil invalidity, social pensions for old age, social invalidity pensions, special merit pensions, personal pensions, for indexations, compensations and supplements thereto, as well as for supplements to pensions of war veterans and for supplements under the Political Civil Rehabilitation of Repressed Persons Act, supplement in amount of 20 % from the pension or pensions, received by the deceased spouse, determined by pensions for which contributions are not due.

The resources of the Non-Contributive Pensions Fund shall also be used for payment of pensions for which contributions are not due under the repealed Pensions Act and the Public Social Security Act, as well as for indexations, compensations and supplements thereto.

Revenues to the Accident at Work and Occupational Disease Fund

The revenues to the Accident at Work and Occupational Disease Fund are also collected from: social security contributions for civil servants, and from the Budget for social security contributions for judges, prosecutors, etc.

Revenues to the General Disease and Maternity Fund

Revenues to the General Disease and Maternity Fund are collected from funds from the state budget for social security of civil servants and military staff, as well as from the budget for social security for judges, prosecutors, etc.

National Social Security Institute

The National Social Security Institute concludes contracts for supply of information, information products and activities in the field of social security.

Supervisory Board of the National Social Security Institute

The Supervisory Board shall be comprised of one representative of each representative organization of workers and employers recognized in accordance with the Labour Code and an equal number of representatives determined by the Council of Ministers, one of which shall be the Executive Director of the National Revenue Agency.

Functions of the Supervisory Board

Compared to the previous Report, the following is amended:

The Supervisory Board makes decisions for cancellation off bad debts after completion of the bankruptcy or liquidation proceedings of the insurers as well as for debts to public social security of insurers and self-insured persons up to 1,000 BGN, which cannot be collected upon enforced Orders and Declarations for social security contributions.

Right to social security benefits

Insured persons shall be entitled to a cash benefit in lieu of employment remuneration for the leave due to temporary incapacity for work provided that they have at least 6 months of participation in the system. This requirement shall not apply to eligibility for cash benefits for

temporary incapacity due to accident at work and occupational disease and to insured persons below the age of 18.

Cash benefits for temporary incapacity for work, pregnancy, birth and raising a child and assistance from public social security, shall be paid through the territorial offices of the National Social Security Institute as defined with a decree by the Council of Ministers.

Cash benefits for the three working day of the temporary incapacity for work, but for no longer than 15 working days in one calendar year, shall be at the account of the insurers.

The remuneration on the basis of which the benefit is determined

The remuneration on the basis of which the benefit is determined cannot exceed the maximum monthly size of the social security income, as specified in the State Social Security Budget Act for the period of which cash benefits are due.

Benefits for Care of a Sick Family Member

Cash benefits under the terms and conditions and in the amount of the cash benefit for temporary incapacity for work due to general disease shall also be paid for taking care for child, placed at relatives, parents or foster family.

Right to benefits for maternity and birth

Insured persons shall be entitled to a cash benefit in lieu of pregnancy and child birth provided that they have at least 6 months of participation in the system as a person with social security for all social risks except from work accident, occupation disease and unemployment or for all social security risks except from unemployment.

Right to benefits for raising small child

Insured persons shall be entitled to a benefit for raising small a child provided that they have at least 6 months of participation in the system as a person with social security for all social risks except from work accident, occupation disease and unemployment or for all social security risks except from unemployment.

Benefits for Raising Small Child

Monthly cash benefit in an amount determined in the State Social Security Budget Act shall be payable also to persons using paid leave to take care for a child of up to two years of age placed at family of parents, relatives, or foster family or specialized childcare institution.

Payment of cash benefits are terminated with occurrence of the death of the child, upon adoption or upon placement in a childcare institution with fully state-funded allowance.

Benefits When the additional paid leave for care of a small child is not used

In cases when the additional paid leave for care of a small child is not used or when the person using this leave interrupts it, the mother (foster mother) shall be paid a cash benefit amounting to 50% of the benefit if she is insured for all insured social risks, including without accident at work and occupational disease and if she had the right to benefits for taking care of small child.

Cash unemployment benefits

Right to cash unemployment benefits

Right to cash unemployment benefit shall have persons who have been subject to mandatory social security for all insured social security risks for at least nine months in the last 15 calendar months prior to the termination of the insurance and who are registered as unemployed in the respective territorial office of the Employment Agency; have not become eligible for pension for insurance period and age or occupational early retirement pension; and

are not exercising labour activity for which they are subject to mandatory social security.

Amount of the cash unemployment benefit

The amount of the cash unemployment benefit for unemployed persons shall be 60 per cent of the received average monthly insured income for the last nine months, during which they have been subject to mandatory social insurance for all insured social risks, and may not be smaller than the minimum and higher than the maximum amount of the unemployment benefit.

The minimum and maximum amount of the unemployment benefit shall be determined every year with the State Social Security Budget Act.

Unemployed persons whose employment relations have been terminated by their own will or with their consent or due to their guilty behaviour shall receive the minimum amount of the cash unemployment benefit for a period of four months.

Terms for payment of cash unemployment benefits

Insurance period for the determination of the period of payment of monthly unemployment benefit shall include the length of service at work until 1 January 2002 under the Labour Code or under special legislation and the period following that date, during which period those persons were insured for unemployment.

This period does not include the term of benefits which cannot be received simultaneously with the unemployment benefit.

Cash unemployment benefits, which have not been received due to unjustified reasons within three months following the latest date determined for receiving them, shall remain in the account of the Unemployment Fund.

Suspension of payment of cash unemployment benefits

The payment of cash unemployment benefit shall be suspended for the period during which the person receives benefit for temporary incapacity for work.

The unemployed person shall be obliged to declare the commencement and termination of the circumstances with a declaration.

The payment shall recommence on the day of termination of the grounds for suspension, until the end of the period.

The Employment Agency shall be obliged to notify monthly the National Social Security Institute for termination of registration.

The person shall be obliged to declare to the respective territorial office of the National Social Security Institute the occurrence of circumstances within seven days.

Return of Cash Unemployment Benefit received in bona fide

Paid cash unemployment benefits shall be returned by person whose dismissal has been abrogated as illegal, for the period of the benefit received.

For the purposes of reimbursing the amounts, the official assigned with the administration of unemployment insurance in the respective regional branch of the National Social Security Institute office, shall issue orders for return of the groundlessly paid unemployment cash benefits. The amount thereof can be deducted from the due unemployment benefits and is subject to coercive collection according to the Tax Proceedings Code.

The State Social Security Budget Act determines the size of social security contribution for accident at work and occupational disease as per groups of economic activities.

The amount of the social security contribution is determined by the National Social Security Institute under methods as stipulated by the Council of Ministers.

Eligibility for pension

Military officials shall be eligible for pension upon dismissal regardless of their age if they have 25 years of service of which two thirds are actually served at a permanent military service.

Civil servants – officers, sergeants and civilians from the Ministry of Interior, officers and sergeants from the National Investigation Service, from the General Department of Penitentiaries and the Main Directorate “Investigation Detention” from the Ministry of Justice, the Special Courier Service from the Ministry of Transport and Communications, investigators and assistance-investigators, as well as civil servants - officers, sergeants and civil persons under the Penalty Enforcement Act shall, in case of dismissal, become eligible for pension with 25 years of service of which two thirds are actually served at such positions at the respective agencies, regardless of their age.

Regular service military staff and officers and sergeants, who have served 15 years on positions in aircraft crews, paratroopers, underwater vessel crews and diving crews, shall be eligible for pension upon dismissal regardless of their age.

Amount of the Pension

The income, on the basis of which the pension is calculated, shall be determined as follows: the average monthly insured income established for the country for 12 calendar months prior to the month of granting of the pension shall be multiplied by the individual coefficient of the person.

Right to Invalidity Pension due to general disease

Invalidity pension due to general disease shall not be granted to persons who have been granted with pension for insurance period and age.

Amount of Disability Pension for General Disease

Persons aged up to 20 years and blind by birth or before starting a job - irrespectively of their insurance period, the pensions are set in the minimal amount according to Art. 75, Para.4, i.e. cannot be lower than 140 per cent of the social old-age pension for persons with reduced working capacity over 90 %; 130 per cent of the social old-age pension for persons with reduced working capacity from 71 to 90 % and for persons with reduced working capacity from 50 to 70,99 % - 105 per cent of the social old-age pension. After the completion of one year of insurance period, the pensions are set by the general provisions.

Income for Calculation of Invalidity Pension due to General Disease

The income, used to calculate the amount of the invalidity pension for general disease, shall be determined in the following way: the average monthly insured income established for the country shall be multiplied by the individual coefficient of the person.

Amount of the pension for invalidity due to accident at work and occupational disease

The amount of the pension for invalidity due to accident at work or occupational disease shall be determined by following way: the average monthly insured income established for the country shall be multiplied by the individual coefficient of the person, calculated as per the date of individualization and according to the following coefficients:

up to the date of individualization and according to the following coefficients:

1. for persons who have lost over 90 per cent of their working capacity – 0.4;
2. for persons who have lost between 71 and 90 per cent of their working capacity – 0.35;
3. for persons who have lost between 50 and 70.99 per cent of their working capacity – 0.30.

Eligibility for Survivor's Pension

The surviving spouse shall be entitled to receive a survivor's pension five years earlier than

the age under Art. 63, Paras 1 and 2, or before that age if he/she is in incapacity of work. Surviving parents are entitled to survivor's pensions from their children, provided they have completed the age under Art. 63, Paras 1 and 2.

The age under Art. 63, Paras 1 and 2 in 2003 was for men -62 and for women – 57; In 2004, for men – 62,5 and for women – 57,5; in 2004 for men – 63 and for women – 58.

Types of Survivor's Pensions

When the deceased pensioner receiving invalidity pension due to general disease or pension for insurance period and age, survivor's pension shall be granted in percentage dependant from the type of received pension.

Supplement from the Pension for a Deceased Spouse

Pensioners shall be entitled to a supplement in the amount of 20 per cent of the pension of the deceased spouse. When the deceased spouse had not received pension, this supplement shall be determined from the pension or pensions to which the deceased had the right according to Art. 83.

Date of Granting of Pension

Pensions are granted as of the date of eligibility for pension, and pensions for period of insurance – as of the date of termination of the social insurance, if the application with all required documents has been filed within six months after the date of eligibility or termination of the social insurance, respectively. If the documents have been filed after that six-month period, or after the termination of social insurance, respectively, pensions shall be granted as of the date of their filing.

Invalidity pensions due to general disease shall be payable from the date of request for respective certificate at the Territorial Expert Medical Commission or at the National Expert Medical Commission, provided that all necessary documents are submitted at the territorial office of the National Social Security Institute within one month from the date of enforcement of the medical expert decision.

Order for granting and modification of pension

Pensions and supplements to them shall be granted, modified, updated, suspended, renewed, terminated, and re-granted by order of the respective official in charge of the management of pension insurance at the territorial National Social Security Institute office. Pensions under an international agreement shall be granted, modified, updated, suspended, renewed, terminated, and re-granted by instruction of the official assigned in the National Social Security Institute with the management of the activity related to granting and payment of pensions in accordance with international agreements.

The orders under for invalidity pensions and supplements for assistance by attendant are issued on the basis of a medical commission's ruling at the territorial National Social Security Institute office. The medical commission consists of chairperson and two members appointed by the head of the territorial National Social Security Institute office

The decisions of the medical commission are issued in 30-day term from the date of request for receipt of pension after consideration of the medical documentation certifying actual health condition of the person, the decisions on the territorial expert medical commission (TEMC) and the National expert medical commission (NEMC) on the size of reduced working capacity, starting date of disability and its term.

In case the Commission finds that expert decisions of TEMC and NEMC are not regular, the chairperson shall lodge complaint against such decision in 14 days term. TEMC decisions are appealed before NEMC, and those of NEMC – before the Sofia City Court.

If the decision is appealed by the chairperson, no enforcement order shall be issued until the

entry into force on the decision of NEMC or the Court on the appealed decision of the bodied of the medical expertise.

Indexation of Pensions

Pensions granted through December 31 of the previous year shall be updated annually as of June 1, by decision of the Supervisory Board of the National Social Security Institute with percentage equal to 25 % of growth of the social security income and 75% of the index of consumer's prices for the previous year.

Categories of Work

At retirement for insurance period and age, the insurance period from first and second category of work, depending on the character and type of work, shall be transformed into third category of work by the following way:

- Three years period of insurance from first category shall be counted as five years period of insurance from third category
- One year period of insurance from first category shall be counted as two years period of insurance from third category
- One year period of insurance from first category shall be counted as three years period of insurance from third category
- Four years period of insurance from second category shall be counted as five years period of insurance from third category

Rights of Controlling Bodies

Control over the compliance with the legal provisions related to public social security, as well as to payment of health insurance and supplementary mandatory pension contributions shall be performed by the controlling bodies of the National Social Security Institute. The controlling bodies of the National Social Security Institute may carry out controlling and auditing activity in cooperation with the tax authorities in accordance with a plan coordinated in advance between the Governor of the National Social Security Institute and the General Tax Director, under the Audit House Act.

Signalling Function of the Controlling Bodies of the National Social Security Institute

When the controlling bodies of the National Social Security Institute establish that documents with fraudulent content have been drawn up for the purposes of avoiding payment of public social security contributions, health insurance contributions and supplementary mandatory pension contributions in significant amounts, they shall notify the bodies of the Prosecution.

Deficit Deeds

The control bodies of the National Social Security Institute shall draw up deficit deeds to natural and legal persons for all damages caused by them to the state public social security by unpaid social security contributions, incorrect security expenses, and issued documents of false content or repealed acts of medical assessment, etc. The orders, the deficit deeds and the obligatory instructions shall be handed over personally against signature to the responsible persons or by registered mail with advice of delivery.

If the responsible person is not found at the address as per court registration, the permanent address of residence, or at any other address as declared in the territorial branch of the National Social Security Institute, or at the address of work, the act of handing down shall be executed through placement of a notice informing of the issue of the document, which is due for handing down, at a place designed for this purpose at the territorial branch of the National Social Security Institute, the web site of the National Social Security Institute or at the municipality of mayor's office. In this case the orders, the deficit deeds and the obligatory

instructions shall be considered handed down after the expiration of seven days from the date of placement of the notice thereof.

The amounts under the orders into force and declarations of due social security contributions, which have not been paid on a voluntary basis, shall be collected through levying a distraint on the accounts of the debtors and of the persons associated with them with respect to receivables of the state public social security, the health insurance and the additional compulsory pension insurance; execution in respect to the movable or real estate property of the debtors and their receivables from third persons.

A person who pays the receivables to the debtor, on which distraint has been levied under the Social Security Code, shall be jointly responsible with him/her for the paid sums, up to the extent of the liability, including due interest after the payment. Where the payment is made by a legal entity or association, together with it shall be jointly responsible the manager or the members of the managing body, or managing partner, who have allowed the payment. The authorised bodies shall issue orders for collecting the sums, whereby securing measures may be required to be imposed.

Ten percent of the collected sums under the deficit deeds from unpaid social security contributions for the state public social security, the health insurance, the damages caused by incorrectly expenses made by the state public insurance and the interests due on them shall be referred as own incomes to the budget of the state public social security. The collected funds shall be calculated and spent only for increase of the qualification and financial incentives of the employees under terms and procedure determined by the governor of the National Social Security Institute.

Reimbursement of amounts received without grounds

The sums received in bad faith for social security payments shall be reimbursed by the persons who received them together with the interest amounting to the basic interest rate of the Bulgarian National Bank for the respective period plus 20 %.

