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REVISED EUROPEAN SOCIAL CHARTER

9th National Report on the implementation of
the Revised European Social Charter

submitted by

THE GOVERNMENT OF BULGARIA

(Articles 8, 17 and 27
for the period 01/01/2003 – 31/12/2009
and Articles 7 and 16
for the period 01/01/2005 – 31/12/2009)

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CYCLE 2011

NINTH NATIONAL REPORT

Made by the Government of Republic of Bulgaria in accordance with Article C of the European Social Charter, on the measures taken to give effect to the accepted provisions of the Revised European Social Charter.

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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 following provisions of the ESC (r): Art. 7, para 1-10, Art. 8, para 1-5, Art. 16, Art. 17, para 2, Art. 27, para 2 and 3.

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).

Bulgaria is at disposal for any supplementary questions and clarifications, which may appear in the process of examination of the present Report.

Article 7 – The right of children and young persons to protection

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:

- 1. to provide that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education;**
- 2. to provide that the minimum age of admission to employment shall be 18 years with respect to prescribed occupations regarded as dangerous or unhealthy;**
- 3. to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;**
- 4. to provide that the working hours of persons under 18 years of age shall be limited in accordance with the needs of their development, and particularly with their need for vocational training;**
- 5. to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances;**
- 6. to provide that the time spent by young persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming part of the working day;**
- 7. to provide that employed persons of under 18 years of age shall be entitled to a minimum of four weeks' annual holiday with pay;**
- 8. to provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations;**
- 9. to provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control;**
- 10. to provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control.**

Appendix to Article 7§2

This provision does not prevent Parties from providing in their legislation that young persons not having reached the minimum age laid down may perform work in so far as it is absolutely necessary for their vocational training where such work is carried out in accordance with conditions prescribed by the competent authority and measures are taken to protect the health and safety of these young persons.

Appendix to Article 7§8

It is understood that a Party may give the undertaking required in this paragraph if it fulfils the spirit of the undertaking by providing by law that the great majority of persons under eighteen years of age shall not be employed in night work.

Article 7, para. 1-9 /general information, legislation/:

The general legal framework guaranteeing the right of children and young persons to protection is laid down in:

1. The Labour Code - Chapter Fifteen "Special Protection for Some Categories of Employees", Section I "Special Protection of Minors":

"Minimum Age for Employment

Art. 301. (1) The minimum age for employment shall be 16. The employment of persons under 16 years of age is prohibited.

(2) (Supplemented - SG, No. 48 of 2006) As an exception, persons between 15 and 16 years of age may be employed to perform work of easy nature and not dangerous or harmful to their health and to their proper physical, mental and moral development and whose performance would not be an obstacle to regular attendance at school or participation in vocational orientation or training.

(3) (Amended - SG, No. 100 of 1992) As an exception, circuses may recruit on student jobs girls, who have turned 14 years of age and boys, who have turned 13, and, for the participation in shooting of films, in the preparation and giving theatrical and other performances, persons under 15 years of age may be recruited under easier conditions and in conformity with the requirements for their proper physical, mental and moral development. The labour terms in these cases shall be determined by the Council of Ministers.

Employment of persons under 16

Art. 302. (1) Persons under 16 shall be employed after a thorough medical examination and a medical ruling that they are fit to perform the respective job and that it would not impair their proper physical and mental development.

(2) (Amended - SG, No. 100 of 1992) Persons under 16 shall be employed upon permission of the Labour Inspectorate in each separate case.

Employment of persons between 16 and 18 years of age

Art. 303. (1) (Amended - SG, No. 48 of 2006) Employment of persons between 16 and 18 years of age in heavy, harmful and dangerous jobs and for their proper physical, mental and moral development shall be prohibited.

(2) Persons between 16 and 18 years of age shall be employed after a thorough preliminary medical examination and a medical ruling which certifies their fitness to perform the respective work.

(3) (Amended - SG, No. 100 of 1992) Persons between 16 and 18 years of age shall be employed upon permission of the Labour Inspectorate in each separate case.

(4) (New - SG, No. 18 of 2003, amended and supplemented SG, No. 48 of 2006) The procedure for granting a work permit under par. 3 to persons under 16 years, and the obligations of the employer to provide healthy and safe working conditions for persons under 18 years of age shall be governed by an Ordinance of the Minister of Labour and Social Policy and the Minister of Health.

Work for persons under 18

Art. 304. (Amended - SG, No. 100 of 1992, SG, No. 25 of 2001) (1) Prohibited for underage persons shall be jobs which are:

1. beyond their physical or mental capacity;

2. related to exposure to harmful physical, biological or chemical effects, and in particular to toxins, cancerogenic substances and agents causing hereditary genetic or intrauterine impairments;
 3. related to hazards which cause continuous detrimental effects on human health in any other way;
 4. exposed to radiation;
 5. at extremely low or high temperatures, noise or vibration;
 6. related to risk of occupational accidents, which the underage persons presumably are unable to understand or avoid because of their physical or mental adolescence.
- (2) (Repealed - SG, No. 18 of 2003).

Special care for minors

Art. 305. (1) (Amended - SG, No. 100 of 1992) The employer shall take special care for the labour of persons under 18 by providing alleviated working conditions and opportunities to acquire professional qualification and to raise their qualification level.

(2) (Repealed - SG, No. 100 of 1992, New - SG, No. 25 of 2001) The employer shall be bound to inform the underage employees and their parents or guardians about the eventual risks of the job and about the measures taken to ensure healthy and safe conditions of work.

(3) (Supplemented - SG, No. 100 of 1992, amended - SG, No. 25 of 2001, Supplemented - SG, No. 48 of 2006) Working hours of employees under 18 shall be 35 hours per week and 7 hours per day, for a five-day workweek. Their daily and weekly working time shall include the time for vocational training and its improvement when it occurs on the job.

(4) (Amended - SG, No. 100 of 1992, Supplemented - SG, No. 108 of 2008) Employees under 18 shall be entitled to a paid annual leave of not less than 26 working days, including during the calendar year when they turn 18 years of age.

Art. 140. (1) (Amended - SG, No. 25 of 2001) The normal duration of the weekly working hours at night for a five-day work week shall be up to 35 hours. The normal duration of the night working hours for a five-day work week shall be up to 7 hours.

(2) (Amended - SG, No. 25 of 2001) Night work shall be any work performed between 10.00 p.m. and 6.00 a.m., and as for employees under 18 years of age – between 8.00 p.m and 6.00 a.m.

Leave of minors and mothers

Art. 174. (Suppl. - SG, No. 100 of 1992, Amended. - **SG, No. 18 of 2011**, effective from 1.03.2011) Employees who have not reached 18 years of age, and mothers of children under the age of 7 shall use their leave in summer, and if they so wish - at any other time of the year, with the exception of the cases under para. 4 of the preceding article.

2. Ordinance on employment of persons under 15 years of age.

3. Ordinance No. 6 of 24.07.2006 on the terms and conditions for granting work permits to persons under 18, a copy of which is appended to this document (Appendix 1).

Information to be submitted

Article 7, § 1

- 1) **Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.**

The legal mode of employment of minors is established and regulated by the Law on Child Protection, the Labour Code (LC), Regulation No. 4 of 1999 for work prohibited for persons 15 to 18 age and Ordinance No. 6 on the work of persons under 18 years of age.

The Law on Child Protection protects and guarantees the fundamental rights of children in all spheres of social life according to age, social status, physical health and mental condition, providing to all an appropriate economic, social and cultural environment, freedom of expression and security.

The *Labour Code* places a special emphasis on the protection of minors. The minimum age for employment is 16 years. Employment of persons under 16 years of age is prohibited. As an exception, persons between 15 and 16 years of age could be employed for easy works which are not dangerous or harmful to their health and proper physical, mental and moral development, and which would not be an obstacle to regular school attendance or participation in vocational orientation or training.

For any violation of the norms of the Labour Code, administrative and penal responsibility is provided. Simultaneously, the employment of minors without the prior permission of the Labour Inspectorate is criminalized, i.e. this offense is a crime. An employer who has hired a minor without the permission of the Labour Inspectorate bears criminal responsibility. The penalties are fines and prison for repeat offenders.

During the period from early 2006 until the end of 2010, changes to the regulations of employment of persons less than 18 years of age were made, namely amendments in Art. 301, 303 and 304 of the Labour Code, and a new ordinance was adopted regulating the recruitment of employed persons under 18 years of age (Ordinance No. 6 on the terms and conditions for granting work permits to persons less than 18 years of age). Through these changes, our national legislation was harmonized with Community legislation. The changes further specified the conditions under which persons less than 18 years of age may be employed. A person under 18 may be hired under an employment contract only if the job is not difficult, dangerous or harmful to the health and proper development of the child and performing the work does not interfere with regular school attendance and preparation for school. The list of activities and positions which may not be performed by persons under 18 years was updated. A ban on employment of persons less than 18 years of age was established for activities that are not listed but for which risk assessment has established that there is a risk to the safety, health and development of persons less than 18 years of age.

The new ordinance provides the opportunity for the permit given by EA “GLI” to hire a person of less than 18 years of age under Art. 302 and 303 of the Labour Code to be cancelled, where supervisory authorities have found that the person has not been provided with healthy and safe working conditions. With the amendment of Art. 404, para. 1 of the Labour Code of 2009, the supervisory authorities of the General Labour Inspectorate were given the power to immediately remove from work any employed persons under 18 years of age, in the process of withdrawal of the authorization under Art. 302 and 303 of the LC.

From early 2006 until the end of 2010, in the field of child protection and within the competence assigned to EA “GLI”, the following activities were performed:

Under a pilot project funded by the International Labour Organization, a system for monitoring of child labour in the Republic of Bulgaria was created, and the General Labour Inspectorate as a competent body was included in it. As a result of activities under this project, a cooperation agreement was signed between Executive Agency “General Labour Inspectorate”, Social Assistance Agency and the State Agency for Child Protection. The agreement introduced a mechanism for information exchange and joint actions on child protection between these three bodies, in line with their competence entrusted by law.