Prescription

Receivables due by public social security may be claimed at the latest within three years following the date on which they have become payable, with the exception of receivables from unemployment cash benefits, which if remained undeceived due to not valid reasons within three months after the last date, determined for the receipt thereof, shall remain in the account of the fund "Unemployment". The official responsible for the management of public social security control in the respective branch of the National Social Security Institute shall give instructions as to the request for reimbursement of sums. The instruction shall be subject to appeal under the provisions the Social Security Code.

Rescheduling of debts

For the period of the rescheduling the debtor shall due the interest as required by law. Rescheduling shall not be allowed in the case of a trader in respect of which there is a decision for termination with liquidation or proceedings for insolvency has been initiated, as well as after determining the method of sale under the provisions of the Tax Proceedings Code. The decisions for rescheduling shall be made by the director of the territorial National Social Security Institute office – for debts amounting from 10 000 to 100 000 BGN for a period of three years, and for a period of five years for same-size debts of registered agriculture producers and tobacco producers; the Supervisory Body of the National Social Security Institute – for debts amounting over 100,000 BGN for a period of up to three years and for a period of five years for same registered agriculture producers and tobacco producers.

Refusal to reschedule or defer debts of registered agriculture producers and tobacco producers shall be subject to appealing procedure under the provisions of the Administrative Proceedings Act.

The aggregation of public receivables and recovery plans in case of deferring and rescheduling shall be coordinated with the competent body of the National Social Security Institute.

– the existence of measures for those who find themselves in a situation of need as a result of the changes made (this information can be submitted under Article 13);

– the results obtained by such changes.

In the conditions of restructuration of the Bulgarian economy, the social sector revealed some of key problems that are further to be dealt by the Bulgarian government. The directions of the reforms to be completed took on shape, including: increase of living level, increase and maintenance of employment and decrease of unemployment, improvement of functionality of the labour market, reduction of the so-called “informal economy”, continuation of the pension reform, etc.

The overall reform in the system of social security, which started with the introduction of three-pillar pension system, is still going on. It reflects in the subsequent legislation steps and most of all in the codification of the social security.

The progress achieved in the social field is due to the adopted and implemented tendencies, recommendations and guidelines from the European Commission, the Council of Europe, and the International Labour Organisation.

The latest amendments to the Social Security Code are a direct result from the engagements of Bulgaria in the field of social security adopted in the process of accession of the country to the European Union. These amendments are meant to coordinate the system of social security of Bulgaria with those of the EU member states.

ARTICLE 13

THE RIGHT TO SOCIAL AND MEDICAL ASSISTANCE

Article 13, Paragraph 1

Social assistance in the Republic of Bulgaria is regulated by the *Social Assistance Act* (SAA). Article 1 of the SAA lists the following as goals of social assistance: assisting citizens who are not able to satisfy their basic vital needs on their own; consolidating and developing social solidarity in difficult life situations; assisting social reintegration of persons who receive social assistance benefits; promoting employment; promoting entrepreneurship in the social sector through rendering social services. According to the same article social assistance shall consist in rendering benefits and services and shall be based on social work based on individual approach and assessment of specific needs for each person and family. Social assistance is implemented while fully preserving personal human dignity.

According to Article 2 of the Social Assistance Act, meeting own personal basic needs is obligation of all Bulgarian citizens, of foreign citizens with a permit for permanent residence in the Republic of Bulgaria and of foreign citizens who have been granted asylum, refugee status or humanitarian status. In case they are not able to fulfil this obligation through their labour or their property, they have the right to social assistance in the shape of benefits in cash and/or kind and in the form of services aimed at satisfying their essential needs. This right is granted to Bulgarian citizens, families and cohabitants who due to health, age, social and/or other reasons beyond their control, are unable to secure adequate resources to satisfy their own essential necessities through their labour or through income generated by their property or through the assistance of those who are legally obliged to support them. The right to social assistance is also granted to foreign citizens with a permit for permanent residence in the Republic of Bulgaria, to foreign citizens who have been granted asylum status, refugee status or humanitarian status and to persons, who gain the aforementioned right under an international agreement ratified by the Republic of Bulgaria. Article 5 of the Social Assistance Act states that receiving monthly social benefits is subject to carrying out community work, except in case of motherhood or when the person's age and/or health condition does not allow that.

According to the *Health Insurance Act* (HIA), persons who meet the criteria for receiving monthly social assistance benefits and targeted social assistance benefits for the purpose of heating under the Social Assistance Act, when not insured on any other grounds, as well as those accommodated in specialized institutions for social services, shall be insured by the State Budget (Article 40, Paragraph 2, HIA). The same goes for foreigners with a refugee status, with a right to asylum or in the process of obtaining such status or right. The State Budget also covers the cost of health insurance for parents, adopters and spouses who take care of persons with over 90% disability and constantly require assistance.

Article 33, Item 3 of the HIA states that foreign citizens or persons without citizenship with a right to long-term residence in the Republic of Bulgaria, with the exception of cases when an international treaty ratified by the Republic of Bulgaria reads otherwise, shall be insured in the National Health Insurance Fund (NHIF). In this case "an international treaty" refers to a bilateral social security treaty. Currently no such treaties are applied in the field of health insurance in the Republic of Bulgaria.

According to Article 81 of the *Health Act* (HA) every Bulgarian citizen has the right to accessible healthcare. Amongst the main principles, applied when rendering healthcare, are those of equality, quality, preserving the patient's rights, etc. Outside the scope of mandatory health insurance are medical services in the field of urgent medical aid; stationary psychiatric aid; providing blood and blood products; tissue, cell and organ transplantations; compulsory

treatment and/or isolation; expertise to establish a degree of disability. Furthermore, every Bulgarian citizen is entitled to vaccines for mandatory immunizations and re-immunizations, vaccines under special prescriptions and in extraordinary circumstances, specific serums, immunoglobulin and other bio-products in connection with contagious disease prevention, as well as technical means for their application; a full scope of antiepidemic activities; access to health activities under national, regional or municipal health programs. Children under the age of sixteen are also entitled to healthcare outside the scope of compulsory health insurance (Article 82, Paragraph 3 of the HA), while children accommodated in medical institutions under Article 5, Paragraph 1 of the Medical Establishments Act (centres for emergency medical aid and transfusion haematology, medical establishments for stationary psychiatric help, homes for rendering social medical care, which carry out medical monitoring and specific care for children, as well as medical establishments of the Council of Ministers, the Ministry of Defence, the Ministry of Internal Affairs, the Ministry of Justice and the Ministry of Transport and Communications) are entitled to free social medical care. All types of medical services not covered by the compulsory health insurance are financed by either the State Budget or the Municipal Budgets (Article 82, Paragraph 5 of the HA).

Questions and observations made by the European Committee of Social Rights

The Committee requests clarification as to whether social assistance is granted as of right to all nationals of States Parties lawfully resident or working regularly in Bulgaria. It also wishes to know what is the position of the Roma population in this respect.

The right to social assistance shall have foreigners with permanent residence permit in the Republic of Bulgaria and foreigners, who have been granted asylum, refugee status or humanitarian status.

Regarding the Roma population, we must state that they are entitled to the full scope of social assistance, just like all other Bulgarian citizens.

The Committee asks whether all nationals of States Parties lawfully resident or working regularly in Bulgaria are covered by the health insurance

Article 33, Item 3 of the HIA states that foreign citizens or persons without citizenship with a right to long-term residence in the Republic of Bulgaria, with the exception of cases when an international treaty ratified by the Republic of Bulgaria reads otherwise, shall be insured in the National Health Insurance Fund. In this case “an international treaty” refers to a bilateral social security treaty. Currently no such treaties are applied in the field of health insurance in the Republic of Bulgaria.

Question B

Social assistance benefits

There are no changes in legislation since the last report.

Family allowances for children

The following changes in legislation have been made:

Act on family allowances for children

Article 2 (Amended – SG 69, 2004) Under this law family allowances are:

1. A lump sum for pregnancy;
2. A lump sum for giving birth to a child;
3. Monthly family allowances for a child until he/she graduate from high school, but no longer than the age of twenty;
4. Monthly allowances for raising a child until the age of one;
5. Targeted allowances for pupils.

Granting monthly social assistance benefits

According to the Social Assistance Act, the guaranteed minimum income (GMI) is an amount of resources, set by the Government which serves as a base for the calculation of social assistance benefits, in order to secure a minimum income that allows for satisfying persons' basic human needs, according to their age, family situation, health condition and wealth. The basic human needs are enough food, clothing and home, according to the country's level of economic development.

The amount of the GMI is set by the Council of Ministers. Starting June 2005, the GMI is set at 55 BGN (Council of Ministers Ordinance 52/29.03.2005.)

According to the Regulation for Implementation of the Social Assistance Act (RASAA), those entitled to social assistance benefits are persons and families, whose income for the previous month is lower than a defined differentiated minimum income (DMI.)

The DMI is calculated by multiplying the GMI by an individual coefficient, which is determined for each family member according to his/her marital status, age, health condition, employment and studying status. In cases when more than one reason for determining a person's coefficient is applicable, it is the one that brings the highest coefficient that is applied.

The table bellow lists the amount of DMI, applicable to different categories of persons, as set by Article 9, Paragraph 3 of the RASAA.

№	Categories of persons	GMI In BGN	Personal coefficient under Art. 9 of the RASAA	DMI In BGN
1.	For a person living alone	55,00	1,0	55,00
2.	For a person with permanent disability Of 50 % or more	55,00	1,0	55,00
3.	For orphan	55,00	1,0	55,00
4.	For a single parent with one ore more children up to 16 years of age; 18 years of age in case they study	55,00	1,0	55,00
5.	For everyone of spouses living together	55,00	0,66	36,30
6.	For a child up to 16 years of age; in case the latter studies – up to graduation but not more than the age of 20 - in case he/she does not study and is between 7 and 16 years of age	55,00	0,75 0,37	41,25 20,35
7.	For a child with permanent disability	55,00	1,0	55,00
8.	For a person cohabiting with another person (persons) or family	55,00	0,66	36,30
9.	For pregnant women 45 days before	55,00	1,2	66,00

	giving birth			
10.	For a parent taking care of a child up to 3 years of age	55,00	1,2	66,00
11.	For a single person living alone over the age of 65	55,00	1,40	77,00
12.	For a person over the age of 65	55,00	1,0	50,00
13.	For a single person living alone over the age of 75	55,00	1,65	53,35
14.	For a person with permanent reduced ability to work 70% and more	55,00	1,25	68,75

Granting lump social assistance benefit

There are no changes in legislation since the last report.

Granting targeted social assistance benefits

There are no changes in legislation since the last report.

Questions and observations made by the European Committee of Social Rights

The Committee requests more details on social assistance benefits in kind and on social services.

The Committee requests more information on employment programmes and in particular whether there are circumstances under which persons may refuse participation in the programmes, as well as the frequency of refusals and whether in such situation other types of social assistance benefits may be received, in case the monthly social assistance benefits are suspended for a period of one year.

The Committee requests information on the reforms undertaken in order to improve the social assistance system and to increase the amount of social assistance benefits.

The national programme *From Social Assistance to Employment* is developed under the provisions of Article 31 of the Employment Promotion Act and Article 12 B of the Social Assistance Act and the requirements of the Regulation on the application of the latter. Those persons who refuse to take part in an employment programme have their monthly social assistance benefits suspended for a period of one year ***only in case there is no valid reason for their refusal***. The number of persons sanctioned on these grounds for 2005 is 2108. They have been sanctioned by having their registration in the Labour Office Directorates (LOD) suspended. Unemployed persons may also refuse employment in case of illness, confirmed with a medical certificate. The number of those for 2005 is 4312 and they are not subject to any sanctions. Meanwhile persons and families whose registration in the LOD is suspended do not lose right to targeted benefits and lump benefits as well.

During the 2000 – 2002 period the social assistance benefits financing mechanism underwent significant changes. In 2001 social assistance benefits, rendered under the Social Assistance Act were financed 50% by the State Budget and 50% by the municipalities' budgets. In 2002 the State participation grew up to 75% and since 2003 all the funding required for social assistance benefits is provided by the State Budget. This way, all problems with delayed benefits payment were completely solved.

The State Budget of the Republic of Bulgaria Act for 2003 introduced the financial decentralization for the municipalities. Financing social services, which is a delegated state responsibility, is implemented by the State Budget through the municipal budgets. There is a

legal possibility for the municipal councils to increase the maximum amount of funds for delegated state activities at the expense of local taxes and fees, as well as other sorts of income.

In implementation of the financial decentralization programme, the Council of Ministers clearly defined the state and municipal responsibilities in terms of social services (Council of Ministers Decision 612 from 12 September 2002, Decision 743 from 29 October 2003 and Decision 1045 from 30 December 2004). According to Decision 1045 for the differentiation of municipal budget financed activities in local and state delegated and for setting standards for staff number and for financing the delegated state activities in 2005, all specialized institutions for rendering social services shall be financed by the State Budget.

Financing of social services who are responsibility delegated by state is based on material support standards for a place in different specialized institutions and alternative social services, plus staff remuneration expenses and social and health insurances. It is within the competencies of municipalities to provide financial support for improving social services, which are a delegated state activity, within their economic possibilities.

The following social services represent delegated state activities: homes for elderly people with mental retardation; homes for elderly people; homes for elderly people with mental disorders; homes for elderly people with mental disabilities; homes for elderly people with sensory disabilities; training and educational social establishments; homes for children and young people with mental retardation; daytime centres for elderly people with disabilities; homes for temporary accommodation; homes for elderly people with dementia; shelters; daytime centres for elderly people; social rehabilitation centres for disabled persons; protected dwellings.

The list of municipal activities are domestic social patronage; community soup-kitchens; household assistants; pensioners' clubs, etc. When needed and according to necessities, each municipality may also introduce other sorts of municipality-financed social services.

The Social Assistance Fund is a second-level distributor of budget credits under the Minister of Labour and Social Policy. The Fund finances the following:

- granting social assistance benefits – after a decision by the management body the Fund may grant social assistance benefits on specific cases when persons or families are certified to need social assistance and have ran out of other alternatives, provided by legislation;
- implementation of targeted social programmes and projects in the field of social assistance;
- social services, carried out by the municipalities, as well as by persons or entities registered by the Social Assistance Agency;
- research and development of the legal base in the field of social assistance;
- acquisition of fixed assets and current maintenance, construction of new material base and reconstruction and modernization of the existing one;
- supporting Fund's activities.

Council of Ministers Decree 51 from 29 March 2005 sets a new guaranteed minimum income of 55 BGN, entering into force from 1 June 2005. This brought to amendments in the Regulation for Implementation of the Social Assistance Act. The social assistance target groups are precised, while preserving the differentiated approach. The groups of elderly people, persons with disabilities, single parents and children at risk were defined as priority groups. According to the Multipurpose Household Survey these groups were identified as the poorest and most likely to fall into poverty. The increase they get in their differentiated minimum income is from 5 to 19 BGN, or from 10 to 15%.

The amount of social assistance benefits for the active population is maintained. For these people the priority is on looking for employment possibilities by promoting job-seeking and securing labour-generated income.

Single elderly people over the age of 75 shall receive monthly social assistance benefits of 90.75 BGN, while those with permanent disabilities – 68.75. The monthly social assistance benefits for single parents shall be 66 BGN, while children accommodated to families or relatives shall receive 55 BGN.

The Committee wishes to know whether applications for social assistance can be refused due to lack of budgetary funding.

The lack of budgetary funding cannot be a reason for refusing applications for social assistance.

The Committee wishes the Government to comment on the observation that Bulgarian nationals have to be registered at the local job centre for at least six months before applying for monthly social assistance benefits, as well as to clarify whether such a condition is applicable.

The condition that unemployed persons have to be registered at the local job centre for at least six months before applying for monthly social assistance benefits was revoked with Council of Ministers Decree 89 from 18 April 2003 for the amendments and supplements of the Regulation for Implementation of the Social Assistance Act.

Question C

The right to social assistance is a subjective right and as such it may be defended in a court of law without exception. The provision that allows an appeal through the so called administrative procedure gives the higher-ranked authority the possibility to revoke an act by its subordinated body within the administration framework, in case the act is deemed unlawful or inexpedient. The procedure is not mandatory and is only a possibility aimed at speeding-up the proceedings. Whether a person decides to pursue that path or not is not related with the possibility for court protection. A complaint or a protest may be filed in front of a court of law in case the administrative possibilities have run out or the period for complaints under the procedure has expired. The court passes judgment on the act's conformity with the law.

According to Article 34 of the Administrative Proceedings Act the only administrative acts that are not subject to the aforementioned procedure are those in relation with national security and defence, or those, which are exempt from court control or are subject to different legal proceedings or before another court or specialized jurisdiction, according to a law.

Question D

SOCIAL ASSISTANCE EXPENDITURE	ANNUAL REPORT 2003 (mln. BGN)	ANNUAL REPORT 2004 (mln. BGN)
1. Social assistance under the Social Assistance Act	120.5	110.7
2. Targeted assistance for heating	110.45	100.4
3. Family benefits for children	73.1	238.9

4. Assistance under the Protection, Rehabilitation and Social Integration of People with Disabilities Act (Repealed since 1 January 2005 by the Integration of People with Disabilities Act)	32.13	42.6
5. Assistance under the Child Protection Act	—	1.04
Total expenditure under the MLSP Budget	336.18	503.64

Article 13, Paragraph 2

The following changes have been introduced in legislation since the period of the last report:

The Protection, Rehabilitation and Social Integration of People with disabilities Act has been repealed.

The ***Discrimination Protection Act*** has been adopted (SG 86, 2003, entry into force 1 January 2004.)

Art. 4. (1) (Amended SG 70, 2004) Any direct or indirect discrimination on grounds of gender, race, nationality, ethnicity, human genome, citizenship, origin, religion or belief, education, convictions, political affiliation, personal or public status, disability, age, sexual orientation, marital status, property status, or any other ground provided by law or by international agreement that the Republic of Bulgaria is a party shall be prohibited.

(2) Direct discrimination shall be a less favourable treatment of a person, on the basis of the markers, referred to in article 4 (1), than another person is treated, has been treated or would be treated under comparable circumstances.

(3) Indirect discrimination shall be putting a person on the grounds under Art. 4 (1), through an apparently neutral provision, criterion or practice, at a disadvantage compared with other persons, unless such provision, criterion or practice is objectively justified by a legitimate aim and the means for achieving that aim are appropriate and necessary.

Questions and observations made by the European Committee of Social Rights

The Committee requests information on the situation in practice of persons not having sufficient resources to establish a fixed address.

According to the Bulgarian Identity Documents Act, each Bulgarian national must indicate a permanent address, which is inscribed on his/her personal identity card. The Regulation for Implementation of the Social Assistance Act provides for a possibility for rendering one-off assistance for issuing a personal identity card. The amount of assistance is equal to the guaranteed minimum income and is granted in case a person is unable or prevented from acquiring the personal identity documents required by law.

Article 13, Paragraph 3

There are no changes in legislation since the last report.

Questions and observations made by the European Committee of Social Rights

The Committee asks to receive detailed information on the measures taken to inform people who are actually or potentially in a state of need of their rights of social and medical assistance and of what they must do in order to make full use of those rights.

In the area of each municipality in Bulgaria there is a Social Assistance Directorate, which provides qualified assistance to those seeking information on the issues of social assistance.

There is also an open questions and answers line in the Social Assistance Agency, where experts give advice on personal rights on a daily basis. The Agency's experts also assist people in a reception room. The SAA also publishes leaflets, posters, etc., which are distributed nationwide.

The Ministry of Labour and Social Policy website features a section for visitors' questions in the field of social assistance, social services and child protection. The answers are posted on the site.

Furthermore, the National Health Insurance Fund (NHIF) has developed a broad system that gives health insured persons information about their rights, the possibilities to lodge a complaint add to ask questions over the telephone, in the open reception rooms or through on-line consultations at the NHIF website.

The NHIF also develops and publishes its own information releases in the shape of electronic and print bulletins, a specialized magazine, leaflets and newssheets. The aim of these is to provide the persons with information about their rights, as well as give statistical and legal information about NHIF's activities as an institution.

The specialized magazine is intended mainly for the contractual partners of the NHIF and provides information about the institution's activities, legal base, articles about the organization's problems, financing and managing a doctor's practice, the Fund's standards for treatment of socially significant diseases, programmes for the implementation of national health priorities, NHIF requirements for observing the norms of best practices in medicine, news in the field of medical science, pharmacology and pharmacotherapy and publications on deontology problems.

The NHIF leaflets contain specialized information for patients included in health programmes, like mothers' healthcare, children's healthcare and other national health priorities programmes like cardiac-vascular illnesses, bronchitis asthma, diabetes, etc. There is also a leaflet that introduces the NHIF activity in Bulgarian and English language.

The newssheets are developed with the intention to cover a base of significant social issues and contain answers to the most frequently asked questions; a list of exempts from users' fee under the 2005 National Framework Agreement; a list of laboratory researches and laboratories in which patients have access to services partially or fully paid for by the NHIF; information on high-cost programme treatments; a list of specialized activities paid for by the NHIF; medications partially or fully paid for by the NHIF; patients' rights and duties, arising from the free movement of people, goods and services in connection with Bulgaria's forthcoming EU membership; information on clinical pathway treatment. After the development of the newssheets is over, there is a media campaign for their introduction, in order to raise public awareness and to provoke people to actively seek information.

Another way for providing information is the active website, which supports an English version of some of the texts and at which people can receive answers to their questions. It also features direct links to the websites of all Regional Health Insurance Funds (RHIF) which contain detailed information on the work of the regional divisions.

For the current year the NHIF is planning series of regional meetings together with the RHIF and other relevant institutions and NGOs, in order to achieve a direct dialogue with patients, to make them aware of their rights, of the requirements of their contractual partners and of the specific work that the Fund does in cooperation with other institutions to solve people's health problems.

There will be also print media coverage by NHIF and RHIF experts and managers, including articles, interviews, expert analysis and consultations, as well as appearances on national and local television and radio stations, aimed at emphasizing on the most important issues and questions for the health insured persons. The NHIF has developed medium-term awareness raising campaigns on the importance of prevention and basic medical service packages guaranteed by the NHIF for the patients with diseases of social importance.

The Committee requests information on the amount of budgetary resources allocated to social services in the meaning of Article 13, Paragraph 3.

MLN BGN	2002		2003		2004		2005	
	account	% of GDP	account	% of GDP	plan	% of GDP	plan	% of GDP
Social security, assistance and care	4 700,70	14,5	5 131,10	14,9	5 562,80	14,6	6 011,70	14,5
Pensions	2 944,20	9,1	3 161,10	9,2	3 375,90	8,9	3 668,10	8,9
Social assistance benefits and compensations	1 006,70	3,1	1 003,70	2,9	1 167,20	3,1	1 219,60	2,9
Health insurance payments by the NHIF	564,8	1,7	755	2,2	769,7	2	863,6	2,1
Other social and health insurance payments	185	0,6	211,3	0,6	249,9	0,7	260,4	0,6
MLSP budget	52, 0		705,4		835,0		891,0	
Share of the social security, assistance and care expenditure from the consolidated state budget	34,1%		36,0%		34,8%		33,9%	

Source: Ministry of Finances, Report on the Implementation of the State Budget 2005.

ARTICLE 16

THE RIGHT OF THE FAMILY TO SOCIAL, LEGAL AND ECONOMIC PROTECTION

Question A

Please mention if the legislation in your country provides specifically for the legal protection of the family, bearing in particular on equality in law between spouses, on family relationships and on marital conflict, and also any special measures to facilitate solutions other than divorce to such conflicts.

There are no changes in legislation since the last report.

Please describe the marital property regimes existing in your country.

There are no changes in legislation since the last report.

Question B

Please describe the economic measures taken on behalf of the welfare of the family:

a. by the award of benefits in cash (eg. family allowances) which permanently ensure financial compensation, at least in part, for family burdens, indicating the manner and the levels in which such benefits are given (with relevant figures) as well as the number of persons concerned (percentage of the population);

The Law on Family Allowances for Children was amended in 2004 (State Gazette, issue 69 of 6.08.2004):

Article 1. (Amended - State Gazette, issue 69 of 2004) This law provides for the terms and conditions to receive family allowances at pregnancy, birth and care for children and the terms of providing the benefits.

Article 2. (Amended - State Gazette, issue 69 of 2004) Family allowances under this law include:

1. one-time allowance at pregnancy;
2. one-time allowance at birth of a child;
3. monthly allowance for raising a child until he/she completes higher education, but not more than 20 years of age;
4. monthly allowances to raising a child until completing one year of age;
5. target allowances for schoolchildren.

Article 3. Right to family allowances for children is entitled to:

1. (new paragraph - State Gazette, issue 69 of 2004) pregnant women – Bulgarian citizens;
2. (previous item 1 - State Gazette, issue 69 of 2004) families of Bulgarian citizens – for children raised in the country;
3. (previous item 2 - State Gazette, issue 69 of 2004) families where one of the parents is Bulgarian citizen – for children who are Bulgarian citizens and are raised in the country;
4. (previous item 3 - State Gazette, issue 69 of 2004) families of relatives, close or foster families – for children placed under the provisions of Article 26 of the Child Protection Act;
5. (previous item 4, Amended - State Gazette, issue 69 of 2004) pregnant women – foreign citizens and families of foreign citizens who are permanently living in Bulgaria and raise their children in Bulgaria, if such allowances are provided by other legislation or international agreement to which Bulgaria is party.

Right to family allowances shall have families and pregnant women with monthly average income as per capita in the family for the last 6 months lower or equal to the income, specified for this purpose in the State Budget of Republic of Bulgaria Act for respective year.

Pregnant women whose income as per capita in the family is lower or equal to the above mentioned income are entitled to receive one-time allowance at pregnancy at the size of 150 BGN, whenever they are not entitled to a benefit for pregnancy and birth under the provisions of the Social Security Code and live permanently in the country.

A pregnant woman insured for all social security risks, for all social security risks without accident at work, occupational disease and unemployment, or for all social security risks without unemployment, but does not receive benefits for pregnancy and birth because she lacks the length of social security period under Article 48a of the Social Security Code, the one-time allowance shall be paid at a size calculated proportionally to the number of days from the beginning of the leave for pregnancy and birth until the completion of the length of social security period under Article 48a of the Social Security Code, but not to exceed 45 calendar days.

The one-time allowance at pregnancy shall be payable for the period of 45 days prior to the anticipated date of birth-giving.

Monthly allowances for children until graduation of higher education, but not more than 20 years of age, shall be payable to families where the income as per member of the family is lower or equal to the income determined to this end in the National Budget of the Republic of Bulgaria Act for the respective year, provided that the child:

1. is not placed, at full state allowance, at specialized childcare institution;
2. until graduation of higher education, but not more than 20 years of age, if the child attends school regularly, except from the cases due to health reasons;
3. resides permanently in the country.

On condition that the child is not placed, at full state allowance at specialized childcare institution and lives permanently in the country, the monthly allowance to raise children placed at a family of relatives, close or a foster family under Article 26 of the Child Protection Act, monthly allowances are payable irrespectively of the income of the family.

Such monthly allowances shall be paid also after completion of 18 years of age but not more than 20 years of age, if the placed children still live with the family.

The size of allowances is determined on annual basis in the National Budget of the Republic of Bulgaria Act for the respective year. The size of monthly family allowances for children was 15 BGN in 2003, while in 2004 and 2005 it was 18 BGN.

Provided that the child is not placed, at full state allowance at specialized childcare institution and lives permanently in the country, after completion of 18 years of age the monthly benefits are still payable provided that the he/she continues studying and attends school regularly, until graduation of higher education, but not more than completion of 20 years of age.

At the same terms and conditions the monthly allowances for a disabled child, certified by competent state bodies, is payable at the double size the allowance, irrespectively of the family income.

Whenever a mother (foster mother) is insured for all social security risks, for all social security risks without accident at work, occupational disease and unemployment, or for all social security risks without unemployment, but does not receive benefits for pregnancy and birth and for care of a small child under Article 48a and Article 52a of the Social Security Code, she is entitled to a monthly allowance for raising a child under the conditions and terms of this law for the period until she completes the necessary length of social security period.

Whenever a mother (foster mother) obtains the right to benefits under Article 48a and Article 52a of the Social Security Code before the expiration of respective calendar month, the benefit for this month shall be payable proportionally to the number of days from the

beginning of the month until the date of completing the necessary length of social security period.

Monthly allowances for raising a child are also payable to families of relatives, close and foster families for children placed under Article 26 of the Child Protection Act, irrelevant to the income of the family. This allowance is payable, provided that no member of the family where the child is placed receives benefits under the provisions of Article 53, paragraph 3 of the Social Security Code.

To families whose children are enrolled at first grade of state or municipal school, a one-time target allowance is granted to cover partially the expenses in the beginning of the school year. The allowance is payable provided that the income as per member of the family for the previous six calendar months is lower or equal to the income as provided for in the National Budget of the Republic of Bulgaria Act for the respective year. Target allowances for schoolchildren can be also payable in kind at the discretion of the Social Assistance Directorates with the assistance of school management boards. One-time target allowance is also payable to families of relatives, close and foster families for children placed under the provisions of Article 26 of the Child Protection Act, irrespectively of the income of the family. The size of the one-time target allowance is defined on an annual basis with a decision of the Council of Ministers upon the proposal of the Minister of Labour and Social Policy for the respective calendar year. The benefit is reimbursable whenever the child fails to attend school.

b. by the award of occasional benefits in cash or in kind other than social and medical assistance benefits, intended to give material assistance to families in certain specific circumstances (e.g. marriage, setting up or tenancy of housing appropriate to the size of the family group) giving, wherever possible, statistical information;

The provision of Article 14, paragraph 1, item 3 of the Regulation for Implementation of the Social Assistance Act concerning the right to a monthly target assistance benefit under the Social Assistance Act to pay rents of municipal home, provided that the order of placement is on behalf of renting persons and their income for the previous month is up to 150 % of the differentiated monthly income, if they are single disabled persons whose reduced work capacity is 71% or more than 71% was repealed.

As of the moment the issue of monthly additions aimed to provide for key vital needs, such as rent for municipal home, of single disabled persons with reduced work capacity of 71% or more than 71% is regulated by the provision of Article 31 of Regulation for Implementation of the Disabled People Inclusion Act.

c. by alleviating certain expenses (eg. tax relief for family and children, special transport rates for families). In so far as tax relief is concerned, please specify whether tax concessions vary according to the number of children; and if so, how and to what extent;

There are no changes in legislation since the last report.

d. by assistance to the newly married;

There are no changes in legislation since the last report.

e. by providing the necessary financial assistance to women who are not covered by a social security system for a reasonable period before and after confinement, as well as

medical care or other adequate care during childbirth.