Ever since 2006, a permanent priority in the activity of the General Labour Inspectorate is control on observance of rules protecting the labour of persons less than 18 years of age. Annually, EA "GLI" plans and carries out programmes at national and/or regional level aimed to strengthen control over observance of rules protecting the labour of persons less than 18 years of age. In the period from 2006 to 2010, three special campaigns were held to control the observance of standards protecting the labour of persons less than 18 years of age, namely in 2006, 2008 and 2010. Under these national campaigns, 6,431 inspections were carried out in 6,388 companies, mainly from the following economic sectors: Agriculture, Farming, Wholesale and Retail Trade, Restaurants and Hotels, Services, and at casting and impresario agencies and TV broadcasters, theatres and film makers.

To implement this priority, the General Labour Inspectorate, in one form or another, conducts annual information campaigns in the early summer on explaining and promoting the legal requirements for lawful employment of persons under 18 years of age. (These events have already become traditional and include interviews, press conferences, press releases, information meetings with representatives of employers' organizations, training and awareness meetings with students and teachers in secondary education, dissemination of training and awareness videos on the subject by the mass media, written and oral consultation, distribution of printed materials - brochures).

From the analysis of the control activity of the General Labour Inspectorate, and in particular from the nature of job positions for which permissions to hire persons under 18 years on employment contracts have been sought most frequently, it can be concluded that most often, people under 18 are employed predominantly by the retail trade, restaurant and hotel businesses. These sectors are dominated by small and medium enterprises, where the nature of work permits the seasonal recruitment of employees, places no significant qualification requirements and provides good working conditions.

For 2006, the General Labour Inspectorate has issued a total of 8465 employment permits to persons under 18 years of age, of which - 383 were for persons under 16 years. For the same year, 494 violations of regulations protecting the employment of persons under 18 were found, during a total of 36,036 inspections for the year.

In 2007, EA "GLI" has issued a total of 5870 permits, of which 184 for employment of persons under 16 years of age. For 2007, 199 violations of regulations protecting the employment of persons under 18 were found, during a total of 33,031 inspections for the year.

In 2008, a total of 5775 permits for employment of persons under 18 years of age were issued, 291 of which for the employment of persons under 16 years. In 2008, a total of 365 violations of regulations protecting the employment of persons under 18 were found, during a total of 34,558 inspections for the year.

In 2009, a total of 2828 permits for employment of persons under 18 years of age were issued, of which 140 for the employment of persons under 16 years. In 2009, a total of 77 violations of regulations protecting the employment of persons under 18 were found, during a total of 53,155 inspections for the year.

In 2010, a total of 2828 permits for employment of persons under 18 years of age were issued, of which 140 for the employment of persons under 16 years. In 2010, a total of 114 violations of regulations protecting the employment of persons under 18 were found, during a total of 46,736 inspections for the year.

The results of the control activity of the Labour Inspectorate in the period 2006 - 2010 show that violations of rules protecting the employment of persons under 18 years represent a mere 0.2 -0.3% of all reported violations of labour legislation for the year.

For that period, the following types violations related to the labour of persons under 18 years of age were found:

- Violation of the prohibition of night work: In the vast majority of cases, this violation takes the form of work performed by persons 18 years between 8 – 10 p.m. during the summer months when days are longer.

- Violations of the prohibition of extra work (overtime). This violation consists mainly in work performed by persons under 18 over their agreed part-time - 4 or 6 hours.

- Violation of the statutory period of full-time work for people under 18 years. This violation consists mainly in negotiating and working 8 hours per day, instead of 7:00.

Data from the verification of compliance with standards on the protection of labour of persons under 18 shows that the above violations have involved children over the age of 15.

For the entire period, only 2 cases of placing at risk the health of persons under 18 were found. Both cases are for the work of persons over 16 with machines with moving and cutting parts, without being provided with personal protective equipment and adult supervision. The work was carried out by these persons under service contracts which are not labour contracts.

The analysis of the results of control activities during the period 2006 - 2010 shows that about 65 percent of violations of labour standards protecting persons under 18 that were found by inspectors constitute employment of persons under 18 without the prior permission of the Labour Inspectorate.

Employment of persons under 18 without the prior permission of the Labour Inspectorate has been criminalized since 2004. All these cases have been reported to the prosecuting authorities, for the presence of evidence of a crime under Article 192 of the Penal Code.

In this respect, the EA “GLI” and the prosecution agreed on the mutual rapid and timely exchange of information relating to the establishment of cases of recruitment of minors without the prior permission, the submission of signals to the prosecution of any crime data collected under Article 192 of the Penal Code, and on the development of the preliminary pre-trial proceedings under Article 192a PC. Information of court decisions in criminal proceedings under such charges is not reported to the authorities of EA “GLI”.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

Ordinance No. 4 of 1999 lists the types of work and industries where work of minors is strictly prohibited. Under the Ordinance, the Labour Inspectorates may refuse to give permission for employment in any activity that is not expressly prohibited for persons under 18, if at the discretion of labour inspectors, specific conditions are found to be adverse, difficult or dangerous. These conditions are examined during the employment authorization process. The maximum duration of working hours for minors is 7:00 hours, and night labour is any work performed between 20.00 p.m. to 6.00 a.m. ***Night work and overtime by minors is absolutely forbidden.***

Ordinance No. 6 regulates the conditions and procedures for granting work permits to children under 18. It includes the employer’s obligations to provide healthy and safe working conditions. It is also applied in cases where children work as apprentices under the Law on Crafts. The ordinance is not applied for persons under 15, for students during school activities, practice or training. The employer is obliged to assess risk to which they may be exposed in connection with their work. Risk assessment is also carried out in accordance with the provisions in any significant change of working conditions. The risk assessment analyzes the equipment and structure of the workplace, the nature, extent and duration of exposure to physical factors, chemical substances and products and biological agents, the type, selection,

location and use of work equipment and its handling, the organization of work - organization and execution of work processes and operations and their mutual influence, level of training and awareness of children. The employer, based on the results and analysis of the risk assessment, takes the necessary measures to ensure healthy and safe working conditions. He is obliged to inform children under 18 and their parents or guardians of the possible work risks involved, and on the measures taken to ensure safe and healthy working conditions.

Persons are prohibited from performing work that is: beyond the physical or mental capabilities of children, including the harmful effects of agents that are toxic, carcinogenic, cause heritable genetic damage or harm to the foetus, or which otherwise affect human health by prolonged exposure, in radiation environment, at extremely low or high temperatures, noise or vibrations; work associated with the risk of accidents which may not be realized or avoided by young persons owing to their physical or mental immaturity. There are exceptions under which children between 15 and 16 may be employed, when the following conditions have been met: work performed is light and not dangerous or harmful to their health and proper physical, mental and moral development; the supervision of an appointed competent person is provided; and performing the work is not adversely affecting their normal development at school. Children under 18 are accepted to work after medical examination and medical opinion that they are fit to perform the job and it will not harm their health or prevent their proper physical, moral and mental development. Persons under 18 are accepted to work with the prior permission of the Executive Agency “General Labour Inspectorate” in each case. Regional Directorate “Labour Inspectorate” may refuse to grant permission for employment, if it considers that specific conditions are adverse, too hard or dangerous. Also, it can cancel an authorization for employment, if found that healthy and safe working conditions have not been provided.

The work permit is issued by the Labour Inspectorate in the presence of a package of documents that include: a written request by the employer, medical opinion /for children between 15-18 years of age – issued by a medical advisory committee at the diagnostic counselling centres for pre-hospital medical care, or the medical organization of his/her personal doctor; for 15-16 year olds, the conclusion must certify that they are of age, fit to perform the specific job and that it will not harm their health or prevent their physical development; over 16 years of age - that they are fit to perform the job, under 15 – by a medical advisory committee at a paediatric hospital ward, after a thorough medical examination/; a copy of birth certificate / identity card, a copy of the employment application of the child; job description or a brief description of the work; for minors under 16, a written consent from their parents is required to start work. If all the above documents are available, the work permit may be issued. Not every request is satisfied. In connection with granting the permission, labour inspectors may examine the conditions under which minors will be working. In some cases, labour inspectors conducted private meetings with children and employers, explaining their basic rights and requirements regarding the employment of children. There are additional conditions for the exercise of labour by minors, to protect their health and for the protection of their developing body and psyche.

Penalties are provided for any breaches of regulations on the labour of minors. The employment of minors without the prior permission of the Labour Inspectorate is criminalized, i.e. this offense is a crime. Criminal responsibility is born by an employer who has hired a minor without the permission of the Labour Inspectorate. The penalties are fines and prison for repeat offenders.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

According to data from the Executive Agency “General Labour Inspectorate”, in 2010 it has submitted **129 signals to the prosecutors** via its specialized administration. All signals are sent on the basis of the signal function of the Labour Inspectorate, regulated in Art. 407 of the Labour Code, and most of the signals indicate the respective justification under the Penal Code, as follows:

Pursuant to Art. 192a Penal Code, in relation to Art. 302 or Art. 303 LC, 85 (eighty-five) signals were sent to the prosecuting authorities. The analysis of feedback on these signals received from the Prosecution indicates a majority of refusals to initiate pre-trial proceedings, which are to be sent within 6 months of receiving the signals. This circumstance allows EA “LI” to issue penal provisions to impose administrative criminal liability. Cases where pre-trial proceedings are instituted and brought to the court decision are few and most often end with a ruling of exemption from criminal liability and the imposition of administrative punishment - from 500 to 1000 BGN.

In 2010, 1801 work permissions for children under 18 have been requested from the Executive Agency “General Labour Inspectorate”. The number of children who have applied for work permits under Art. 302 LC, or children under 16 years, is 107. Under this article of the Labour Code, 100 children have received a work permit.

The number of work permits issued to children under 18 during 2010 is 1734, and 1634 were children aged 16 to 18 years.

During this period, the control authorities of the EA “General Labour Inspectorate” have found 114 violations of the regulations of labour legislation aimed at protecting the employment of children under 18 years of age. These instances of violations were reported to the prosecuting authorities due to evidence of crime within the meaning of Art. 192 of the Penal Code.

Questions of ECSR:

Article 7§1

- 1) **The Committee reiterates its request for information on the system introduced to regulate the employment of children in cultural, artistic, sporting and advertising activities (e.g., individual authorization, licensing system); in particular, the Committee is interested what activities have been carried out, whether there is a minimum age to participate and what is the upper limit of work hours/participation in performances/training? The Committee also would like to be informed about the nature of the tasks performed.**

Persons under 15 years of age may be employed in field of the Arts. Employment contract with a person over 14 but under 15 years of age is signed with the written consent of a parent or guardian, which is appended to the contract and the employment contract with a person under the age of 14, is signed by a parent or guardian.

The Labour Inspectorate may issue an employment permit of a person under the age of 15, solely based on the medical report issued by the expert medical commission at hospitals for active treatment. The permit of the inspectorate and the medical report are attached to the contract.

The employer of persons under 15 years of age must ensure the performance of medical control. These individuals are subjected:

1. every 3 months - to a general medical examination;

2. every 6 months - to anthropometric measurements, functional tests of the condition of the cardiovascular and respiratory system, and if necessary – to other special tests.

Employed persons under 15 years of age follow the daily regime established for students of appropriate age in schools. Additional activities such as training, rehearsals, participation in performances, etc. shall comply with the regime under the preceding paragraph. The employer, together with their personal doctor shall prepare an individualized daily regime of exercise and activities for each person under 15 admitted to work.

The specialization of a person under the age of 15 is permitted provided that the individual daily routine provides for his/her overall physical, mental and moral development.

Girls under 15 years of age may not be assigned physical exercise that can cause damage or deformation of organs in the pelvis.

Working time of a person under the age of 15 is determined by the nature of work and age, but not more than 4 hours a day. The working day of a person under the age of 15 has at least one break; its duration may not be less than 30 minutes. When the break coincides or borders with the time allowed for eating, it may not be shorter than 1 hour. The individual daily regime of persons under 15 years provides for a continuous day break of not less than 14 hours.

Persons under 15 years of age involved in circus performances may participate only in the first part of the performances. Persons under 15 years of age involved in theatre, ballet or other performances, as well as in film-making, appear at the location of the show no sooner than 30 minutes before their taking the stage. The head of performance must provide a separate room for these individuals, where they can stay and prepare for the performance under the supervision of a designated adult employee.

The involvement of persons under 15 years of age in shows or filming after 8:00 pm. is expressly prohibited.

Circuses may employ girls aged 14 and boys aged 13, and for participation in movie making, preparation and delivery of theatrical and other performances may be employed persons under the age of 15, under alleviated conditions and in accordance with the requirements for their proper physical, mental and moral development. Employment of people under 16 takes place only after a thorough medical examination and medical opinion that they are fit to perform the job and it will not harm their health or prevent their proper physical and mental development.

Persons under 16 are employed with the permission of the Labour Inspectorate, which is issued separately for each case. The employment of persons between 16 and 18 years of age on job positions that could be difficult, dangerous or harmful to their health and proper physical, mental and moral development. Minors are prohibited from any work that is beyond their physical or mental capacity, related to exposure to harmful physical, biological or chemical effects, and in particular to toxins, cancerogenic substances and agents causing hereditary genetic or intrauterine impairments; related to hazards which cause continuous detrimental effects on human health in any other way; exposed to radiation; at extremely low or high temperatures, noise or vibration; related to risk of occupational accidents, which the underage persons presumably are unable to understand or avoid because of their physical or mental adolescence.

- 2) **The Committee asks for information on the results of the National Plan against the worst forms of child labour and also wants to know how many cases of illegal employment of children (under 15 years old) have been detected by EA “GLI” and what sanctions have been imposed.**

When carrying out checks on compliance with regulations protecting the employment of persons under 18 years of age, the authorities of the General Labour Inspectorate control the lawful employment both of persons aged 15 years, and the employment of children under 15.

During the 2006 - 2010 period, under the specialized campaigns and overall control of compliance with labour legislation performed that was carried out by the General Labour Inspectorate, **no cases of illegal employment of persons under 15 years of age were found.**

Following notifications or information from the media, 3 cases of involvement of children under 15 in television and cinema were examined, where there were doubts about the legality of their employment. Under the checks performed on these three cases, it was found that the relationship regarding the participation of children under 15 in these TV and film productions have been arranged in accordance with the requirements of national legislation.

Apart from these cases, following notifications from institutions - participants in the child labour monitoring system submitted in that period by the Chief Labour Inspectorate, 3 cases have been studied where there was evidence of a potential of employment of children under 15 years of age beyond the limit of exceptions permissible under the Labour Code. Checks in those cases performed by the authorities of the Labour Inspectorate have found that these are not labour relations, and they are not within the sphere of competence of the Labour Inspectorate. In two cases, the relevant departments of "Child Protection" of the Agency for Social Assistance have been informed, so that they may assess these children have been put at risk under the Law on Child Protection.

For more details – please see answer to question 3 of the general presentation /statistical data/.

3) The Committee is interested in how the conditions under which work is performed at home are inspected in practice. In particular, if the Labour Inspectorate can enter homes, under what conditions and on what legal basis?

With regard to this question, it should be pointed out that under Art. 402, para. 1, item 2 of **the Labour Code** control authorities within the sphere of their competence are entitled to visit **at any given time** ministries, other agencies, businesses **and places where work is performed**, the facilities used by employees, and to require from those who are present there to present their identity documents. And according to Art. 402, para. 2 and 4 of the Labour Code, employers, employment authorities, officials and employees are required to assist the control authorities in carrying out their functions, and controlling authorities perform their duties in cooperation with employers, employment authorities, workers and their organizations, and civil servants.

These legal texts enable the control authorities of the Labour Inspectorate to visit all places where work under an employment relationship is being performed, irrespective of the form of ownership of these places. Based on these powers, control authorities may also attend rooms in private homes and/or property where the work is done, to establish the conditions under which such work is done. Such checks are carried out with the assistance of employees performing work at home, in the spirit of cooperation with employers and employees. When carrying out checks to establish work conditions at home, the special personal nature of the rest of the house, such as bedrooms, bathrooms, etc. is taken into account.

As seen from the above data, we believe that currently in Bulgaria there is an effective mechanism for protection of employed persons under 18. National legislation and the control

of its observance ensure an adequate level of protection of the life and health of persons under 18 years of age.

Article 7§2

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

Article 7§3

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

Questions of ECSR:

- 1) **The Committee is interested in whether children are allowed to work before school classes, for how long and what type of work.**

See information provided under Art. 7, para. 1, first question.

- 2) **Regarding the duration of holidays, the Committee notes that children under 18 are entitled to 25 days of paid leave. The Committee is interested in what is the duration of school holidays. In order to assess the situation in conjunction with Article 7§3 of the Revised Charter, the Committee wishes to know whether work is prohibited for a period of at least four weeks during summer holidays. It is also interested in whether work is prohibited for at least half of all vacation time during the school year.**

Pursuant to Art. 305, par. 4 of the Labour Code, employees under 18 are entitled to a basic paid annual leave of not less than 26 working days, including for the calendar year in which they turn 18, which is longer than 25 calendar days.

All requirements are actually controlled by the Labour Inspectorate. Between 15 and 16 years of age, labour is permitted only as an exception. Therefore, it is always studied in detail whether there are reasonable causes for a child of this age to work.

Article 7§4

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please supply any relevant statistics or other information on the proportion of workers not covered by these limits and the reasons why they are not covered, and state whether any particular measures have been taken to assist young persons under 18 who do not benefit from any restrictions on their working hours.

Please see General Information and the information provided under Art. 7.1, first question.

Article 7§5

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.**
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.**
- 3) Please supply any relevant statistics or other information on the remuneration of young workers as well as on other appropriate allowances for apprentices, and on the adult reference wage or salary.**

Questions of ECSR:

- 1) The Committee asked, in its previous conclusion, what the net value of the amounts paid to apprentices at the end of their apprenticeship was. The report does not contain this information, so the Committee repeats its question.**
- 2) With regard to young workers, the report refers to Article 232 of the Labour Code, whereby employers must offer young workers at the end of their apprenticeship a job corresponding to the skills acquired. The Committee asks whether young workers are entitled to the minimum wage or a percentage of the latter, the proportion of young workers who are paid less than the minimum wage, and the amount of the shortfall. The Committee recalls that in its previous conclusion (Conclusions 2004, p. 51-52), it found the legislation in conformity with the requirements of Article 7§5. However, in the light of the findings of the survey conducted in 2000 on issues relating to child labour, it concluded that the situation did not comply with the Revised Charter, due to non-effective application of the legislation. The report does not contain any information that could lead the Committee to consider that the *de facto* situation has been improved. Consequently, it concludes that the situation is still not in conformity.**

The minimum wage determined by the Council of Ministers, pursuant to Art. 244, item 1 of the Labour Code is paid in full to young workers.

Article 7§7

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.**
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.**
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.**

Pursuant to Art. 8, para. 4 lit. 2 of the Labour Code, any waiver of labour rights, such as the right to leave, and any transfer of labour rights or obligations are invalid.

The reasons for postponing the use of paid leave are specifically provided for in Art. 176 of the Labour Code:

“**Art. 176.** (Amended - SG, No. 100 of 1992, Amended and supplemented - SG, No. 25 of 2001, amended - SG, No. 58 of 2010, effective 30.07.2010) (1) due to important manufacturing reasons, the employer may postpone for the following calendar year the use of a part of the paid annual leave of not more than 10 working days.

(2) (new - SG, No. **18 of 2011**, effective 1.03.2011) Upon good cause and upon written request by the employee and with the consent of the employer, the use of paid annual leave of not more than 10 working days may be postponed for the next calendar year.

(3) (Repealed, new - SG, No. **18 of 2011**, effective 1.03.2011) In the cases of para. 1 and 2, the use of a part of the total paid annual leave of not more than 10 working days may be postponed for the next calendar year.

(4) (Previous para. 2; Amended and supplemented - SG, No. **18 of 2011**, effective since 1.03.2011) The use of paid annual leave may also be postponed when during the respective calendar year the employee has been unable to use it in full or in part, because of leave for temporary disability, pregnancy, birth, adoption or parental leave, and because use of other statutory leave.”

Article 7§6, 7§8, 7§9

Please see information provided under Art. 7, para. 1, first question.