This issue is regulated with the latest amendments to the Law on Family Allowances for Children in 2004. The mother (foster mother) has the right to benefits under Article 48a and Article 52a of the Social Security Code before the expiration of the respective calendar month, the benefit for this month shall be payable proportionally to the number of days from the beginning of the month until the date of completion of the length of social security period.

Monthly allowances to raise a child are also payable to families of relatives, close and foster families for children placed under Article 26 of the Child Protection Act, irrelevant of the income of the family. This benefit is payable, provided that no member of the family where the child is placed receives benefits under the provisions of Article 53, paragraph 3 of the Social Security Code.

Question C

Please indicate whether in your country there exists social and/or cultural services of particular interest to the family, such as advice to families (either to the whole family or to its members, eg. to mothers, pregnant women, children of various ages), home-help services, family holiday homes, etc.

There are no changes in legislation since the last report.

Please indicate the child-minding services available to families, in particular crèches, nurseries and after-school and holiday schemes for children.

There are no changes in legislation since the last report.

Please give a general description of the organisation and facilities of these services. In your answer please distinguish between public and private services and between services available free or against payment. Please give relevant statistical data.

CHILDREN CRECHES, LOCATIONS AND NUMBER OF CHILDREN PLACED THERE FOR THE PERIOD 2000-2004 ¹⁾

(number)

	2000	2001	2002	2003	2004
Crèches	636	630	631	637	638
Locations as of Dec. 31	21 296	21 174	21 516	21 542	21 850
In cities	19 255	19 035	19 448	19 411	19 214
In villages	2 041	2 139	2 068	2 131	2 636
Children					
Initially enrolled	21 001	22 071	22 582	21 144	22 136
Attending as of Dec. 31	20 149	21 167	21 816	21 029	22 155
Including children aged:					
Up to 1 year	132	114	114	133	129
From 1 to 2 years	5 588	5 801	6 372	5 926	6 428

More than 2 and not more than 3 years	13 052	13 907	14 066	13 680	14 397
More than 3 completed years	1 377	1 345	1 264	1 290	1 201

¹⁾ Including self-functioning children crèches and those attached to united child institutions.

Question D

See the Domestic Violence Protection Act (appended).

Question E

There are no changes in legislation since the last report.

Question F

HOUSEHOLDS AS OF 31.12.2003 PER DISTRICTS

DISTRICTS	HOUSEHOLDS – TOTAL	Households per number of rooms						Households per 1000 of population	Average number residents per household
		One-room	Two-room	Three-room	Four-room	Five-room	With six or more rooms		
total	3 697 322	431 811	1 226 794	1 180 747	554 054	182 322	121 594	474	2.11
In cities	2 316 716	321 364	872 430	727 825	281 159	68 634	45 304	426	2.35
In villages	1 380 606	110 447	354 364	452 922	272 895	113 688	76 290	585	1.71
LAGOEVGRAD	131 087	14 868	37 965	38 835	21 190	10 550	7 679	391	2.56
In cities	71 245	9 006	22 346	23 452	10 915	3 501	2 025	371	2.70
In villages	59 842	5 862	15 619	15 383	10 275	7 049	5 654	417	2.40
OURGAS	192 094	20 812	71 175	60 570	25 590	7 745	6 202	457	2.19
In cities	123 465	13 509	50 758	38 313	15 115	3 336	2 434	417	2.40
In villages	68 629	7 303	20 417	22 257	10 475	4 409	3 768	555	1.80
ARNA	212 744	24 809	76 495	71 516	28 369	6 213	5 342	464	2.16
In cities	160 433	21 122	60 665	53 038	19 164	3 272	3 172	440	2.27
In villages	52 311	3 687	15 830	18 478	9 205	2 941	2 170	555	1.80
ELIKO ARNOVO	140 861	10 825	38 913	46 387	32 276	9 171	3 289	491	2.04
In cities	78 889	8 729	26 765	22 729	15 661	3 708	1 297	419	2.39
In villages	61 972	2 096	12 148	23 658	16 615	5 463	1 992	627	1.59
IDIN	70 349	6 259	20 017	22 252	12 824	5 237	3 760	574	1.74
In cities	32 143	3 972	11 760	9 720	4 168	1 510	1 013	440	2.27
In villages	38 206	2 287	8 257	12 532	8 656	3 727	2 747	772	1.30
RATSA	115 488	15 073	37 742	36 152	16 707	6 244	3 570	534	1.87

In cities	59 790	11 272	23 901	16 565	5 309	1 652	1 091	489	2.04
In villages	55 698	3 801	13 841	19 587	11 398	4 592	2 479	592	1.69
ABROVO	80 369	8 933	25 157	26 020	14 851	3 763	1 645	578	1.73
In cities	53 280	7 227	18 791	16 036	8 798	1 711	717	482	2.08
In villages	27 089	1 706	6 366	9 984	6 053	2 052	928	952	1.05
OBRITCH	96 932	8 280	29 551	37 588	15 978	3 518	2 017	465	2.15
In cities	57 488	6 334	20 737	18 509	9 013	1 723	1 172	418	2.39
In villages	39 444	1 946	8 814	19 079	6 965	1 795	845	557	1.80
ARDZHALI	75 381	5 310	18 550	20 968	16 137	5 890	8 526	468	2.14
In cities	27 857	3 459	10 977	7 979	3 366	939	1 137	427	2.34
In villages	47 524	1 851	7 573	12 989	12 771	4 951	7 389	497	2.01
YUSTENDIL	89 971	11 897	31 855	27 850	11 413	4 068	2 888	575	1.74
In cities	45 043	6 097	16 552	14 843	5 052	1 426	1 073	434	2.30
In villages	44 928	5 800	15 303	13 007	6 361	2 642	1 815	853	1.17
OVETCH	96 331	10 393	28 356	31 035	16 720	6 394	3 433	590	1.70
In cities	47 416	5 769	16 570	14 999	6 677	2 202	1 199	479	2.09
In villages	48 915	4 624	11 786	16 036	10 043	4 192	2 234	761	1.31
ONTANA	96 136	11 277	27 131	30 603	17 341	6 477	3 307	554	1.81
In cities	49 029	7 018	16 956	14 587	6 845	2 271	1 352	460	2.17
In villages	47 107	4 259	10 175	16 016	10 496	4 206	1 955	703	1.42
AZARDZHIK	128 023	14 735	40 618	38 576	20 756	7 545	5 793	422	2.37
In cities	74 671	8 361	25 146	23 336	11 306	3 614	2 908	401	2.49
In villages	53 352	6 374	15 472	15 240	9 450	3 931	2 885	456	2.19
ERNIK	98 346	13 953	39 541	26 766	10 795	4 657	2 634	682	1.47
In cities	50 981	8 331	22 749	13 596	3 592	1 667	1 046	468	2.13
In villages	47 365	5 622	16 792	13 170	7 203	2 990	1 588	1 343	0.74
LEVEN	147 131	12 768	44 596	50 069	25 917	8 989	4 792	467	2.14
In cities	87 104	10 615	34 028	27 429	10 128	3 067	1 837	429	2.33
In villages	60 027	2 153	10 568	22 640	15 789	5 922	2 955	535	1.87
LOVDIV	301 873	30 948	93 304	101 905	49 272	14 539	11 905	425	2.36
In cities	203 704	24 327	66 893	71 252	30 722	6 105	4 405	395	2.53
In villages	98 169	6 621	26 411	30 653	18 550	8 434	7 500	501	1.99
AZGRAD	62 482	3 661	16 962	19 582	13 288	5 605	3 384	439	2.28
In cities	29 055	2 642	11 306	8 405	4 498	1 423	781	441	2.27
In villages	33 427	1 019	5 656	11 177	8 790	4 182	2 603	437	2.29
OUSSE	122 417	14 159	41 654	40 135	17 206	6 264	2 999	469	2.13
In cities	82 197	12 386	33 400	26 026	7 262	2 061	1 062	433	2.31
In villages	40 220	1 773	8 254	14 109	9 944	4 203	1 937	563	1.78
LISTRA	59 445	4 383	15 038	19 377	12 621	4 978	3 048	433	2.31
In cities	26 802	3 028	9 451	8 176	4 318	1 103	726	437	2.29

In villages	32 643	1 355	5 587	11 201	8 303	3 875	2 322	429	2.33
LIVEN	91 445	11 834	31 937	25 840	13 868	5 018	2 948	429	2.33
In cities	58 671	8 885	23 870	14 468	7 908	2 273	1 267	417	2.40
In villages	32 774	2 949	8 067	11 372	5 960	2 745	1 681	452	2.21
MOLYAN	63 774	7 719	20 120	18 840	10 010	3 928	3 157	472	2.12
In cities	30 845	4 031	10 528	9 553	4 331	1 293	1 109	436	2.30
In villages	32 929	3 688	9 592	9 287	5 679	2 635	2 048	513	1.95
DFIA (CAPITAL)	519 426	91 829	210 490	167 032	36 892	7 665	5 518	430	2.33
In cities	485 158	86 243	199 644	157 934	31 827	5 683	3 827	421	2.38
In villages	34 268	5 586	10 846	9 098	5 065	1 982	1 691	613	1.63
DFIA	179 350	24 435	62 256	50 099	25 586	10 547	6 427	677	1.48
In cities	69 031	9 668	24 892	19 557	9 044	3 673	2 197	442	2.26
In villages	110 319	14 767	37 364	30 542	16 542	6 874	4 230	1 012	0.99
PARA AGORA	171 000	17 403	57 250	56 192	29 368	6 552	4 235	470	2.13
In cities	105 780	12 283	38 183	34 691	16 549	2 391	1 683	425	2.35
In villages	65 220	5 120	19 067	21 501	12 819	4 161	2 552	565	1.77
ARGOVISHTE	66 416	4 830	19 745	23 278	12 676	3 970	1 917	481	2.08
In cities	32 298	3 342	11 863	9 715	5 376	1 193	809	461	2.17
In villages	34 118	1 488	7 882	13 563	7 300	2 777	1 108	501	2.00
ASKOVO	123 224	11 304	35 210	42 623	20 396	7 576	6 115	456	2.19
In cities	78 771	9 601	26 446	25 745	11 145	3 356	2 478	415	2.41
In villages	44 453	1 703	8 764	16 878	9 251	4 220	3 637	555	1.80
IUMEN	90 443	10 665	27 091	27 394	17 408	5 014	2 871	451	2.22
In cities	51 628	7 950	17 109	14 325	9 576	1 660	1 008	416	2.40
In villages	38 815	2 715	9 982	13 069	7 832	3 354	1 863	506	1.97
AMBOL	74 784	8 449	28 075	23 263	8 599	4 205	2 193	500	2.00
In cities	43 942	6 157	20 144	12 847	3 494	821	479	442	2.26
In villages	30 842	2 292	7 931	10 416	5 105	3 384	1 714	614	1.63

Published on 30.06.2004 by the National Statistical Institute.

Question G

The Ministry of Health, the Ministry of Education and Science and the United Nations Population Fund start a project on reproductive health at the cost of 504,000 US dollars. Bulgaria will receive 504,000 US dollars from the UN Population Fund to implement a four-year project (2004-2008) in the field of sexual and reproductive health targeted towards young persons aged between 10 and 24 years. By ensuring the implementation of the project for the referenced period, the Ministry of Health and the Ministry of Education and Science guide their efforts and assign special attention to young persons between 10 and 24 of age. The target age can be explained with the warning statistical data on pregnancy and births among young persons in Bulgaria. Bulgaria is still occupying the leading places as per this

indicator in Europe - 71 of every 1000 in the age of 15-19. The efforts are directed to improve the health of young persons through eased access to medical services and information. For this purpose information and education strategies are developed and implemented to change the risky behaviour of this group of persons.

The planned projects include improvement of services offered by general practitioners, obstetricians of specialized paramedical care and medical specialists from dermatovenerology dispensaries and nurses at school. The establishment of information and education centres in hygiene and epidemiological inspectorates will assist their activities in relation with the promotion of sexual and reproductive health on the territory as per regions.

A special working group consisting of representatives of the Ministry of Education and Science and the Ministry of Health has analyzed the introduction of health education in schools. At the moment the work continues on a program for sexual health education comprising children from 5th grade to 8th grade in schools. Teams of schoolchildren, teachers, pedagogical advisors and other specialists per sites are engaged with the implementation of the program on sexual health education.

Within the education system, the project signed on 25 June 2004 has worked for the development of vital and social skills in the field of sexual and reproduction health. In reference to the prevention of risky behaviour among young persons, the project implements a specific approach named “coevals teach coevals”. Schools are building and equipping clubs of health. There are possibilities provided within the project to share experience on the effective approaches for teachers, pedagogical advisors, school teams working with young persons. The implementation of the project envisions information and education campaigns aimed to prevent risky sexual behaviour among young persons.

The project on reproductive health is an extension of another four-year project implemented with the financial assistance of the UN Population Fund – Enlargement of the National Program on Reproductive Health, which was implemented from 2000 to 2004. As a result of the successful implementation of the project the following documents were worked out: draft National Program on Reproductive Health, program on family planning training of general practitioners within the system of permanent medical education, program on sexual health education for students at the age of 10-14, program on training into the approach “coevals teach coevals” aimed at young persons between 15 and 19 years of age.

Under the implementation of the project “Enlargement of the National Program on Reproductive Health” a research was carried out on the national rate of sterility to establish its frequency and reasons. There were courses of training of general practitioners, medical specialists from the system of Hygiene and Epidemiological Inspectorate, specialists in the field of youth activities, nurses, teachers, psychologists from all six pilot municipalities included in the project (Gabrovo, Razgrad, Bourgas, Rousse, Blagoevgrad, Veliko Tarnovo) and throughout the country. Numerous local initiatives were successfully implemented in the field of prevention of risky behaviour among young persons and increase of the public information availability.

Questions and comments of the European Committee of Social Rights.

The Committee recalls that Article 16 requires the provision of:

– legal arrangements to settle marital conflicts and conflicts pertaining to children: care and maintenance, deprivation and limitation of parental rights, custody of children when the family breaks up, as well as about the possibility for children to express their opinion in proceeding concerning them;

Detailed legislation in the field of solving property conflicts and disputes related to children, such as care and maintenance, deprivation and limitation of parental rights, custody

of children after family separation, are provided for in the Family Code.

Concerning the possibility for children to express their opinion on issues concerning them:

Child Protection Act

Right to Expression

Article 12. Every child has a right to express freely his or her opinion on all issues affecting his or her interests. He or she may seek the assistance of the bodies and persons, to whom his or her protection pursuant to this Act has been assigned.

Information and Consultation

Article 13. Every child has a right to be informed and consulted by the child protection body even without the knowledge thereof of his or her parents or of the persons who take care of his or her rearing and upbringing, should that be deemed necessary in view of protecting his or her interests in the best possible way and in case where informing the said persons might harm the child's interests.

Participation in Procedures

Article 15. (1) All cases of administrative or judicial proceedings affecting the rights and interests of a child should provide for an obligatory hearing of the child, provided he or she has reached the age of 10, unless that proves harmful to his or her interests.

(2) In cases where the child has not reached the age of 10, he or she may be given a hearing depending on the level of his or her development. The decision to hear the child shall be motivated.

Family Code

Origin from the Mother

Article 31 (1) The origin from the mother is determined by birth. The same applies also in cases where the genetic material belongs to another woman.

(2) The origin from the mother, established by the birth certificate may be disputed by an action brought by the child, by the woman registered as the mother in the birth certificate, by her husband, by the woman who claims to be the mother of the child, and by the man who maintains that the child was born by his wife.

(3) As parties to the lawsuit are also summoned the husband of the mother, the spouse of the other person who has disputed the origin and in all cases the child.

Parties to the Actions for Disputing of Fatherhood

Article 34. Where fatherhood is disputed summoned as parties to the action are the mother, the child and the husband, and where the fatherhood is disputed by the second husband, as a party in the lawsuit also summoned is the first husband.

Consent for Adoption

Article 54 (1) The consent of the following persons is necessary for an adoption:

1. The adopter;
2. The parents of the adopted;
3. The spouses of the adopter and the adopted;
4. The adopted where he/she has completed fourteen years of age.

Opinion as to Adoption

Article 55 (Amended – State Gazette, issue 63 of 2003) (1) The opinion of the adopted is heard out by the court under the terms and provisions of Article 15 of the Child Protection Act.

- (2) Opinion as to the adoption is being heard out from the
1. the full legal guardian or the trustee;

Place of Residence of the Children

Article 71 (1) The children who have not yet completed full age are obliged to live with their parents unless valid reasons necessitate that they live elsewhere. By departure from this obligation, at the request of the parents the court at the place of their residence, after hearing the child, provided that he/she has completed ten years of age, shall decree an order for his/her return to its parents. The order is subject to appeal to the President of the County court, but the appeal shall not stop its execution. The order shall be executed under the terms and provisions of administrative proceedings.

- (2) Where the parents do not live together and are unable to reach an agreement as to with whom of them the children will live, the dispute shall be resolved by the regional court as of address of residence of the children, after the court has heard them, provided that they have completed ten years of age. The decision of the court is subject to appeal under the general rules.

Exercise of Parental Rights and Obligations

Article 72. Parental rights and obligations are exercised by both parents jointly and separately. Whereas there is any disagreement between them the dispute shall be resolved by the regional court after hearing both parents, and if necessary also the child. The decision may be appealed under the general rules.

- Family mediation services to settle disputes and protect the family

The issues concerning the provision of mediation services is regulated in the Mediation Act (Promulgated, State Gazette, issue 110 of 17.12.2004). This law regulates the relationships associated with mediation as an alternative method of resolution of legal and non-legal disputes. Subject of mediation may be civil, commercial, labour, family and administrative disputes related to consumer rights, and other disputes between natural and/or legal persons. Mediation shall be implemented by natural persons. Such persons may associate for the purpose of implementing of the activity. No persons performing functions of administration of justice in the judiciary system may carry out mediation activities. The parties shall have equal opportunities to participate in a mediation procedure. They shall participate in the procedure of their own free will and may withdraw at any time. Within a mediation procedure, all questions shall be resolved by mutual agreement between the parties.

A mediation procedure shall start on the initiative of the parties, with each of them having the right to propose resolution of the dispute through mediation. A proposal for resolution of the dispute through mediation may furthermore be made by the court or another competent authority where the dispute has been referred for settlement.

A mediation procedure is implemented by one or more mediators selected by the parties. The parties participate in the procedure personally or through a representative. Lawyers, as well as well as other specialists, may likewise participate in a mediation procedure. Prior to conduct of the procedure, the mediator shall inform the parties of the essence of mediation and of the consequences thereof and shall require the written or oral consent of the said parties to participation.

During the procedure, the essence of the dispute shall be clarified, the mutually

acceptable options of solutions shall be specified, and the possible framework of an agreement shall be outlined. Upon performance of the quoted steps, the mediator may schedule separate meetings with each of the parties, with due respect for the equal rights to participation in the procedure.

Mediation shall be suspended by common agreement between the parties, or at the request of one of the parties; upon the death of the mediator; or upon occurrence of any circumstances as would cast doubt on the independence, impartiality and neutrality thereof. If mediation is conducted while a proceeding is pending, the parties shall immediately inform the competent authority of the suspension of the procedure.

A mediation procedure is terminated: upon reaching a settlement; by mutual agreement between the parties; upon withdrawal of one of the parties; upon the death of a party; upon dissolution of a party if a legal entity. Upon termination of a mediation procedure, a pending proceeding that has been suspended shall be resumed in accordance with the provisions of the law.

The mediation ends with a signature of an agreement between the parties. The content and form of the agreement is determined by the parties. The form may be oral, written, or written with notarization. A written agreement shall state the place and date whereat the said agreement was reached, the names of the parties and the addresses thereof, the points of agreement, and the name of the mediator, and shall bear the signatures of the parties.

The agreement shall be binding solely on the parties and may not be held adverse to any persons who did not participate in the procedure. The agreement shall be binding on the parties solely in respect of the points of agreement reached between the parties and may not be in conflict with the law and morality.

The Committee asks information about the legal protection of single-parent families.

Families per type of family, address of residence and number of children in the family as of 01.05.2004

	Total	Without children	With one child	With two children	With three children	With four children	With five children	With six or more children
Total	2 369 100	875 853	851 188	568 162	57 562	10 847	3 480	2 008
Both parents	2 079 072	875 853	639 984	499 217	49 822	9 338	3 080	1 778
Family without children	875 853	875 853						
Family with children	1 203 219		639 984	499 217	49 822	9 338	3 080	1 778
Single parent with children	290 028		211 204	68 945	7 740	1 509	400	230
Mother with children	240 239		173 967	57 843	6 561	1 298	357	213
Father with children	49 789		37 237	11 102	1 179	211	43	17
City	1 612 612	510 852	647 644	423 659	33 395	5 461	1 641	960
Both parents	1 401	510 852	486 084	369 543	28 345	4 557	1 417	823

	621							
Family without children	510 852	510 852						
Family with children	890 769		486 084	369 543	28 345	4 557	1 417	823
Single parent with children	221 991		161 560	54 116	5 050	904	224	137
Mother with children	188 043		136 225	46 301	4 391	793	205	128
Father with children	33 948		25 335	7 815	659	111	19	9
Village	745 488	365 001	203 544	144 503	24 167	5 386	1 839	1 048
Both parents	677 451	365 001	153 900	129 674	21 477	4 781	1 663	955
Family without children	365 001	365 001						
Family with children	312 450		153 900	129 674	21 477	4 781	1 663	955
Single parent with children	68 037		49 644	14 829	2 690	605	176	93
Mother with children	52 196		37 742	11 542	2 170	505	152	85
Father with children	15 841		11 902	3 287	520	100	24	8

Under Ordinance № 207 of the Council of Ministers of 03.10.1994 on the terms to receive scholarships after completing primary education, there are certain privileges for schoolchildren with only one parent and the scholarship is granted for the month when the reason for the receipt emerged and shall be payable for 12 months. A scholarship at the size of 21 BGN is granted also to students without parents or with one parent after completion of primary school. Pursuant to Regulation № 6 of 27.02.1987 for the organisation and activities of crèches children with one parent are privileged for enrolment at crèches.

The European Committee of Social Rights asks whether Roma families are provided the same legal status and protection as all other families.

There is no difference in the legal status and protection of Roma families from the other families. Moreover, there are certain cases of privileged treatment of persons from these communities in many fields so far as they are considered a group at risk.

Pursuant to the Bulgarian Constitution all persons are born free and equal in dignity and rights. All citizens shall be equal before the law. There shall be no privileges or restrictions of rights on the grounds of race, nationality, ethnic identity, sex, origin, religion, education, opinion, political affiliation, personal or social status or property status.

On 16 September 2003 the 39th Parliament adopted the Discrimination Protection Act (Promulgated, State Gazette, issue 86 of 30.09.2003, enforced from 01.01.2004, Supplemented, issue 70 of 10.08.2004, enforced 1.01.2005). The text of the Act is enclosed to the present report (Appendix 12).

Under the Employment Promotion Act, in exercise of the rights and obligations under

it, no direct or indirect discrimination, privileges or restrictions shall be allowed on the grounds of nationality, origin, sex, sexual orientation, race, colour, age, political belonging and religion confession, membership in trade unions or other public associations and movements, marital status, property or public status and psychological or physical disabilities.

Under the Civil Service Act, no discrimination, privileges or restrictions, based on race, nationality, ethnic affiliation, sex, origin, religion, convictions, membership in political, trade union or other public organisations or movements, on private, social and property status shall be allowed in employment a civil servant.

The Committee interprets Article 16 as covering the issue of domestic violence. Accordingly, it considers whether in this respect protection exists in law (legislation or other provisions) and in practice (services devoted to prevent the risk of ill treatment, to support and rehabilitate victims). The Criminal Code regulates offences such as violence, coercion, sexual abuse, outrage, etc., regardless of the place where they are committed (home, family, work place, public spaces, etc). The Committee asks that the next report indicates whether legislation has been adopted or other kinds of measures have been taken on this issue.

See the Domestic Violence Protection Act as enclosed to the present Report (Appendix 13).

The Committee concludes that the situation in Bulgaria is not in conformity with Article 16 of the Revised Charter on the grounds that the level of the basic child allowance in 2001 was inadequate.

In April 2002 the Law on Family Allowances for Children entered into force. It replaced the Decree on Promotion of Natality since 1968.

Under the Law beneficiaries of monthly allowances are families where the income as per member of the family is lower or equal to the income stipulated to this end in the National Budget of the Republic of Bulgaria for the respective year. Legal prerequisites are established for targeted expenditure of the financial means for family assistance at certain conditions designed to promote the rearing and upbringing of children in family surroundings and to promote school attendance.

Under the Law monthly allowances are granted to families whose monthly income as per member of the family for the six previous months as of the date of submitting the declaration of request is lower than the legally set limits for access. Monthly allowances are granted for a term of six months.

One-time allowance for birth of a living child is in amount of 200 BGN for first, second and third child. For forth and each following, the allowance is in amount of 100 BGN. The allowance is paid irrespectively from the incomes of the family, on condition that the child is not placed in specialized institution and is raised in the.

Additional one-time allowance at the size of 100 BGN is payable to the mother, provided that there are permanent disabilities of more than 50% found with her child prior to completion of two years of age.

This benefit is payable irrespectively of the income of the family.

The size of the monthly allowance for children until completion of the age of 18 is as follows:

- in 2002 - 15 BGN at limits of income set at 150 BGN;
- in 2003 - 15 BGN at limits of income set at 200 BGN;
- in 2004 - 18 BGN at limits of income set at 200 BGN.

For children with permanent disabilities this benefit is payable in double size irrespectively of the income of the family.

The size of monthly allowance for raising a child up to the age of one year is 100 BGN for upper limit of income set to 200 BGN.

Pursuant to the Regulation for Implementation of the Child Protection Act /promulgated, State Gazette, issue 66 of 25.07.2003, Amended and Supplemented, issue 24 of 23.03.2004/, to support the child and family can be granted a financial assistance benefit and/or a benefit in kind. This benefit is monthly and one-time. It is aimed to help for prevention, reintegration, rearing and upbringing of the child in a family of relatives, close and foster families. With the purpose to provide for the exercise of the right to monthly assistance benefits with amendments in the Regulation for Implementation dated from March 2004, the rate of guaranteed minimal income was increased in terms of upper limit for access to assistance benefits – from 2.5 times to five-fold size of guaranteed minimal income. The size of the monthly assistance benefit is differentiated in accordance with the age of the child: up to 7 years – up to three-fold size of guaranteed minimal income; from 7 to 14 years – up to 3.5 times of guaranteed minimal income; from 14 to 18 years – up to four-fold of guaranteed minimal income.

For children placed at foster families, assistance benefits are granted for rearing and upbringing in accordance with the age of the child: up to 7 years – up to three-fold size of guaranteed minimal income; from 7 to 14 years – up to 3.5 times of guaranteed minimal income; from 14 to 18 years – up to four-fold of guaranteed minimal income.

The one-time assistance benefit is designed to meet a specific need which has emerged incidentally and is granted at the size of five times of the guaranteed minimal income, and it may be granted up to four times a year.

The Committee concludes that the situation in Bulgaria is not in conformity with Article 16 of the Revised Charter on the grounds that Roma families are discriminated in practice as regards access to family benefits and housing.

The Committee notes from other sources that Roma families face very difficult housing conditions, including segregation and lack of dwellings suitable to family size and needs. Roma often live in segregated areas with little or no infrastructure, sometimes surrounded by big walls or high sheet metal fences.

The Committee notes that, in 1999, a Framework Programme for Equal Integration of Gypsies into Bulgarian Society was adopted, though, during the reference period, it has not been properly implemented. In 2003, an action plan for the implementation of this programme has been voted, including some budgetary support. The Committee asks whether this measure also includes the economic protection of the Roma families on equal footing with nationals and addresses unequal treatment.

Pursuant to the data from the latest census of population in Bulgaria (2001), Roma population represent 4.8 % of population /370,908/. According to the Bulgarian legislation, ethnic minorities have no more difficult access to social assistance and social services than the rest of population.

The legislation in the field of social protection is in compliance with the constitutional principle of non-admittance of direct or indirect discrimination, on the grounds of sex, race, skin colour, ethnicity, nationality, political or other convictions, religion or faith, disability, age, sexual orientation, family status or origin, affiliation in trade unions or other public associations and movements.

The conditions of access to social assistance benefits are equal for all citizens of the country with no difference on their ethnical belonging. Upon execution of the social

assistance, assessment is carried out in each case individually and on the availability of legally due prerequisites to exercise this right. In the cases when citizens and families do not meet these prerequisites, the social assistance is refused. Each refusal shall be motivated and handed down personally to the petitioners. There is also a legal procedure of appealing.

The general terms of protection against discrimination is regulated in the Discrimination Protection Act (See Article 20 of the present Report).

The Child Protection Act also contains a provision regulating that there shall be no limitation of rights, nor any privilege, on the grounds of race, nationality, ethnic background, sex, origin, property status, religion, education and convictions or disability.

The Framework Program for Equal Integration of Roma into Bulgarian Society (the Framework Program) was prepared under the initiative and with the active participation of all Roma organisations in the country.

The strategic purpose of the Framework Program is to eradicate any unequal treatment of Roma in Bulgarian society. The eradication of conditions which make possible any discrimination towards Roma people is set out among the key priorities of the Bulgarian government. This was also one of the motives to adopt the Discrimination Protection Act. The program provides for undertaking urgent measures to ensure employment for Roma people and more specifically for the development and implementation of programs on vocational qualification and employment; establishment of a special fund with state partnership set up with the purpose to grant loans to be used for recruitment of Roma, facilitation and stimulation of the process of land supply to Roma people with small or no property, improvement of the social assistance system by enhancement of the civil control on it; improvement of housing conditions for Roma people, regulation and renovation of Roma neighbourhoods, legalization of Roma household property.

In the first years from the adoption of the Framework Program no specific measures were undertaken for its implementation. Yet, uncompleted remained the decision of the Council of Ministers to create expert groups at ministries, institutions, the National Association for Municipalities in Bulgaria with participation of Roma non-governmental organisations, while Roma organisations – members of the National Council on Ethnical and Demographic Issues – appointed their representatives to the expert groups (in seven directions).

In the last quarter of 2001 the work of the “Roma part” of the National Council on Ethnical and Demographic Issues was resumed. As the moment, the efforts of the National Council on Ethnical and Demographic Issues are aimed, in cooperation with ministries and other official institutions, at implementation of item 3 of the Decision of the Council of Ministers of 22 April 1997 on the establishment of expert groups with representatives of Roma organisations.