Article 7§10

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

The regulatory framework of Bulgaria concerning the **fight against human trafficking** includes the following documents:

1. Penal Code (SG, No. 92/27.09.2002, SG, No. 75/12.09.2006, effective since 13.10.2006, and SG, No. 27/10.04.2009 - Chapter II “Offences Against the Person”, Section IX “Human Trafficking”, Art. 159a-159g of the Penal Code);
2. Criminal Procedure Code;
3. Law on Combating Human Trafficking (SG, No. 46/20.05.2003, amended - SG, No. 15.09.2009);
4. Rules of Organization and Procedure of the National Anti-Trafficking Commission;
5. Rules of shelters for temporary accommodation and centres for protection and assistance to victims of trafficking;
6. Law on Protection of Endangered Witnesses in Connection with Criminal Proceedings (SG, No. 103/2004);
7. Law on the Support and Financial Compensation of Crime Victims (SG, No. 105/2006);
8. Law on Extradition and European Arrest Warrant (SG, No. 46/2005);
9. Law on Legal Aid;
10. Law on Child Protection;
11. Coordination mechanism for referral and care of unaccompanied Bulgarian children returning from abroad.
12. Law on Protection of Endangered Witnesses in Connection with Criminal Proceedings - section “International Cooperation”;

13. Law on the Ministry of the Interior, Section “Exchange of information or data with competent authorities of the Member States of the European Union, for the prevention, investigation and detection of crime” (transposed Framework Decision 2006/960 JHA).

Bulgaria has signed and ratified all major international legal instruments concerning the fight against human trafficking and has harmonized its national legislation with them.

During the reference period, the following legislative changes were adopted:

Penal Code of the Republic of Bulgaria:

“Chapter Two “Crimes Against the Person”, Section VII “Debauchery”

Art. 149. (Suppl., SG, No. 28/1982; amend., SG, No. 89/1986) (1) (Amend., SG, No. 107/1996) Who commits an act in order to arouse or satisfy a sexual desire without a copulation regarding a person under 14 years of age shall be punished for fornication by imprisonment of up to five years.

(2) (Amend., SG, No. 107/1996, suppl. SG, No. 27/2009) If the fornication is committed by using force or threat, using the helpless condition of the aggrieved or by bringing him/her to such a state, or by using a position of dependency or supervision, the punishment shall be imprisonment of two to eight years.

(3) (Amend., SG, No. 107/1996, SG, No. 38/2007) If the act under the preceding paragraphs is repeated, the punishment shall be imprisonment of three to ten years.

(4) (New, SG, No. 107/1996) The punishment for fornication shall be imprisonment of three to fifteen years:

1. if it is committed by two or more persons;

2. (Revoked, SG, No. 62/1997);

3. (Revoked, SG, No. 62/1997);

4. (Revoked, SG, No. 62/1997).

(5) (New, SG, No. 62/1997) The punishment for fornication shall be imprisonment of five to twenty years:

1. if the subject of fornication have been two or more minors;

2. if a serious bodily harm has been incurred or a suicide attempt has followed;

3. if it represents a dangerous recidivism;

4. (New - SG, No. 38 of 2007) if it is a particularly serious case.

Art. 150. (Suppl., SG, No. 28/1982, amended SG, No. 89/1986, SG, No. 107/1996, SG, No. 75/2006) (1) (Prev. art. 150, amended. and supplemented. - SG, No. 27/2009, amended SG, No. 26/2010) Who commits an act with the purpose of arousing or satisfying a sexual desire without copulation regarding a person who has accomplished 14 years of age, by using force or threat, using the helpless condition of the aggrieved or by bringing him/her to such a state, or by using a position of dependency or supervision, shall be punished by imprisonment of two to eight years.

(2) (new - SG, No. 27/2009, amended. SG, No. 26/2010) In especially serious cases, punishment shall be imprisonment from three to ten years.

Art. 151. (1) (Amended - SG, No. 75/2006) Whoever has sexual intercourse with a person who has not accomplished 14 years of age, inasmuch as the act does not constitute a crime under art. 152, shall be punished by imprisonment of two to six years.

(2) (new - SG, No. 27/2009, amended SG, No. 26/2010) Where the act under para. 1 is committed to a minor through benefiting from a condition of dependency or supervision, punishment is imprisonment from one to five years.

(3) (Prev. 2 - SG, No. 27/2009, amended SG, No. 26/2010) Whoever has sexual intercourse with a person under 14 years of age that does not understand the nature or importance of the act shall be punished by imprisonment of up to five years.

Art. 152. (1) Whoever copulates with a female person:

1. unable to defend herself and without her consent;
 2. by compelling her to it by force or threat;
 3. by bringing her to a helpless state,
- shall be punished for rape by imprisonment of two to eight years.

(2) The punishment for rape shall be imprisonment of three to ten years:

1. (Amend., SG, No. 92/2002) if the raped person has not accomplished eighteen years of age;
2. if she is a descending kinswoman;
3. (New, SG, No. 28/1982) if it is committed for a second time.

(3) (Amend., SG, No. 28/1982) The punishment for rape shall be imprisonment of three to fifteen years:

1. if it has been committed by two or more persons;
2. if an average bodily harm has been caused;
3. if a suicide attempt has followed;
4. (New, SG, No. 92/2002) if it has been committed for the purpose of engagement in subsequent lewd activities or prostitution;
5. (Prev. item 4 - SG, No. 92/2002) if it represents a dangerous recidivism.

(4) (Amend., SG, No. 28/1982; Amend., SG, No. 92/2002) The punishment for rape shall be imprisonment of ten to twenty years:

1. if the raped person has not accomplished fourteen years of age;
2. if severe bodily harm has been caused;
3. if a suicide attempt has followed;
4. if it represents a particularly severe case.

Art. 153. (Amended - SG, No. 75/2006) Whoever copulates with a person by forcing him/her through using his/her material or employment dependence on him/her shall be punished by imprisonment of up to three years.

Art. 154. Intercourse between ascendants and descendants, between brothers and sisters and between adopter and adopted shall be punished by imprisonment of up to three years.

Art. 154a. (New - SG, No. 27/2009) Whoever, having given or promised benefit, fornicates or performs sexual intercourse with a minor engaged in prostitution is punishable by imprisonment of up to three years.

Art. 155. (1) (Amend., SG, No. 28/1982; SG, No. 10/1993; SG, No. 62/1997; SG, No. 92/2002; SG, No. 26/2004; SG, No. 75/2006) Whoever persuades another person to prostitute or bawds to fornication or to copulation shall be punished by imprisonment of up to three years and a fine of one thousand to three thousand BGN.

(2) (Amend., SG, No. 10/1993; SG, No. 62/1997) Whoever systematically provides premises to different persons for sexual intercourse or for fornication shall be punished by imprisonment of up to five years and by a fine of one thousand to five thousand BGN.

(3) (New, SG, No. 62/1997; Amend., SG, No. 92/2002, SG, No. 75/2006) The punishment for acts under para. 1 and 2, if it is committed out of mercenary motives, shall be imprisonment of one to six years and a fine of five thousand to fifteen thousand BGN.

(4) (New, SG, No. 21/2000) Whoever persuades or compels another person to use narcotic substances and/or their analogues for the purpose of prostituting, bawds to copulation, homosexual practices or fornication shall be punished by imprisonment of five to fifteen years and a fine of ten thousand to fifteen thousand BGN.

(5) (New, SG, No. 21/2000, amend., SG, No. 92/2002, suppl. SG, No. 75/2006, amend. SG, No. 38/2007) If the act under para. 1-4 has been committed:

1. by a person acting on an order or in fulfilment of a decision of an organised criminal group;
2. against a minor, underage or insane person;
3. against two or more persons;
4. repeatedly;

the punishment for cases under para. 1 and 2 shall be imprisonment from two to eight years and a fine of five thousand to fifteen thousand BGN; for cases under para. 3 – imprisonment from three to ten years and a fine of ten thousand to twenty five thousand BGN, and in cases under para. 4 - imprisonment from ten to twenty years a fine of one hundred thousand to three hundred thousand BGN.

(6) (Prev., para 3; amend. SG, No. 62/1997; prev. para 4, SG, No. 21/2000, repealed SG, No. 75/2006)

(7) (Prev. para. 4 - SG, No. 62/1997, prev. para. 5 - SG, No. 21/2000, amended SG, No. 92/2002, effective 1.01.2005 in respect of probation - amended SG, No. 26/2004, effective 1.01.2004, repealed SG, No. 103/2004).

Art. 155a. (New - SG, No. 38/2007) (1) (Amend. - SG, No. 27/2009, amend. - SG, No. 26/2010) Whoever, in order to contact a person under 18 years of age for fornication, sexual intercourse, prostitution or create pornographic materials makes available on the Internet or otherwise, information about such person, is punished with imprisonment from one to six years and a fine of five thousand to ten thousand BGN.

(2) The same punishment shall be imposed on those who for the purpose of fornication, copulation or sexual intercourse, contact a person under 14 years of age, using information provided on the Internet or otherwise.

Art. 155b. (New - SG, No. 27/2009, suppl. - SG, No. 26/2010) Whoever persuades a person under 14 years of age to participate or observe actual, virtual or simulated sexual intercourse between persons of the same or different sex or indecent exposure of human genitals, bestiality, masturbation, sexual sadism or masochism, is punishable by imprisonment of up to three years or probation.

Art. 156. (Amended - SG, No. 10/1993) (1) (Prev. Art. 156 amend. - SG, No. 62/1997, SG, No. 75/2006) Whoever abducts another person to be given to debauchery shall be punished with imprisonment from three to ten years and a fine of up to one thousand BGN.

(2) (New - SG, No. 62/1997, amend. - SG, No. 75/2006) Punishment is imprisonment from five to twelve years when:

1. the abducted person is under 18 years of age;
2. the abducted person has been given to debauchery, or
3. abduction is made with the intent that the person is given to debauchery outside the country.

(3) (New - SG, No. 75/2006) Punishment is imprisonment from five to fifteen years and a fine of five thousand to twenty thousand BGN, where:

1. the act is committed by a person acting on behalf or under a decision of an organized criminal group;
2. the abducted person has been given to debauchery outside the country;
3. the act represents a dangerous recidivism.

Art. 157. (1) (Suppl. - SG, No. 28/1982, amend. - SG, No. 92/2002, SG, No. 75/2006) Whoever commits sexual intercourse or acts of sexual gratification with a person of the same sex by using force or threat, or uses a position of dependency or supervision, as well as a person unable to defend itself, shall be punished with imprisonment from two to eight years.

(2) (New - SG, No. 75/2006) Where the act under para. 1 is committed against a person under 14 years of age, the punishment is imprisonment from three to twelve years.

(3) (Suppl. - SG, No. 28/1982, amend. - SG, No. 89/1986, SG, No. 62/1997, SG, No. 92/2002, SG, No. 26/2004, prev. para. 2, amend. - SG, No. 75/2006) Whoever commits sexual intercourse or acts of sexual gratification with a person of the same sex under 14 years of age shall be punished with imprisonment from two to six years.

(4) (New - SG, No. 89/1986, previous para. 3, amend. - SG, No. 89/1986, repealed SG, No. 92/2002, amend. SG, No. 26/2004, prev. para. 3, amend. SG, No. 75/2006) Whoever commits sexual intercourse or acts of sexual gratification with a person of the same sex under 14 years of age that does not understand the nature or importance of the act is punishable by imprisonment of two to six years.

(5) (Amended - SG, No. 28/1982, previous para. 4, SG, No. 89/1986, amend. SG, No. 10/1993, SG, No. 92/2002; SG, No. 103/2004, repealed SG, No. 75/2006).

.....

Art. 158a. (New - SG, No. 27/2009) (1) Whoever in any way recruits or forces individual minors or groups of such persons to perform intercourse, fornication, bestiality, masturbation, sexual sadism, masochism or indecent exposure of human genital organs is punishable by imprisonment of up to six years.

(2) If from the act under para. 1 such person has received material benefit, the penalty is imprisonment of up to eight years and a fine up to ten thousand BGN.

(3) Whoever observes sexual intercourse, fornication, bestiality, masturbation, sexual sadism, masochism or indecent exposure of human genitals involving a person whom the perpetrator knows or suspects is recruited or forced under the terms of para. 1 shall be punished with imprisonment of up to three years.

Art. 159. (Amended - SG, No. 28/1982, SG, No. 10/1993, SG, No. 62/1997, SG, No. 92/2002) (1) (Amended - SG, No. 38/2007) Whoever creates, displays, presents, broadcast, offers, sells, rents or otherwise distributes pornographic material is punishable by imprisonment of up to one year and a fine of one thousand to three thousand BGN.

(2) (New - SG, No. 38/2007, suppl. SG, No. 27/2009) Whoever distributes pornographic materials via the Internet or similar methods, shall be punished by imprisonment up to two years and a fine from one thousand to three thousand BGN.

(3) (Prev. para. 2, amend. - SG, No. 38/2007) Whoever displays, presents, offers, sell, rents or otherwise distributes pornographic material to a person under 16 years of age shall be punished by imprisonment of up to three years and a fine of up to five thousand BGN.

(4) (Amend. - SG, No. 75/2006, previous para. 3, amend. SG, No. 38/2007) For acts under para. 1-3, the penalty shall be imprisonment of up to six years and a fine of up to eight thousand BGN, if for the creation of the pornographic material a person under 18 years of age has been used, or a person who looks like one.

(5) (Prev. para. 4, amend. - SG, No. 38/2007) Where the act under para. 1-4 has been performed following orders or under a decision of an organized criminal group, the punishment is imprisonment from two to eight years and a fine of up to ten thousand BGN, and the court can rule confiscation of part or the entire property of the perpetrator.

(6) (Prev. para. 5, amend. - SG, No. 38/2007) Whoever holds or obtains for themselves or for another person through a computer system or otherwise any pornographic material created using a person under 18 years of age, or one that appears as such, is punishable by imprisonment of up to one year or a fine of up to two thousand BGN.

(7) (Prev. 6 - SG, No. 38/2007) The object of the crime shall be forfeited to the state, and if missing or expropriated, its equivalent shall be awarded.

Section IX (New - SG, No. 92/2002) “Human Trafficking”

Art. 159a. (1) (Amend. - SG, No. 27/2009) Whoever recruits, transports, hides or receives individuals or groups to be used for sexual activities, forced labour, the removal of bodily organs, or ones to be held in servitude regardless of their consent, shall be punished with imprisonment from two to eight years and a fine of three thousand to twelve thousand BGN.

(2) Where the act under para. 1 is committed:

1. against a person under eighteen years of age;
2. using coercion or deception;
3. through abduction or illegal deprivation of liberty;
4. using any condition of dependence;
5. through abuse of power;
6. by promising, giving or receiving benefits,

(Amended - SG, No. 27/2009), punishment is imprisonment from three to ten years and a fine of ten thousand to twenty thousand BGN.

(3) (New - SG, No. 75/2006, amend. SG, No. 27/2009) Where the act under para. 1 is committed against a pregnant woman to sell her child, punishment is imprisonment from three to fifteen years and a fine of twenty thousand to fifty thousand BGN.

Art. 159b. (1) (Amended - SG, No. 27/2009) Whoever recruits, transports, hides or receives individuals or groups of people and leads them through the border of the country with the purpose of art. 159a, para. 1 shall be punished with imprisonment from three to twelve years and a fine of ten thousand to twenty thousand BGN.

(2) (Supplemented - SG, No. 75/2006, amend. SG, No. 27/2009) If the act under para. 1 is committed under the terms of Art. 159a paras. 2 and 3, the punishment is imprisonment from five to twelve years and a fine of twenty thousand to fifty thousand BGN.

Art. 159c. (New - SG, No. 27/2009) Whoever uses a person affected by trafficking for sexual activities, forced labour, for the removal of bodily organs or to be held in servitude regardless of consent shall be punished with imprisonment from three to ten years and a fine of ten thousand to twenty thousand BGN.

Art. 159d. (Prev. art. 159c amend. - SG, No. 27/2009) Where the act under art. 159a - 159c represents a dangerous recidivism or is committed following an order or under a decision of an organized criminal group, the punishment is imprisonment from five to fifteen years and a fine of twenty thousand to one hundred thousand BGN, and the court may also order the confiscation of some or the whole property of the perpetrator.”

“Chapter Four “Crimes against marriage, family and youth”, Section I “Crimes against marriage and family”:

Art. 177. (1) Whoever compels somebody by violent means to enter into marriage and because of that circumstance the marriage is annulled, shall be punished with imprisonment of up to three years.

(2) Whoever abducts a female person to compel her to marry shall be punished with imprisonment of up to three years, and if the victim is a minor, the penalty is imprisonment of up to five years.

Art. 178. (1) (Amended - SG, No. 28/1982, SG, No. 10/1993) A parent or other relative who receives ransom in exchange for permission to marry his/her daughter or female relative shall be punished by imprisonment of up to one year or a fine of one hundred to three hundred BGN, and a public reprimand.

(2) The same penalty shall be imposed on a person who gives or mediates in the giving or receiving of such a ransom.

Art. 181. Whoever violates their obligation to a spouse, ascendant or descendant relative, who is unable to care for themselves, and thus puts him/her in a situation of serious difficulty, unless the act represents a more serious crime, is punishable by probation, and a public reprimand.

Art. 182. (1) (Amended - SG, No. 26/2010) A parent or guardian who leaves a person placed under their parental care or guardianship without supervision and adequate care, thus creating a danger to his/her physical, mental or moral development shall be punished by imprisonment of up to three years and a public reprimand.

(2) (New - SG, No. 28/1982, amend. SG, No. 10/1993, SG, No. 26/2010) A parent or other relative who fails to implement or in any way frustrates the implementation of a court decision on custody or on personal contact with a child is punishable by probation or a fine of one hundred to three hundred BGN, and in particularly severe cases - by imprisonment of up to six months or a fine of up to three thousand BGN.

(3) (New - SG, No. 28/1982) The perpetrator shall not be held liable if, after due warning by the authorities complies with the ruling or removes the obstacles to implementation of the court decision. This provision may be applied only once.

Art. 182a. (New - SG, No. 26/2004) (1) (Amended - SG, No. 26/2010) Whoever for material benefit persuades a parent by donation, promise, threat or abuse of official position to abandon their child or to consent to adoption, shall be punished by imprisonment of up to three years and a fine of up to two thousand BGN.

(2) The punishment under para. 1 is imposed on a person who persuades a minor to consent to adoption when the law requires it.

(3) Whoever, with the purpose of drawing illegal material benefit, mediates between the person or family wishing to adopt a child and a parent willing to abandon their child or a woman who agrees to carry a child in her womb in order to later submit it for adoption, shall be punished with imprisonment of up to two years and a fine of up to three thousand BGN.

(4) If the act under para. 3 is repeated, the punishment shall be imprisonment of three years and a fine of up to four thousand BGN.

Art. 182b. (New - SG, No. 75/2006) (1) A female person who consents to the sale of her child at home or abroad shall be punished with imprisonment from one to six years and a fine of five thousand to fifteen thousand BGN.

(2) The punishment under para. 1 is also imposed on a pregnant woman who consents to sell her child before birth.

Art. 183. (1) (Amended - SG, No. 95/1975, SG, No. 28/1982, SG, No. 92/2002, with effect since 1.01.2005, in respect of probation – amended SG, No. 26/2004, effective 1.01.2004, SG, No. 103/2004, suppl. SG, No. 47/2009, effective 1.10.2009) Whoever, being ordered by court to support his/her spouse, ascendant, descendant, brother or sister, knowingly fails to fulfil this obligation in the amount of two or more instalments shall be punished by imprisonment of up to one year or probation.

(2) The same punishment shall be imposed on a person who deliberately puts him/herself in an inability to provide support, by either transferring their property, by not exercising their rights or otherwise.

(3) (Amended - SG, No. 28/1982) The perpetrator shall not be punished if, before the sentence of the first instance court, fulfils the obligation and no other adverse effects are suffered by the victim. This provision may be applied only once.

(4) (Amended - SG, No. 92/2002, effective 1.01.2005 in respect of probation - amended SG, No. 26/2004, effective 1.01.2004) If the act under para. 1 and 2 is repeated, the penalty is imprisonment of up to two years or probation and public reprimand.