With the purpose to specify and complete the purposes as set under the Framework Program, the National Council on Ethnical and Demographic Issues, within the project financed by the World Bank, implements the project “Assessment of the Implementation of the Framework Program for Equal Integration of Roma into Bulgarian Society and the development of an operative action plan”, including short-term, medium-term and long-term priorities, with differentiated responsibilities as per types of activities and respective financial balances.

Another important task in the implementation of the Framework Program is to be connected with the PHARE projects designed for Roma integration. Currently the National Council on Ethnical and Demographic Issues works on the following projects under PHARE program:

- BG 9907.01 “Roma Inclusion”. Two projects were signed in October 2001 and in the end of 2002 reports of implementation were submitted on them.

- Access to education at the cost of 200,000 Euro.
- Urbanization of Roma neighbourhoods at the cost of 300,000 Euro.
- BG0104.01 “Roma Integration” with deadline of implementation – December 2004
- “Creation and implementation of legislation to prevent discrimination” at the cost of 210,000 Euro.
- “Urbanization of Roma neighbourhoods and social development of regions with prevailing minority population” at the cost of 6,030,000 Euro with two-year deadline of implementation.
- “Research of household conditions for Roma population in the Republic of Bulgaria” at the cost of 160,000 euro with deadline of four months.
- BG0104.02 “Roma Integration – access to health services” at the cost of 1,000,000 Euro.
- BG0102.06 “Roma Integration – social inclusion” with deadline of implementation in December 2004. The National Council on Ethnical and Demographic Issues coordinates the project with the Ministry of Labour and Social Policy under the following three components:
 1. Development of 4 specific programs of employment of Roma people - at the cost of 1,333,000 Euro.
 2. Assistance to the development of 12 Roma cultural and information centres – at the cost of 966,000 Euro.
 3. Development of entrepreneurship – education and support of 300 people from minority groups and disabled people – at the cost of 1,000,000 Euro.

In 2000 the Bank for Development at the Council of Europe granted a loan at the cost of 3 million US dollars for the construction and rehabilitation of Roma houses in the neighbourhood area of “Hristo Botev” in the city of Sofia. In March 2002 the Council of Minister decided on this issue. The project is implemented by the Sofia Municipality, which funds 52.5% of the total cost of 6,319,000 US dollars. Under way is the construction of 75 two-storey and three-storey homes for Roma population in the neighbourhood area of “Hristo Botev”, completion of the technical infrastructure of the neighbourhood, repair works at the school, kindergarten and the polyclinic. In 2001 a total of 1,400,000 BGN was used for the construction of infrastructure.

In 2001 the Bank for Development at the Council of Europe approved a loan at the cost of 5.4 million US dollars for the construction and rehabilitation of Roma houses in the city of Plovdiv. The project will be implemented by the Plovdiv Municipality with partial financing of 6,100,500 US dollars, together with the Ministry of Regional Development and Public Works. The first stage of the project envisions the construction of 72 households in the neighbourhood area of “Todor Kableshkov”. So far, 40 houses are built up.

The municipality of Lom invested 800,000 euro in 12 projects for the construction of sewage and water main infrastructure in the Roma neighbourhoods in the city.

The municipality of Stara Zagora has realized 70% of the investment project for building sewage and water main infrastructure in the Roma neighbourhood of Losenets.

The problems that the Republic of Bulgaria is facing at the process of implementation of social and economic reforms have defined as a key priority of the government the reduction of unemployment and restriction of the period of unemployment among the most vulnerable people at the labour market. Roma unemployed people are among the groups in disadvantaged position. The high level of unemployment within this group over the last few years is a result of the inconsistency between the low qualification of supplied workforce and the high expectations of employers in the conditions of market economy. The majority of Roma population is illiterate and without any vocational qualification, which make them uncompetitive on the labour market, while enhancing their social exclusion. On the other side, the labour market is currently witnessing numerous programs and measures for social and economic inclusion of jobless persons from groups in risk, including from Roma origin. Their main purpose is to supply Roma communities with responsive opportunities for labour realization and vocational qualification. The inclusion of Roma unemployed people is set out

as a priority in various programs and measures to ensure faster social inclusion of Roma population. It is necessary to point out that the administrative statistics provided by the labour offices, in accordance with actual legislation, do not track down data on the ethnic origins of unemployed people. Therefore it is hardly possible to supply exhaustive data on the Roma people included in various programs.

- *Program for education, qualification and employment* (implemented by the Ministry of Labour and Social Policy) – designed for unemployed, representatives of ethnic groups on the labour market with low qualification or without education and qualification.

National Program “From Social Assistance to Employment” (implemented by the Ministry of Labour and Social Policy) - The program is aimed at unemployed people on social assistance benefits, single mothers and other disadvantaged groups on the labour market. The main purpose of the program include: provision of employment and social integration of long-term unemployed persons who receive monthly cash social assistance benefits, by creating work places with generally beneficial activities.

- *Beautiful Bulgaria project* – since 1998 creates temporary employment in 42 cities. Includes vocational education of non-qualified and permanently unemployed persons in the sector of construction.

- *Programs for temporary employment in generally beneficial activities: National program on temporary employment, Program for temporary employment in wintertime and specialized programs* (implemented by the Ministry of Labour and Social Policy) – the purpose is to provide minimal income to unemployed persons who rely on social assistance benefits through inclusion to employment. Advantage is granted to unemployed people assisted or subject to assistance by the municipal services of social assistance.

- In October 2002 a new *Governmental Strategy on Social Policy was adopted*, as part of the integrated approach of the government to implement reforms in economy and social life. Its wide scope has make the program a kind of public contract with Bulgarian citizens to improve their social status in the next three years.

Regional programs of employment of Roma population are also under way:

- “Improvement of the life conditions in the municipality of Turgovishte, district of Turgovishte;
- “Socially beneficial activities”, municipalities of Omourtag, Antonovo, district of Turgovishte;
- “From training to employment”, district of Pernik;
- “Education, qualification, and employment”, district of Sofia;
- “Chance for long-term unemployed people and low-qualified persons on the territory of Pleven”, district of Pleven.

In October 2002 the project “Education and Technical Assistance” of the Ministry of Labour and Social Policy was launched to develop program for integration of Roma population. The implementation of the project is granted to the foundation “Partners Bulgaria” under the order and the assistance of the USAID. The project aims to channel the new policy of the Ministry of Labour and Social Policy on Roma inclusion in the field of employment and social assistance.

Parallel to the above quoted programs in the country numerous measures are under way to promote employers to hire unemployed people, including Roma, and namely: promotion of employers to hire long-term unemployed people, promotion of unemployed persons to self-employment.

(According to independent sociological researches, more than 60% of people on social assistance benefits are of Roma origin).

Action Plan for Implementation of the Framework Program for Equal Integration of Roma into Bulgarian Society (Framework Program) in 2003-2004 /Decision № 693 of 6 October 2003 /:

The action plan develops and specifies the tasks under the Framework Program for Equal Integration of Roma into Bulgarian Society. The Plan seeks to actually integrate the policy of Roma inclusion in Bulgarian society into the sector policies on management in view with the achievement of fast progress and sustainability at development. This unique of its kind Action Plan specifies the real measures undertaken by the end of 2004 in the field of protection against discrimination, education, healthcare, housing conditions, employment, child protection, social services, culture and sports. Responsibilities are clearly defined and the planned activities are financially provided for.

Governmental projects of the Republic of Bulgaria financed under PHARE program aimed to improve the life conditions of Roma population:

1. Project under PHARE BG 9907 " Roma Integration in Bulgarian society". Beneficiaries is the National Council on Ethnical and Demographic Issues. The implementation of the project is adopted in November 2002. It consists of two components:

1.1 Project under PHARE BG 9907.01 Access of Roma to education and training for work at the public administration and police structures". At the cost of 200,000 Euro.

1.2 Project under PHARE BG 9907.02 "Urbanization and technical infrastructure of Roma neighbourhoods". At the cost of 300,000 Euro.

2. Project under PHARE BG 0104.04.01 "Inclusion of Roma population". Beneficiary is the National Council on Ethnical and Demographic Issues. At the cost of 2,115,000 Euro. It consists of three components:

2.1 "Technical assistance for implementation of activities in the field of Roma population". At the cost of 765,000 euro. The purposes of the project include improvement of the quality of education for Roma children in integrated schools, vocational qualification of teachers for work in ethnically mixed surroundings and training of Roma people to work in the public administration and promotion of Roma history and culture.

2.2 Supplies to assist the education process of Roma schoolchildren in disadvantaged social position. At the cost of 1,350,000 Euro.

2.3 Project under PHARE BG/IB/2001-SO-01-TL "Legal framework in the field of antidiscrimination ". At the cost of 210,000 BGN. The project is implemented in the period September 2002 – March 2003. Its implementation was approved in June 2003 by the project management board.

3. Project under PHARE BG 0104.02 "Access of Roma to healthcare". Beneficiary is the Ministry of Health in cooperation with the National Council on Ethnical and Demographic Issues. At the cost of 1,100,000 Euro.

4. Project under PHARE BG 0102.06 " Roma Integration – Social inclusion ". Beneficiary is the Ministry of Labour and Social Policy. It consists of three components:

4.1 Development and promotion of Roma cultural and information centres. At the cost of 966,000 Euro.

4.2 Creation of work places for Roma people and for people of other groups in disadvantaged position. At the cost of 1,333,000 Euro. It envisions that 60 % of finances are designed for Roma minority.

4.3 Development of business entrepreneurship. At the cost of 1,000,000 Euro. It envisions education and support for 300 persons of minority groups and disabled people.

5. Project under PHARE BG 0204.01 " Urbanization and social development of

regions with prevailing Roma minority". Beneficiary is the National Council on Ethnical and Demographic Issues with the technical assistance of the United Nations Development Program (UNDP). At the cost of 6,030,000 Euro.

The project started in June 2003 and envisions the construction of technical and social infrastructure for the provision of employment among Roma population in the municipalities of Lom, Stara Zagora, Pazardzhik, Venets, Omurtag and Dulovo.

6. Project under PHARE BG 0006.08 "Basic research of urbanization and life conditions in Roma neighbourhoods". At the cost of 160,000 Euro. Beneficiary is the National Council on Ethnical and Demographic Issues. There was a research into the conditions of households of Roma people in 88 locations.

7. Project under PHARE 2003 "Education and medical inclusion of vulnerable minority groups with special focus on Roma". At the cost of 5,440,000 Euro, including 380,000 Euro for project management. It consists of two components:

7.1 Education. At the cost of 2,800,000 Euro. Beneficiary is the Ministry Of Education and Science. Vocational qualification of 600 teachers to work in ethnically mixed surroundings, improvement of equipment in 20 integrated schools and 10 integrated kindergartens in ethnically mixed regions.

7.2 Healthcare. At the cost of 2,260,000 Euro. Beneficiaries the Ministry of Health. Development of education plans and programs for medical universities and colleges for nurses, including training of students from Roma communities.

According to the previous report, in 2000 there were 636 kindergartens with a total of 20 149 children there. The European Committee of Social Rights requests more information on the total number of children in such institutions.

Number of kindergartens and enrolled children according to data by the National Statistical Institute

	2000/01	2001/02	2002/03	2003/04	2004/05
Kindergartens	3 249	3 242	3 127	3 278	3 301
Enrolled children	200 449	199 206	201 317	201 145	202 803

The Committee asks which expenses are covered by fees, whether there is a ceiling for attendance fees and if parents whose income is low are entitled to any kind of support. It also asks which are the supplementary activities parents are supposed to pay for.

Pursuant to Article 30 of the Regulation for Implementation of the People's Education Act concerning the care, education and training of children in kindergartens, parents and guardians pay fees under the Local Fees and Taxes Act.

Parents and guardians of children in pre-school groups do not pay fees for their children prior to their enrolment at first grade at school. Exempt from fees can be also parents and guardians of children adopted in special childcare kindergartens, if provided by law.

Attendance of children in kindergartens can be suspended and resumed at any time with a preliminary notice submitted by the parents or guardians. For the period, for which the child did not attend the kindergarten, no fee is due.

In state and municipal kindergartens additional pedagogical and other types of services can be provided for upon request by parents or guardians in return of payment in view with the needs and interests of children.

The Committee notes from another source that, along with the lack of a housing policy and housing construction, including social housing, the system of housing loans was not functioning and a system of housing allowances did not exist. It therefore asks the next report to provide information on the issues covered by Article 16, as interpreted above, and to indicate which measures have been taken or planned in this respect, including specific measures for single-parent families. It also asks if nationals of other Parties to the Revised European Social Charter and nationals of the other Contracting Parties to the 1961 European Social Charter, lawfully residing or regularly working in Bulgaria, are equally treated as regards housing.

On 01.04.2004 the government adopted National Housing Strategy. It has two main purposes – to stop the process of aggravating conditions of existing household fund and the establishment of a working mechanism to provide access to new households – own or rented. The need to adopt such a Strategy came from the fact that the household has an important role for the social, economic and cultural progress.

The general philosophy of the strategy is the legal framework to be created by the State; to define the specific financial engagements; to realize several pilot projects related to various types of funds to renovate old construction and buildings and restriction of functions to the sector of regulation and control. In this way the business is given the opportunity to establish rules by using offered state stimulus to implement this Strategy.

The strategy has three operative directions. The first is the establishment of a framework for a national household system; the second is solution of the priority problems in household consumption; and the third direction is aimed at implementation of an information and education campaign. For each direction specific programs are developed – for management and maintenance of existing household fund, restructuring and renovation of existing household fund in neighbourhoods, access for families with low incomes and improvement of life conditions for Roma population.

The strategy reveals that according to expert estimates 10% of panel households need urgent repair and renovation works of internal facilities and hydro-isolation on the roof. According to data by the Ministry of Energy and Energy Resources, about 80% of existing household fund in the sous-terrain and roof rooms are without isolation, which leads to enormous losses of thermal energy. The expense of energy is additionally increased by the old-fashioned woodwork.

The role of the state for the renovation of panel household buildings includes also the provision of projects for their renovation, the creation of obligatory legal, organisation and financial conditions to carry out the renovation and repair works.

The strategy provides for young families and households with low incomes to be able to live in an independent home – own or rented. Initially, in accordance with personal possibilities, they can acquire a share of the property by paying part of the purchase price to state or municipal households or households of municipal associations, and become co-owners. Thus they can buy out the rest of the property on the household until acquiring full property estate. When defining the criteria for application and placement and when classifying household needs young families have advantage. A new type of non-profit legal entity is provided for – household associations typical for many European countries. They adopt most of the functions of municipalities in the field of construction, management and renting of households.

Data supplied by the National Statistical Institute reveal that the total number of

households in the country is 3 691 787, including 69.6% in the cities. 96,5 % is private property, 3% state or municipal property, and 0.5 % are owned by commercial entities, municipal or cooperative associations. 69.3% of households are occupied by one family alone.

The report does not provide information about counselling services for families, and the Committee asks this to be provided in the next report.

This kind of services is offered by non-governmental organizations. We do not dispose of detailed information about the specific types and contents of such services.