Art. 184. (1) Any person who intentionally replaces, hides or abandons a small child or otherwise conceals or replaces the status of another person, shall be punished with imprisonment of up to two years.

(2) (Amended - SG, No. 28/1982, SG, No. 10/1993) If this is done with mercenary motives, punishment is imprisonment of up to three years and a fine of one hundred to three hundred BGN.

Art. 185. (1) (Amended - SG, No. 26/2010) Whoever wilfully takes home and keeps a child stranger under fourteen years of age, and fails to immediately notify the authorities or return it to the parents or guardians shall be punished by imprisonment up to three years.

(2) (Amended - SG, No. 28/1982, SG, No. 10/1993, SG, No. 26/2010) If this has been made with the use of violence, intimidation or fraud, or with the intent to use child for selfish or immoral purposes, the punishment is imprisonment from one to six years and a fine of five thousand BGN.

Art. 186. (Amended - SG, No. 28/1982, SG, No. 10/1993, SG, No. 26/2010) Whoever gives shelter to a homeless or stray child of less than seven years of age and fails to immediately report this to the authorities, the parents or guardians shall be punished by imprisonment of up to one year or by probation.

Section II “Crimes Against Youth”

Art. 187. (Amended - SG, No. 26/2010) Whoever tortures a minor or underage person, placed under their care or whose education is entrusted to them, unless the act represents a more serious crime, is punishable by imprisonment of up to three years or probation, and public reprimand.

Art. 188. (1) Whoever compels a minor to commit a crime or to prostitution is punishable by imprisonment of up to five years and public reprimand.

(2) When this has led to harmful consequences for the physical, mental or moral development of the victim, unless the act represents a more serious crime, the punishment is imprisonment from one to six years and public reprimand.

Art. 189. (1) (Amended - SG, No. 10/1993, SG, No. 27/2009) Whoever systematically used for beggary a person placed under their care, shall be punished by imprisonment of up to one year or a fine of one thousand to three thousand BGN.

(2) If the perpetrator is a parent or guardian of the victim, the penalty is imprisonment of up to two years or probation and public reprimand.

Art. 190. Whoever abuses their parental power to compel their child under the age of 16, to live with another person on marital grounds shall be punished by imprisonment of up to three years or probation, and public reprimand.

Art. 191. (Amended - SG, No. 28/1982) (1) An adult who, without marriage, lives on marital grounds with a female person under the age of 16, shall be punished by imprisonment of up to two years or probation, and public reprimand.

(2) An adult person who persuades or facilitates an underage male and a female under 16 years of age to live on marital grounds without them being married, shall be punished with imprisonment of up to two years or with probation.

(3) (Amended - SG, No. 89/1986) If the act under the preceding paras is committed to a person under 14 years of age, the punishment is imprisonment from two to five years.

(4) In cases under para. 1, the offender is not punished and the punishment is not imposed, if prior to enforcement of the sentence, a marriage between the man and the woman takes place.

Art. 192. (1) (Prev. art. 192, amended - SG, No. 28/1982, SG, No. 10/1993, SG, No. 26/2010) A parent or other relative who receives ransom in order to allow their daughter or female relative under 16 years old to live on marital grounds with another person shall be punished by imprisonment of up to two years or a fine of up to three thousand BGN.

(2) (New - SG, No. 28/1982) The same punishment shall be imposed on one who gives or mediates in the giving of such ransom.

Art. 192a. (New - SG, No. 26/2004) (1) (Amended - SG, No. 27/2009) Whoever, without proper authorization, hires a person under the age of 18 shall be punished by imprisonment of up to six months and a fine of one thousand to three thousand BGN.

(2) (Amended - SG, No. 27/2009) If the act under para. 1 is committed against a person under the age of 16, the penalty is imprisonment of up to one year and a fine of three thousand to five thousand BGN.

(3) (Amended - SG, No. 27/2009) If the act under para. 1 is repeated, the penalty is imprisonment of up to one year and a fine of two thousand to five thousand BGN, and under par. 2 - imprisonment of up to three years and a fine of three thousand to eight thousand BGN.

Art. 193. (Amended - SG, No. 28/1982, SG, No. 89/1986, SG, No. 10/1993) (1) (Amended - SG, No. 92/2002) Whoever inebriates with alcoholic beverages a person under 18 years of age or an insane person shall be punished by imprisonment of up to six months or a fine of up to five hundred BGN.

(2) (Amended - SG, No. 92/2002, SG, No. 27/2009) Whoever sells alcoholic beverages to a person under 18 years of age or an insane person for personal use shall be punishable by a fine of up to one thousand BGN and probation, and if doing this systematically - by imprisonment of up to three years and a fine of up to three thousand BGN.”

Note: In addition to the above cited provisions of the Penal Code of the Republic of Bulgaria, the text of the Law on Combating Human Trafficking is also attached.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

In 2002, changes were made to the Penal Code by including a section “Human Trafficking” to Chapter “Crimes against the Person” (SG, No. 92/2002).

In October 2006, as a result from a number of cases of trafficking of pregnant women to sell their babies in EU countries (mostly in Greece), more changes in the Penal Code were made, which criminalized the act (Art. 159a). A separate clause provides for punishment for mothers who agree to sell their children, both domestically and abroad (Art. 1826).

In May 2007, amendments to the Penal Code introduced a new Article 155a. According to paragraph 1 of this Article, “whoever, in order to contact a person under 18 years of age for fornication, sexual intercourse, prostitution or create pornographic materials makes available on the Internet or otherwise, information about such person, is punished with imprisonment from one to six years and a fine of five thousand to ten thousand BGN.” The introduction of this new clause in the Penal Code can be taken as a measure against abuse of Internet communications for recruitment of victims of trafficking.

In 2009, a working group of the Ministry of Justice prepared a draft law amending and supplementing the Penal Code. An essential part of the changes are related to the preparation of Bulgaria for the ratification of the Convention of the Council of Europe on the Protection of Children from Sexual Exploitation and Sexual Abuse (signed by Bulgaria on October 25, 2007) and the need to bring the provisions of Bulgarian legislation in compliance with those of the Convention relating to substantive criminal law and regulations governing the participation of child victims in criminal proceedings. In this regard, the Ministry of Justice performed an *Analysis of the compliance of the said Convention of the Council of Europe with the relevant Bulgarian legislation, including the Penal Code and Criminal Procedure Code*, which showed that, although domestic legislation is largely in line with standards of the new international instrument, legislative amendments in Bulgarian legislation will be necessary. Legislative changes were also justified by the fact that the new Convention is a comprehensive legal instrument that includes all aspects relevant to the protection of children against sexual violence and also brings added value in this aspect, which necessitated the introduction of new offenses in Bulgarian Penal Code – e.g. “Corruption of children” under Art. 22 of the Convention, the criminalization of knowingly using the services of a prostituting child (Article 19, paragraph 1, letter c) of the Convention); crimes related to involvement of children in pornographic activities (Article 21 of the Convention) and others. Thus, with the amendments to the Penal Code (PC) passed by the National Assembly on April 2, 2009 – promulgated in SG, No. 27 April 10, 2009, Chapter II “Offences against the person”, Part VIII “Debauchery”, the new standards established by the Convention of the Council of Europe with the purpose to protect children against sexual exploitation and sexual abuse were introduced in Bulgarian legislation. The following new offenses were created:

- Art. 154a. (Whoever, having given or promised benefit, fornicates or performs sexual intercourse with a minor engaged in prostitution is punishable by imprisonment of up to three years.)

- Art. 155b. (Whoever persuades a person under 14 years of age to participate or observe actual, virtual or simulated sexual intercourse between persons of the same or different sex or indecent exposure of human genitals, bestiality, masturbation, sexual sadism or masochism, is punishable by imprisonment of up to three years or probation.)

- and Art. 158a. of the Penal Code ((1) Whoever in any way recruits or forces individual minors or groups of such persons to perform intercourse, fornication, bestiality, masturbation,

sexual sadism, masochism or indecent exposure of human genital organs is punishable by imprisonment of up to six years.

(2) If from the act under para. 1 such person has received material benefit, the penalty is imprisonment of up to eight years and a fine up to ten thousand BGN.

(3) Whoever observes sexual intercourse, fornication, bestiality, masturbation, sexual sadism, masochism or indecent exposure of human genitals involving a person whom the perpetrator knows or suspects is recruited or forced under the terms of para. 1 shall be punished with imprisonment of up to three years.

Furthermore, in accordance with the relevant articles of the Convention of the Council of Europe and in particular the provisions of Chapter VI "Substantive Criminal Law", new paragraphs were created or supplemented in the following Articles of Section VIII "Debauchery" of PC - Art. 149, par. 2, Art. 150, par. 1 and par. 2 (new); Art. 151, par. 2 (new) and par. 3, Art. 155a), par. 1, Art. 159, par. 2. Amendments to Art. 155a), par. 1 and Art. 159, par. 2 were designed to meet the increasing number of cases of abuse of the Internet, and also of other communication and information technologies and tools, for the creation of pornographic materials that make use of minors, as well as for sex crimes against children and for distribution of child pornography via the Internet or in a similar way.

In general, legislative changes and alignment of Bulgarian criminal law with the Convention of the Council of Europe on the Protection of Children from Sexual Exploitation and Sexual Violence were primarily aimed to address new forms of criminal offenses against the sexual integrity of minors, among which an important place is undoubtedly occupied by the need of a timely response to the abuse of information and communication technologies and the "demand" of the services of children who engage in prostitution. No less important to ensure the normal psychological and physical development of children is the criminalization of the so-called act of "Corruption of children" which results from performing the act under the new art. 155b) of the Penal Code, without requiring the participation of a minor in activities under that Article.

With the above amendments to the Penal Code, adopted by the National Assembly on April 2, 2009 (published in SG, No. 27 April 10, 2009), Chapter II "Offences against the Person", amendments were also made in Section IX "Human Trafficking" and the penalties provided different offences of trafficking have been raised, including where the victim is a minor - the amount of punishment of "imprisonment" and the fines, and a new criminal offence was created - Art. 159c) (new). It criminalises the deliberate use of a person affected by trafficking for sexual activities, forced labour, for the removal of organs or to be held in servitude regardless of consent. This new criminal offence introduces in Bulgarian legislation art. 19 "Criminalization of the use of victim services" of the Convention of the Council of Europe against Human Trafficking (ratified by the Republic of Bulgaria with a law adopted on 7.03.2007, promulgated in SG, No. 24 of 20/03/2007, in force for Bulgaria since 1.02.2008), according to which: *"Each Party to the Convention shall consider adopting such legislative and other measures to establish as criminal offenses under its national legislation the use of services that are the object of exploitation as laid down in Art. 4 letter a) of this Convention, with the knowledge that the person is a victim of human trafficking."* Although Art. 19 of that Convention of the Council of Europe does not create an obligation to criminalize in the domestic law of Member States the knowing use of the services of victims of trafficking, the Ministry of Justice justified this proposal to introduce such criminal offence in the Bulgarian Penal Code with the need to increase the effectiveness of combating and prosecuting trafficking by addressing the problem of "demand" and "use" of services of victims of such crime.

No less important were the actions taken by the Bulgarian Party to increase penalties for certain particularly socially objectionable offences against children. In this regard, the Working Group in the Ministry of Justice prepared a draft law amending the Penal Code which was approved by the Council of Ministers on 18 November 2009. The draft law was passed by the National Assembly (NA) on March 24, 2010, promulgated in SG, No. 26 of 6.04.2010, and is effective 10.04.2010. With that law, the penalties for some particularly socially reprehensible attacks against the person of minors were increased, which was consistent both with the frequent attacks against adolescents, and international commitments of the Republic of Bulgaria. Articles where penalties were increased criminalize: the criminal molestation by force or threat or use of a helpless condition or state of supervision (Art. 150 PC), criminal sexual intercourse with a minor or mentally disabled person using a position of dependency, supervision or mental disability (Art. 151, para. 2 and 3 PC), establishing contact with a minor for the purpose of fornication (Art. 155a PC), solicitation of a minor to participate or observe sexual scenes (Article 155b PC) and the torture and neglect of children (Art. 182 and Art. 187 PC). All crimes against marriage, family and youth are currently pursued under the general procedure with the repeal of Art. 193a of the Penal Code, thereby ensuring proper and timely exercise of state coercion against the perpetrators of such crimes.

The Bulgarian **Law on Child Protection**, art. 1 (2) “The state protects and guarantees the fundamental rights of the child in all spheres of public life for all groups of children according to age, social status, physical health and mental state, providing all with the appropriate economic, social and cultural environment, education, freedom of expression and security.” The definition of a child under the Law on Child Protection: a child under this Act is any person less than 18 years old (art. 2).

The Law on Child Protection regulates the compulsory hearing of the child in any administrative or judicial proceedings, which affect its rights or interests, if the child has completed 10 years of age (Article 15). It can also be heard if still under 10, depending on the degree of its development. In each case, the court or administrative body notifies the Directorate “Social Assistance” which sends a representative, and if failing to do so, submits a social report. The child is entitled to legal aid and appeal in all proceedings affecting his/her rights or interests.

Children victims of trafficking require the highest level of protection and the creation of special conditions for hearing, to prevent their traumatisation. In response to these requirements, from the beginning of 2009, special premises in the building of the Sofia Directorate of Interior (SDVR) have been suited for the interrogation of children. The premises consist of two rooms - one decorated in a style appropriate for children, and the other room designed for suspect identification, separated by mirrored glass, behind which stands the child. A one-off hearing in the presence of a judge and a prosecutor is held, and attendance of the child in the courtroom is not required. Special premises for the hearing of children have also been created by NGOs under individual projects. A specially adapted room for the hearing of children has been made at the crisis centre for children affected by violence or victims of trafficking in Pazardzhik.

Under Bulgarian law, mandatory free legal aid is allowed to the child or young victim when it has no legal representative, in cases where its interests conflict with the interests of his/her parent /guardian or trustee/. Under the **Law on Legal Aid** (LLA, effective January 1, 2006), the legal representatives of children victims of crime have the right to primary legal aid in the form of consultation and/or preparation of documents for a court case, if they receive or are eligible for receiving social assistance under the Regulations implementing the Law on Social Assistance.

In 2003, with the adoption of the **Law on Combating Human Trafficking**, the measures of the state for protection of victims of trafficking and for prevention were defined.

Basically, the law provides a broad definition of “human trafficking”, focuses on prevention and protection of victims of trafficking, places special focus on women and children, cooperation between governmental and non-governmental organizations in the creation of the national policy to combat human trafficking, etc. It provides for the creation of a National Anti-Trafficking Commission (BNATC) to the Council of Ministers, which is entrusted with defining and managing the policy of Bulgaria to combat human trafficking, and with organizing and coordinating interaction between various agencies and organizations for the implementation of the Law against human trafficking. BNATC develops an annual National Programme for the Prevention and Combating of Human Trafficking.

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(...) assistance of the Bulgarian mission to the International Organization for Migration. The coordination mechanism is complex in nature and includes a multidisciplinary and inter-institutional approach to tackle the problem. The mechanism has imposed uniform standards and practices for dealing with cases of unaccompanied children and the principle of cooperation and timely warning to take measures to protect children in their best interest. On December 7, 2010, the Minister of Interior, the Minister of Labour and Social Policy, the Minister of Foreign Affairs, the State Agency for Child Protection and the Executive Director of the Social Assistance Agency signed an updated version of the Coordination mechanism for referral and care of cases of unaccompanied children and children victims of trafficking, returning from abroad.

Crisis centres for children victims of abuse and human trafficking:

Crisis centres are placed under the jurisdiction of the Social Assistance Agency, and the Agency is responsible for their detection, care for child victims and their complete financial security. According to Agency data, by the end of 2010, there were 12 crisis centres in the country with a total capacity of 123 children. The centres are located in 12 different Bulgarian towns identified as safe places for the rehabilitation and reintegration of children in society.

In the context of the general problem of human trafficking in Bulgaria, the National Anti-Trafficking Commission and the “Animus Association” have developed a **National Mechanism for Guidance and Assistance to Victims of Trafficking**.

This mechanism is a framework for cooperation and coordination between state agencies regarding the care for victims of trafficking. The main objectives of the National Mechanism are to ensure the human rights of trafficking victims and to provide effective care and referral of victims to appropriate services. The National Mechanism is consistent with all laws in the country concerning the status of victims and their needs. It provides guidance for implementing the measures for protection and assistance to victims of trafficking, as provided in the Law against Human Trafficking, including providing unconditional support, providing a period for reflection, special protection status for the duration of criminal proceedings, and confidentiality and protection of personal data. Special attention is paid to cases of children victims of trafficking, and citizens coming from countries outside the European Union, identified as victims of trafficking on the territory of the Republic of Bulgaria.

International cooperation

In 2009-2010, the BNATC worked closely with the Ministry of Interior - Sector “Human Trafficking” at the Chief Directorate “Combating Organized Crime” (CDCOC), the Dutch Agency for International Business and Cooperation (EVD), Department for International Social Cooperation, Department for International Police Cooperation (IPOL) to the Dutch Police Agency (KLPD), the Ministry of Interior of the Netherlands and the Ministry of Foreign Affairs of the Netherlands under the project **“Human Trafficking in Bulgaria and the Netherlands - Joint Counter Efforts”**. The project’s objective was to increase efficiency of work and capacity of Bulgarian institutions to combat trafficking and protect victims.

The BNATC is a partner in the project **“Reducing the number of victims of trafficking from Bulgaria and Romania exploited in Italy and Spain”** of the Romanian National Agency for Combating Human Trafficking. The project is implemented within the framework of goal 3.2 of European Union’s Plan for good practices, standards and procedures for combating and preventing human trafficking: “to prevent trafficking in countries of origin,

transit and destination by raising awareness of possible risks and expansion of prevention of crime and criminal justice in the EU, including the successful prosecution of traffickers.” The main project partners are the Department for Rights and Equal Opportunities, Italy; Chief Police Directorate for the Civil Guard, Spain, the Centre for Combating Human Trafficking in the UK.

Prevention

In 2010, the BNATC conducted **information campaigns**, of which the following were of larger scale:

Campaign to prevent human trafficking for sexual exploitation, aimed at consumers of sexual services;

In October 2010, the Local Committee for combating human trafficking in the city of Burgas organized an awareness campaign “Human Trafficking - I know, I chose otherwise” on the occasion of 18 October - European Day against human trafficking. In the events on that day, volunteers in Ruse handed out leaflets at border post “Danube Bridge”. Within the framework of prevention activities of the Council of Europe, the BNATC printed and disseminated a comic book for children “You're not for sale”. In the period September-October 2010 and also in February 2011, the BNATC in partnership with “Partners Bulgaria” Foundation and the financial support of the “Hans Seidel” Foundation conducted several trainings for volunteers under the “peer training” method, and the main topics were related to the prevention of all types of hazards and risks for young people, including human trafficking. At the end of 2010, training of school counsellors and teachers on “trafficking” was launched in Burgas, Montana (with participants from Vratsa), Pazardjik, Sliven (with participants from Yambol), Plovdiv, Sofia and Shumen. Training events were conducted under the Project “Bulgaria - Netherlands - joint efforts in combating human trafficking 2009-2010”. The participants received theoretical information on human trafficking, the causes and mechanisms for getting in traffic and vulnerable and risk groups. Participants were acquainted with practical prevention models and approaches, but also with key elements of school-based programmes aimed to prevent trafficking, where students discuss the problem of human trafficking and get acquainted with the risks of trafficking as a dangerous antisocial phenomenon.

Within the project “Bulgaria - Netherlands - joint efforts in combating human trafficking 2009-2010”, a Handbook for trainers, teachers, school counsellors and social workers was prepared by experts of BNATC, BLATC, trainers of school counsellors and teachers. The main purpose of the handbook is to assist the conduct of various trainings on the topic of human trafficking, its causes and consequences. The handbook includes information materials, case studies and lessons on some key aspects of the problem “human trafficking”. The topics are models and persons leading the training or group work may shape them to the needs of their audience – according to their level of awareness, age, social experience, experience with violence and others.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

In connection with changes in legislation over the past 5 years, a relative stability and a slight increase in prosecutions for human trafficking in Bulgaria has been observed. The approximate ratio between cases of domestic and international human trafficking is 55% to 45%. There is a clear trend in international trafficking for victims to be trafficked to different countries for different purposes. For example, for labour exploitation - in Greece, Italy and

Spain, trafficking of pregnant women for the sale of newborns – Greece, involvement of minors into begging and petty theft - Greece and the UK, for sexual exploitation - Belgium, Germany, Holland, France. And in 2010, the sexual exploitation of victims remains the primary objective of traffickers.