ARTICLE 20

THE RIGHT TO EQUAL OPPORTUNITIES AND EQUAL TREATMENT IN MATTERS OF EMPLOYMENT AND OCCUPATION WITHOUT DISCRIMINATION ON THE GROUNDS OF SEX

In 2003 as part of the process of the transposition of the *aquis communautaire* the Bulgarian Parliament adopted the Discrimination Protection Act (Appendix 12) prohibiting discrimination based on different grounds, including gender and establishing the legal order for protecting the rights to equal treatment. The Act includes a comprehensive list of markers, discrimination on which is prohibited: gender, race, nationality, ethnicity, human genome, citizenship, origin, religion or belief, education, convictions, political affiliation, personal or public status, disability, age, sexual orientation, marital status, property status, or any other ground provided by law or by international agreement that the Republic of Bulgaria is a party shall be prohibited (Article 4, Paragraph 1). The Act has a broad application field that covers not only protection in terms of employment and occupations but also in terms of education and training, as well as other rights like membership in trade union or other professional organizations.

The Act presents definitions for the terms *direct* and *indirect* discrimination and defines the cases when different treatment is not considered to be discrimination.

(2) Direct discrimination shall be a less favourable treatment of a person, on the basis of the markers, referred to in article 4 (1), than another person is treated, has been treated or would be treated under comparable circumstances.

(3) Indirect discrimination shall be putting a person on the grounds under Art. 4 (1), through an apparently neutral provision, criterion or practice, at a disadvantage compared with other persons, unless such provision, criterion or practice is objectively justified by a legitimate aim and the means for achieving that aim are appropriate and necessary.

The matter of equal rights of men and women is also dealt with in other legal documents like the Employment Promotion Act and the Labour Code both of which have been amended accordingly.

Question A

Title I of Chapter II of the Protection against Discrimination Act is dedicated to the prevention from discrimination in exercising the right to work. The Act grants **equal access opportunities to employment** to all persons, including in fields like the regular military duty in the armed forces. Provisions related to discrimination in exercising the right to work concern both labour relations and civil service relations.

According to the Discrimination Protection Act when announcing vacancies employers have no right to impose requirements in relation to sex, race, nationality, ethnicity, citizenship, origin, religion or belief, education, political affiliation, personal or public status, property status, or any other markers provided for by law or international agreement to which the Republic of Bulgaria is a party. The employer may not refuse employment to a woman on grounds of pregnancy, motherhood or raising a child. When imposing disciplinary sanctions the employer must apply the same criteria for all workers regardless of the aforementioned discrimination criteria.

Employers in cooperation with the trade-unions must take effective measures for the elimination of all forms of discrimination in the workplace. The text of the Act, the internal regulations and collective labour agreement, related to discrimination must be displayed in a

prominent position inside the enterprise building.

In terms of **conditions of work and remuneration** the Discrimination Protection Act obliges the employer to provide equal conditions of work regardless of discrimination markers, as well as equal remuneration for equal work. This provision concerns all forms of remuneration, no matter whether paid directly or indirectly, in cash or in kind. The territorial divisions of the Employment Agency are to provide equal opportunities to all unemployed persons in making use of and exercising their rights.

Under the Employment Promotion Act all state and municipal authorities as well as local government authorities must promote balanced gender participation as well as participation of persons representing ethnic, religious and language minorities in government and decision-making.

According to Article 26 of the Discrimination Protection Act individuals shall have equal conditions of access to a job or activity, as well as equal opportunities to practice them and career development without reference to the grounds of discrimination.

Question B

The Discrimination Protection Act establishes a particular order for the protection of equal treatment. An independent authority is established – Commission for Protection against discrimination which objective is the prevention and protection against discrimination, and the ensuring equal opportunities (Article 40, Paragraph 1). The Commission shall consist of nine persons at least four of whom must be lawyers. Five of the Commission members are elected by the National Assembly including the chairperson and the vice-chairperson, while the other members are nominated by the President of the Republic of Bulgaria. The principle of balanced gender participation must be followed when appointing the members. In order to become a member of the Commission, a person must be of Bulgarian citizenship, must be a university graduate, must possess extensive knowledge and experience in the field of protection of human rights and must not have been convicted for intentional crime offence. The mandate of the Commission members is five years.

The Commission examines the cases put forward in front of it in permanent panels, as set by the chairperson according to the field of discrimination – on ethnic or racial grounds; on grounds of gender; on other grounds of discrimination. Persons who are victims of discrimination under the Discrimination Protection Act or other legislation concerning equal treatment can approach the Commission. The costs of proceedings are covered by the Commission budget. The legal procedure itself is provided for in Chapter four of the Act.

The legal procedure starts with a written complaint from concerned person, following to a warning from third party or from a state or municipal authority, as well as by initiative of the Commission itself.

The Chairperson of the Commission appoints a rapporteur amongst the Commission members who studies the case and gathers all the evidence needed for establishing the facts. The whole study must be carried out in a maximum 30 days. All persons, state and municipal authorities must fully cooperate with to the Commission bearing in mind that information classified by law is not valid reason for refusing presenting it.

When examining the complaints the Commission has the power to request documents and explanations in connection with the investigation, as well as to interrogate witnesses. Evidences may also be gathered by force in case a danger of those being lost or concealed exists. This is done on the request of the Chairperson of the Commission with the authorization of a Sofia City Court judge. If during investigation it is established that there is data for a crime, all materials related must be sent to the public prosecutor.

During the first session the rapporteur must invite the parties to reconcile. In case this is agreed upon, a session for reconciliation procedure is appointed during which the parties

may reach agreement based on equal treatment. In such case the Commission approves the agreement and closes the case. The Commission exercises control over observance of the agreement. It is possible that the agreement concerns only a part of the dispute. In such case the proceedings over the other part over which no agreement has been reached continue.

The Commission's decision must be announced up to 14 days after the session during which the dispute has been reviewed. Decisions are taken by simple majority of the panel members and are signed by all of them including those with reservations who have to make their motives known.

The Commission's decision is in written form and establishes the committed violation, the violator and the affected person, sets the size and the kind of the sanction and imposes compulsory administrative measures. It must contain the name of the issuing authority, the actual and legal grounds for it and a disposition part which sets the sanction and the compulsory administrative measures if such are being imposed.

Each person whose rights concerning equal treatment are violated can also protect those in a court of law by raising a claim with the regional court. The concerned person may require establishment of the violation, compensation for any damage suffered or conviction forcing the violator to cease the violation and restore the previous situation. This procedure is also provided for in the Discrimination Protection Act and it is not related to the procedure with the Commission. The Act provides trade unions and non-profit organizations dedicated to community benefits activities with the possibility to raise a claim on behalf of the concerned persons and to step in as a party in an unsettled case. When the rights of a group of people have been violated they can enter into the process as a supporting party under the regulations of Article 174 of the Civil Proceedings Code. Concerned persons have a period of one month, starting from the beginning on the case, during which they can make the process public and send out invitation to other concerned persons and organizations to join the claim. Such joining may be done until the end of the verbal phase of the proceedings. There is a legal possibility for persons whose equal treatment rights have been violated by an administrative act to appeal it in a court of law under the regulations of the Civil Proceeding Code and the Supreme Administrative Court Act.

Question C

Labour Code

Article 59 (Amended – SG, No. 25/2001) In the event of default on the obligations under the collective agreement actions in court may be instigated by the parties to the agreement, as well as by any employee who is subject to the application of the agreement.

Claim for Invalidation

Article 60 (New – SG, No. 25/2001) Any party to the collective agreement, as well as any employee who is subject to the application of the agreement, may submit a claim to the court requesting the invalidation of the collective agreement or individual clauses thereof, provided such clauses are contrary to or evading the law.

Article 357 (Amended - SG, No. 25/2001) Labour disputes shall be disputes between an employee and an employer on creation, existence, implementation and termination of employment relationships, as well as disputes on implementation of collective agreements and ascertainment of length of service.

Article 8 of the Labour Code contains a ban on direct and indirect discrimination in the exercise of labour rights and duties based on nationality, origin, gender, sexual orientation, race, skin colour, age, political and religious convictions, affiliation to trade union and other public organizations and movements, family and property status, mental or physical disability, as well as differences in the employment contract term and duration of working

time.”.

There is no special procedure for complaints against clauses in individual and collective labour agreements which are contrary to the principles of non-discrimination, those are considered under the regulations of Chapter 18 of the Labour Code. According to Article 360 labour disputes are reviewed by courts of law under the procedure set in the Civil Proceeding Code. The proceedings are free of charge for workers.

Article 45 (Amended – SG, No. 100/1992) Trade union organizations and their divisions are entitled, upon the request of employees, to represent them as attorney before the Court. They shall not be entitled to conclude agreements, to recognize claims, to renounce, withdraw, or reduce the claims of employees, and to collect amounts on behalf of the represented persons unless they have been expressly authorized to do so.

Question D

The Discrimination Protection Act establishes the procedure for protection against violations of the equal treatment right on several exhaustively listed criteria one of those criteria being gender. Harassment based on the discrimination criteria, including sexual harassment, is also considered to be discrimination.

The Act states that the Commission for Protection against Discrimination can impose property sanctions (fines) and compulsory administrative measures to the persons who violate the right to equal treatment. The Commission may give mandatory instructions to employers and officers as well as suspend the implementation of employers’ decisions or orders that have lead or might lead to discrimination.

In case of repeated violations of the law a fine or a property sanction is imposed in amount double that of the initial one. If within a period of three months after the sanction decree that imposes the fine has entered into force the violation is still being carried out, a further fine is imposed (from 5 000 to 20 000 BGN.) There are also legal provisions for imposing a fine in case of a violation of the right to equal treatment on behalf of a manager of a legal entity-the employer when not subject to more severe sanction.

Sanctions are imposed by a Commission’s decision which is subject to appeal before the Supreme Administrative Court. The appeal suspends the implementation of the decision.

Question E

Under the Discrimination Protection Act the burden of proof is shifted compared to that under the Civil Proceedings Code. In this case the defendant has to prove that there is no discrimination when the petitioner claims his/her rights have been violated.

Art. 9. In a lawsuit for protection against discrimination, after the party contending to be a victim of discrimination establishes facts, sustaining the assumption of occurred discrimination, the defendant party must prove that the right of equal treatment has not been infringed.

In the field of gender discrimination there is not enough court practice yet under the Discrimination Protection Act to allow thorough analysis.

Question F

Over the last two years the Labour Code has been amended in order to bring Bulgarian legislation in conformity with the achievements of European Union law (acquis communautaire.) Several rights have been introduced, like the right to unpaid leave for each of the parents raising a child up the age of eight and the right of a pregnant worker to leave for medical examination. The requirements concerning the special protection of pregnant workers

and breast-feeding mothers are regulated in details.

The amendments establish obligation for the employer to allow a pregnant worker to leave work for medical examination in case this is necessary during working hours. For this period the worker is paid her average gross salary for the last month during which she has worked for at least ten days.

In case the work of a pregnant woman or a breast-feeding mother is inappropriate for her condition, the employer, under a prescription from the health authorities, must take actions to temporary adapt working conditions or working hours so that all risks to her health and safety is avoided. In case such adaptation is not possible or not justified the employer must take measures to transfer the worker to a more suitable position. Until the moment of her transfer the pregnant worker is released from the obligation to do her previous work and receives her gross remuneration for the month before the prescription. In case the remuneration for the new position is lower than the previous one, the worker is entitled to receive the difference in salary.

The 2004 Labour Code amendments establish that workers must take mandatory 135-day leave in case of pregnancy, giving birth and adoption of a child, with 45 of those days – prior to giving birth. Article 164a is added, regulating the leave for bringing up a child accommodated with relatives or a adoptive family under the regulations of the Child Protection Act. This leave may be used by persons with whom the child has been accommodated until reaching the age of two years. In case those persons are spouses the leave may be used by one of them only.

Night work is prohibited for pregnant workers or mothers of children under the age of six, except in case of receiving their written consent. The same is the situation of mothers taking care of children with disabilities regardless of child's age. Furthermore, this kind of workers can not work overtime.

Article 165 has been amended and now stipulates that workers with four or more children may receive unpaid leave upon request until the smallest child reaches the age of two after having taken the leave under Article 164, Paragraph 1, unless the child is accommodated in a childcare institution. This leave may be taken not only by the mother but also by the father or by one of their parents with the consent of the mother or adopter. This leave is considered as length of service.

The right to leave for pregnancy, giving birth and adopting a child may be used by the father in case the mother or the adoptive mother of a child under the age of two deceases or suffers from a serious illness that prevents her from taking care for the child. This leave may also be taken by one of the father's parents with his consent and in case he/she is working under employment relationship. In case both parents of a child under the age of two decease and the child is not accommodated in a childcare institution the respective leave can be used by guardian or by one of his/her parents with his/her consent.

For the first time the law regulates unpaid leave for raising a child under the age of eight after taking a leave for pregnancy, giving birth and adoption of child and for raising a child up to the age of two, as well as the possibility for such leave to be taken by a single parent. Each of the parents has the right to a six-month leave for raising a child under the age of eight when working under an employment contract. In case both parents have deceased the adopter is entitled to a twelve-month leave. In case both parents have deceased before the child turns two years without making use of such leave, the adopter is entitled to twelve-month leave or to whatever is left of it.

A parent or an adopter who takes care of his/her child on his/her own and has no marital relation with the other parent or in case the other parent is deprived of parental rights, is entitled to a twelve-month leave for raising a child under the age of eight. The leave may be taken all at once or in parts and is recognized as length of service.

There are also amendments concerning the protection against dismissal of pregnant

workers. The protection concerns the moment of the handing the labour contract termination order. According to the new Paragraph 5 of Article 333 a pregnant worker may be dismissed with a notification only on grounds not related to her personality: in case she refuses to follow the enterprise when it is relocating to another town or village; when the position she occupies has to be freed for a returning worker who has been unlawfully dismissed; due to the return of a worker who has been released ahead or postponed from military service; in case of objective impossibility to fulfil the employment agreement. A pregnant worker may be dismissed without notice only in case she is sentenced to serve a court sentence or on disciplinary grounds. In both cases a preliminary permit from the Labour Inspectorate must be obtained. While using her leave for pregnancy or birth, the worker may be dismissed only in case the enterprise is closed down. The amendments are connected with Bulgaria ratifying the ILO Convention 183, as well as with established non-conformity of Bulgarian legislation with Article 8, Paragraph 2 of the ESC (r.)

Question G

There are no occupations or activities exclusively preserved for one gender or the other. Some limitations due to the nature of work are imposed by Ordinance 7 from 16 May 1993 for the hazardous and heavy activities forbidden for women and Ordinance 2 from 30 January 1979 on occupational safety in the production of and work with chlorine, both of which have been presented in the previous Report.

Article 7 of the Discrimination Protection Act defines situations that are not considered as discrimination. It states that different treatment based on some of the grounds for discrimination is not discrimination case this criterion constitutes “genuine and determining professional requirement”.

Art. 7. (1) It shall not be deemed to be discrimination:

1. the different treatment of persons on basis of their citizenship or of persons without citizenship where provided for in a law or international agreement where the Republic of Bulgaria is a party;
2. the different treatment of persons on the basis of a characteristic related to a marker referred to in Art. 4, paragraph 1, when the said characteristics, by reason of the nature of the particular occupation or activity, or of the conditions in which it is carried out, constitutes a genuine and determining professional requirement, the objective is legitimate and the requirement does not exceed what is necessary for its achievement;
3. the different treatment of persons on the basis of religion, faith or gender related to an occupation, carried out in religious institutions or organizations when, by reason of the nature of the occupation or of the conditions in which it is carried out the religion, faith or gender constitutes a genuine and determining professional requirement in view of the character of the institution or organization, when objective is legitimate and the requirement does not exceed what is necessary for its achievement;
7. the special protection of pregnant women and mothers, laid down by law, unless the pregnant woman or the mother wishes not to use this protection and has so informed the employer in a written form;

The list of activities for which gender is “genuine and determining professional requirement” is determined by an Ordinance of the Minister of Labour and Social Policy coordinated with the Minister of Interior. The list has to be updated in line with the changes introduced in the conditions of work and must be reconsidered at least once every three years. Such Ordinance was adopted in March 2004. The activities related to the rank military service in the armed forces are determined by an Ordinance of the Minister of Defence. The adoption

of an Ordinance of the Minister of Defence on military occupations(specializations) and activities within the armed forces is forthcoming. Amendment in the Republic of Bulgaria Defence and Armed Forces Act from 1st of January 2004 eliminated the restrictions on accepting women in regular military service. Women in military service have the right to special protection under the Labour Code and are entitled to leave in case of pregnancy, giving birth and adopting a child, for raising a small child, for breast-feeding and feeding a small child, for taking care of ill child, as well as to additional leave for two or more living children under the regulations of the Labour Code.

The application field of this legislation is in line with the principle of gender equality in access to employment in the armed forces and the police and is applied according to the requirements of Directive 76/207/EEC amended by Directive 2002/73/EC in accordance with its interpretation by the EU Court of Justice.

Question H

The Employment Promotion Act provides for measures providing for equal opportunities for the social and economic integration of groups at risk. There are provisions for concessions for employers who hire single mothers and adoptive mothers as well as unemployed women over the age of 50 and unemployed men over the age of 55. According to Article 30a of the EPA employers who hire persons from the categories listed above receive funding for workers' salaries, for their paid leave, for payments due by the employer and other expenses.

Art. 53. (Amend. – OG 26 of 2003) For each new job opened, at which were hired unemployed persons - single parents (adoptive parents) and/or mothers (adoptive mothers) of children until the age of 3, referred to by the sub-divisions of the Employment Agency for full- or part-time jobs, employers shall be provided with the amounts pursuant to art. 30a, para 2, for the time such persons remained employed, however, for 12 months at the longest.

Art. 55a. (New - OG, iss. 26 of 2003) For each new job opened, at which were hired unemployed women over the age of 50 and men over the age of 55, referred to by the sub-divisions of the Employment Agency, employers shall be provided with the amounts pursuant to art. 30a, para 2, for the time such persons remained employed, however, for 12 months at the longest.

Question I

a. According to National Statistical Institute average data for 2003 the economically active population aged 15 and over is 49.2%. Of those 54.5% are men and 45.5% are women. The percentage of employed persons is 42.4% of the total population. The percentage of employed men is 46.8% and the percentage of employed women is 38.4%.

Table 1 Employed persons according to economic occupation and gender - December 2003.

	Structure %		
	Total	Men	Women
Total	100	53.0	47.0
Agriculture, hunting, forestry and fishery	100	64.5	35.5
Extraction industry	100	80.0	20.0
Processing industry	100	49.6	50.4
Electricity, gas and water facilities	100	76.7	23.3

Construction	100	90.6	9.4
Automobiles and home appliances repairs and trade	100	50.6	49.4
Hotels and restaurants	100	39.2	60.8
Transport and communications	100	71.4	28.6
Financial brokerage	100	37.0	63.0
Real estate related activities	100	53.7	46.3
State administration and defence; compulsory social security	100	59.5	40.5
Education	100	23.9	76.1
Human healthcare and social activities	100	23.7	76.3
Other services	100	45.5	54.5

Table 2. Employed persons according to position rank and gender – December 2003

	Structure %		
	Total	Men	Women
Total including:	100	53.0	47.0
Managers	100	70.7	29.3
Experts in analysis	100	34.0	66.0
Experts in application	100	44.1	55.9
Supporting personnel	100	31.1	68.9
Customer service, security and trade staff	100	34.4	65.6
Producers in agriculture, fishery and forestry	100	58.8	41.2
Skilled production workers	100	72.1	27.9

The total share of unemployed persons in 2003 is 13.7%, with men's unemployment being 14.1% and women's totalling at 13.2%. The share of unemployment is biggest amongst young people under the age of 24 – 28.2%.

2004 National Statistical Institute data shows the following numbers:

The share of the economically active population is 49.7%, 55.3% of whom are men and 44.6% are women. The total share of employed persons is 43.7%, with the men's share being 48.4% while the women's is 39.5%. With the overall 2004 unemployment rate being 12.0%, the men's share is 12.5% and the women's is 11.5%.

Long-term unemployment rate (persons without job over a year) is 65.4% in 2003 and 59.3% in 2004. The number of people discouraged to search for employment in 2003 has been 435 500, while in 2004 it has gone down by 41 900 to the level of 392 600.

	Structure %		
	Total	Men	Women
Total including:	100	44.73	55.27
Worker's occupations	100	52.56	47.44
Specialists	100	38.72	61.28
According to education fields:			
Education	100	20.51	79.49
Humanitarian activities and arts	100	21.51	78.49
Social sciences, economy and law	100	79.81	20.19
Mathematics and natural sciences	100	22.77	77.23

Technology	100	53.11	46.89
Agriculture	100	51.96	48.04
Healthcare	100	16.86	83.14
Services, transport, security	100	31.50	68.50

Women's unemployment is characterized by some specific features. The difference in unemployment levels between the two genders comes as a result of reasons like differences in employability and family responsibilities, as well as in industry segregation. Women suffer more from structural reforms – 54.2% of them are unemployed because staff reduction. Women aged between 25 and 35, as well as between 45 and 54 are in the most disadvantaged labour market position. They are up 50% of the total women's unemployment. Long-term unemployment is also a feature of women's unemployment, as well as higher unemployment levels amongst young women under the age of 25 and between 25 and 35. One of the most vulnerable labour market groups is that of women with primary or basic education, i.e. without occupational profile who represent 35% of the total of unemployed women. Young women after graduating from high-school and university are also in a disadvantaged position as 61.4% of them fail to find a job.

b. There are no legal or factual reasons for existence of a different gender-based approach in terms of access to and participation in vocational guidance, training, retraining and rehabilitation.

c. Bulgarian legislation does not differentiate between genders when it comes to determining employment and working conditions, as well as to remuneration and fixed-term labour contracts.

The Discrimination Protection Act provides for equal treatment in the field of exercising the right to work in a separate section. It reads that “an employer shall ensure equal working conditions...” (Article 13) with no reference to the grounds for discrimination as well as “The employer shall secure equal remuneration for equal and equivalent labour” (Article 14.) According to the Act “The performance assessment criteria in determining the labour remunerations shall be equal for all workers and employees and shall be determined by collective employment agreements or by the administrative arrangements regarding the salaries, or by statutory terms and conditions for assessment of civil servants.”

In practice the difference in remuneration between men and women in Bulgaria is around 26%. This difference however is not due to different remuneration for equal work but to the strong female presence in economy sectors with traditionally lower salaries.

An obstacle in terms of achieving equality in regard to remuneration is the lack of understanding for the differences between equal and similar work and equal remuneration for equal work, as well as the lack of precise and reliable statistical data. Differences between men's and women's average working remunerations vary according to the industry and can be explained with the differences in capabilities, as investments in education, vocational training and labour force mobility are lower for women. Furthermore women chose such job that would allow them to reconcile work and family life. As women have often to enter and leave the labour market this leads to the gradual loss of professional experience and subsequently to lower remuneration.

d. Gender equality is to a great extent nominal when it comes to access to higher-paid and ranked work. According to National Statistical Institute data women's economic activity percentage for 2004 is much lower than men's – respectively 50% against 57.9%. The share of women entrepreneurs is 35% of the total number of self-employed. According to private sector data in some 25% to 35% of the single-parent families the mother is the head of the family.

In terms of horizontal structure economic sectors, those with highest female participation are the education sector (76.1% women and 23.7% men) and healthcare and social activities (76.3% women and 23.7% men.) In terms of vertical structure, women dominate the number of analysis specialists (66% women and 34% men) and the supporting personnel (68.9% women and 31.1% men.)

The possibility of extinction of working hours and working overtime which is possible by Bulgarian legislation has a negative effect on the situation of women. Due to their responsibilities in raising children they can seldom afford to take use of it.

The Labour Code amendments regarding the protection of young mothers provide them with the possibility to night work and overtime only after giving their written consent while preserving the ban on this kind of work for pregnant women and breeding mothers. Nevertheless the high level of unemployment amongst women provides employers with the opportunity for abuse with this possibility.

Question J

The main directions in equal opportunities policies are presented in the 2004 and 2005 National Employment Action Plans. Both are in line with the provisions of the European Employment Strategy and the 2001-2005 Equal Opportunities Strategy. The goal of the current policies is to create the conditions for gender equality in the field of employment as well as to make easier the reconciliation of work and family life.

The 2004 National Employment Action Plan provides for the development of the institutional mechanism and the appointment of high-ranked officials from relevant institutions as part of the so called gender mainstreaming or common measures for the promotion of gender equality. In executions of these measures the Council of Ministers adopted Decree 313 from 17 November 2004 which establishes a National Council on Gender Equality with the Council of Ministers. According to the Statute for the Structure and Organization of the Work of National Council on Gender Equality it shall be body for consultations, cooperation and coordination between governmental and non-governmental bodies in the elaboration and realization of the national policy on gender equality. The National Council discusses, gives opinions and makes suggestions on bills and other acts on matters of gender equality and the conformity of those with the national policy in this field. The Council consists of representatives of ministries and other organizations, science institutions and non-governmental organizations that work in the field of gender equality. The Council's chairperson is the Minister of Labour and Social Policy. Ministries are represented by deputy-ministers, while institutions are represented by their heads.

The 2004 National Employment Action Plan provides for several programmes and measures for promotion of gender equality, all of which have been implemented. These are the embodiment of specific measures provided for in the National Employment Plan. Some of the projects are aimed at raising public and employer awareness on the principles of gender equality. Such projects are *Raising Bulgarian Public Awareness on the Issues of Gender Equality* and *Reconciliation of Work and Family Life*.

Project: *Raising Bulgarian Public Awareness on the Issues of Gender Equality*

Purpose: increasing the awareness of the main local and national level participants in the decision-making process of European standards in the field of gender equality and their reflection in national legislation and social practice in the process of European Union enlargement.

Target group: representatives of state authorities, social partners and non-governmental organizations working in the field of gender equality.

Institutions in charge: MLSP

Activities: training of representatives of state authorities and organizations in the field of establishing structures in order to implement gender equality policy according to the European standards.

Expected outcomes: training of 85 persons; initiation of a process of establishing *focal points* in state institutions and organizations in charge of implementing the principle of equal treatment of men and women in practice; fostering and supporting non-governmental organizations in the implementation of the gender equality policy.

Resources needed: 47 100 BGN, of which 7 983 have been provided by the MLSP budget and 39 117 – by the European Commission.

Project: *Reconciliation of Work and Family Life* (including bilateral cooperation within the framework of the Permanent Commission Bulgaria-Belgium)

Purpose: holding a public debate to raise employer's and social partners' awareness about the reconciliation of work and family life policy

Target group: officials of state institutions and nationally representative employers' and workers' organizations

Activities: holding discussions and work meetings between state authorities, public organizations, organizations of employers and of workers and non-governmental organizations dedicated to the reconciliation of work and family life policy; conducting a nationwide survey of employers' attitudes towards gender equality; holding seminars at a national level for the promotion of gender equality; publishing a catalogue of best practices that shows employers who have created environment for the reconciliation of work and family life.

Expected outcomes: raising public awareness on reconciliation of work and family life policy; development of a policy for the preservation and promotion of employment in reconciling work and family life

Institutions in charge: MLSP

Resources needed: 45 000 BGN.

Other projects are aimed at overcoming the social isolation of certain labour market groups like women over the age of 50, women returning to work after having leave for raising a child, single mothers or adoptive mothers.

Back to Work Project

Purpose: increasing women's employability

Target group: unemployed women over the age of 50; employed women returning at work after taking a leave of up to two years for pregnancy, giving birth, adopting and raising a child under the age of two.

Activities: motivation training; retraining courses for unemployed women

Expected outcomes: 200 unemployed women trained

Institutions in charge: MLSP and the Employment Agency

Resources needed: 158 530 BGN

By September 2004 some 100 unemployed women have been trained under this project. 91% of those are over fifty-years old. Almost all participants in the programme are long-term unemployed with Employment Office registration for more than one year.

Support for Independent Economic Activity for Women in Rendering Services in Childcare Project

Purpose: promotion of entrepreneurship amongst women

Target group: unemployed women with certain professional status. Employment Office Directorate registered women have priority when possessing the following qualification: nurses, women with experience in the field of social services.

Activities: motivation and training of young women for starting their own independent business in the field of childcare.

Expected outcomes: 300 women trained

Resources needed: 271 646 BGN

The project's time-limit is from 2003 to 2005. It started in December 2003 and during the year 226 women were included in it with further 135 joining in 2004. 265 of those women passed motivation training. The share of long-term unemployed persons amongst the participants in this project is 30%.

According to the 2005 National Employment Action Plan, during the period between January and September 2004 519 (71.6% of the scheduled) persons took part in training and qualification at a total cost of 156 786 BGN (39% of the planned budget.)

A National Plan for the Promotion of Gender Equality for 2005 was adopted by the end of 2004. The Minister of Labour and Social Policy in cooperation with the Minister of Finances is in charge of organization, coordination and control of that plan.

2005 sees the ongoing implementation of the 2004 National Employment Action Plan's project for the introduction of specific gender mainstreaming indicators for the evaluation of the quality and efficiency of labour market programmes and measures. The goal is to achieve increased public awareness on the labour market access of both men and women and to bring closer the levels of men's and women's employment rates. Training of civil servants in gender mainstreaming approach in the evaluation of measures and programmes is conducted under this project.

Institutions in charge: MLSP and the Employment Agency

Resources required: 100 000 BGN

Family Centres for Children Project

In order to promote parents employment the MLSP developed a project that provides employment to unemployed women who start their own family centres for raising children between the age of 1 and 5 years. These family centres have the capability to raise up to four children in family environment. The municipalities are employers of the unemployed women who start such childcare centres. The municipalities also provide funding for bringing the women's homes up to the healthcare authorities' requirements and the children's needs.

The project started its implementation in 2005 on pilot basis in the region of Varna and the municipalities of Vratsza, Yambol, Pazardjik and Sliven.

Question K

The 1999 Compulsory Public Insurance Code has had certain amendments amongst which the change of its name in 2003 to Social Security Code (SSC).

The SSC states that it is based on several principles one of which is that of equality of the insured persons. The Code has a broad application field and regulates public social security and additional social security. Chapter VI *Compulsory Pension Insurance* regulates pensions for period of insurance and age, for disability and survivor's pensions.

Social Security Code

Subject

Article 1. (Supplemented SG 1/02; amended, SG 67/03) This Code shall govern the public relations with respect to:

1. the state public insurance for general disease, accident at work, occupational disease, maternity, unemployment, old-age and death;
2. the additional social security, which shall include:
 - a) the additional compulsory pension insurance for old-age and death;
 - b) the additional voluntary pension insurance for old-age, invalidity and death;
 - c) the additional voluntary insurance for unemployment and/or vocational qualification.

Principles of the insurance

- Article 3. The state public insurance shall be implemented based on the principles of
1. compulsory and comprehensive insurance;
 2. solidarity of the insured persons;
 3. equality of the insured persons;
 4. social dialogue in the management of the insurance system;
 5. fund organization of the insurance resources.