According to data of the Supreme Cassation Prosecutor's Office of Bulgaria for 2008, 30 girls aged between 14 and 18 were victims of sexual exploitation, for 2009 - 60 girls, for 2010 juvenile victims of trafficking are 91 (89 girls and 2 boys).

In 2010, the State Agency for Child Protection has worked on a total of 48 cases under the Coordination mechanism for referral and care for unaccompanied Bulgarian children and victims of child trafficking returning from abroad. 34 girls and 14 boys are victims of trafficking for labour or sexual exploitation. Cases of children are from the following countries: Greece - 13, France -10, Germany – 6, Austria – 6, Italy – 4, Poland – 2, Bosnia and Herzegovina -2, Finland – 1, Portugal-1, Slovakia - 1. Of these, 15 cases are of children victims of sexual violence and exploitation, and 2 cases are of trafficking and sale of babies. Of the 15 cases of children victims of sexual violence and exploitation, 8 were of Bulgarian boys from the city of Bordeaux, France.

According to information provided by the Supreme Cassation Prosecutor's Office, in 2009, 64 pre-trial proceedings have been brought and 20 prosecutor's acts have been sent to the courts against 25 persons, for crimes under Art. 159a, para. 2 and Art. 159b, para. 2 of the Penal Code for crimes against persons under 18 years accomplished by promising, giving or receiving benefits. In 2009, two pre-trial proceedings were instituted for offenses under Art. 149, para. 1 of the Penal Code (fornication with minors) against foreign nationals. In 2009, "trafficking" charges (Article 159a - Art. 159d of the Penal Code) were brought against 91 persons, 5 of them foreign nationals. All foreign nationals have been charged with human trafficking for sexual exploitation.

For 2010, there are 163 new pre-trial proceedings on human trafficking and for the same period, 115 imprisonment convictions were pronounced, 4 sentences of probation, 59 fines and 1 other sentence, for a total of 130 convicted persons.

Questions and conclusion of ECSR:

Protection from Sexual Exploitation:

- 1) **The Committee notes that the Penal Code criminalizes the sexual exploitation of children, child pornography and child trafficking, including sex tourism. The Committee asks for confirmation that the legislation on trafficking and prostitution refers to all persons under 18 years of age. As regards the legislation on child pornography, the Committee notes that the mere possession of child pornography is now a crime. The Committee is interested in whether the crimes described above are subject to extraterritorial jurisdiction.**

In 2008 and 2009, a working group within the Ministry of Justice prepared a draft law amending and supplementing the Penal Code. With the amendments to the Penal Code adopted by the National Assembly on April 2, 2009, the following **new criminal offenses** were created - knowing use of the services of a prostituting underage child (**Article 154a**), coercion, inducement or driving a child under 14 years any way to attend the acts of sexual violence or sexual acts, with or without taking part (**Art. 155b**), recruitment or forcing of individual minors or groups of minors to perform sexual acts such as sexual intercourse, fornication, bestiality, masturbation, sexual sadism, masochism or indecent exposure of human genital organs (**Article 158a**) of the Penal Code.

The amendments to the Penal Code of April 2009 introduced changes in Section IX “Human Trafficking”. They criminalized the **recruitment, transportation, hiding or receipt of individuals or groups of people, including illegal crossing of the border of the country, to be used for sexual activities, forced labour, for the removal of organs or to be held in involuntary obedience regardless of their consent (compilation between Art. 159a and Art. 159b)**, and the penalties were increased **(the duration of the punishment of “imprisonment” and fines) that may be imposed on different offences, including in cases where the victim is a minor**. The most serious punishment is for offenses committed against a pregnant woman to sell her child - punishable by imprisonment from 3 to 15 years and a fine of 20 to 50 thousand BGN. (Art. 159, para 3).

A new criminal offence was created - **Art. 159c), which criminalises the deliberate use of a person affected by trafficking** for sexual activities, forced labour, for the removal of organs or to be held in servitude regardless of consent.

In 2010, some proposals to amend the Penal Code /CC/ were prepared, with the purpose of increasing penalties for certain socially objectionable offenses against children considered to be criminal offences.

In 2010, 15 proposals for amendments to certain texts of the Penal Code were published and entered into force; one of them is in the general section and the remaining 14 - in other sections of the special part, such as “Bodily Injury”, “Debauchery” and “Crimes against Youth and the Family”. These proposed and adopted changes to the Penal Code are in relation to offenses against children. The changes have increased the penalties for some particularly socially reprehensible attacks against the person of minors, namely for criminal molestation by force or threat or use of the helpless condition or state of supervision for performance of criminal intercourse with a minor, by using a position of dependency, supervision or mental disability; for establishment of contact with a minor for fornication; for soliciting a minor to participate in or observe sexual scenes; for soliciting a minor to marry or live with another person on marital grounds, forcibly or for ransom; and for torture and neglect for adolescents. All crimes against marriage, family and youth were proposed to be prosecuted under the common procedure, in order to ensure proper and timely exercise of state coercion against the criminal offenders.

These changes are consistent with international trends in criminal law, under which countries, including Bulgaria, seek convergence of their penal systems to limit the options of offenders to use “softer” criminal systems that penalize certain crimes less severely.

No special legal definition of the term “socially reprehensible attacks against children” was introduced in the amendments; it was considered that such a definition is not necessary, in view of the total system of basic criminal law definitions given in the general section of the Penal Code. The result sought with the definition of “socially reprehensible attacks against children” was achieved through the system of changes in penalties for crimes committed against children. Increasing the minimum and maximum levels of penalties is meant to express the understanding of the legislator that such offences of child abuse pose a high degree of public danger and require the respective levels of reprimand.

In terms of “extraterritorial jurisdiction”, we would like to offer that ECSR is provided with the following excerpt from the Penal Code, which confirms that: as regards criminal offences contained in the with Penal Code, including offences against the sexual inviolability of minors, child trafficking and crime against marriage, family and youth, the competent authorities may institute prosecution in cases where the above crimes were committed outside the territory of Bulgaria against a minor who is a Bulgarian citizen, *or* were committed outside the territory of the Republic of Bulgaria by a person who is a Bulgarian citizen, *and*

that the Penal Code also applies to crimes committed by foreigners abroad, when provided for in an international agreement to which is the Republic of Bulgaria is a signatory.

Penal Code (PC):

“Art. 4. (1) The Penal Code shall apply for the Bulgarian citizens and for the crimes committed by them abroad.

(2) (Amended – SG, No. 75/2006) A Bulgarian citizen shall not be handed over to a foreign state or to an international court for trial or to sustain conviction, unless this is provided for in an international agreement, ratified, promulgated and effective in the Republic of Bulgaria.

Art. 5. The Penal Code shall also apply for foreigners who have committed crime of general nature abroad, affecting the interests of the Republic of Bulgaria or of a Bulgarian citizen.

Art. 6. (1) The Penal Code shall also apply regarding foreigners who have committed crime abroad against the peace and mankind, thus affecting the interests of another country or foreign citizens.

(2) The Penal Code shall also apply for other crimes committed by foreigners abroad, wherever stipulated by an international agreement to which the Republic of Bulgaria is a party.

- 2) **The Committee notes that the information submitted shows positive developments in this area and a trend of reduction in the number of trafficked children, however, it believes that the number of children involved is still too high, which means that these measures have not yet become fully effective. The Committee would like the next report to provide information on the results of measures taken to reduce the sexual exploitation of children, including trafficking of minors.**

Children are made victims of trafficking for sexual and labour exploitation. The most vulnerable for the purposes of labour exploitation (begging and pick pocketing) are children aged 6 to 13, and for purposes of sexual exploitation - children aged 13 to 18.

In many cases, children are initially trafficked for begging and pick-pocketing and having reached the required age, begin to be used for the purposes of sexual exploitation, i.e. there are children (mostly girls) who have spent all their childhood in various types of exploitation.

Data for children victims of trafficking over the past three years are as follows:

For 2008:

The State Agency for Child Protection, under the Coordination mechanism for referral and care for cases of unaccompanied Bulgarian children and children - victims of trafficking returning from abroad, has coordinated **71 cases of children**, of which 43 from Greece, 4 children from Austria, 1 child from Spain, 3 children from Switzerland, 1 child from Belgium, 1 child from the Czech Republic, 1 child from Cyprus, 1 child from Romania, 2 children from Italy, 5 children from Germany, 2 children from France, 5 children from the Netherlands and 2 children from Denmark;

The Chairperson of the SACP has suggested to the Minister of Interior imposition of **51** measures under Article 76a of the Law on Bulgarian Identity Documents, in view of preventing the re-trafficking of children and their involvement in activities unsuitable for their development under Article 11 of the Law on Child Protection.

For 2009:

The State Agency for Child Protection, under the Coordination mechanism for referral and care for cases of unaccompanied Bulgarian children and children - victims of trafficking

returning from abroad, has coordinated **30 cases of children**, of which 11 from Austria, 7 from Greece, 5 from Germany, 2 from Denmark, 2 from Netherlands, 1 from Turkey, 1 from Australia and 1 from Belgium /25 girls and 5 boys/;

The Chairperson of the SACP has suggested to the Minister of Interior imposition of **36** measures under Article 76a of the Law on Bulgarian Identity Documents, in view of preventing the re-trafficking of children and their involvement in activities unsuitable for their development. The number of repatriated children is 16, 11 of which have spent periods in a crisis centre, all between 11 and 17 years of age;

In 2010, the State Agency for Child Protection has worked on a total of **48** cases under the Coordination mechanism for referral and care for cases of unaccompanied Bulgarian children and children - victims of trafficking returning from abroad. **34 girls and 14 boys** have been made the victims of human trafficking for labour or sexual exploitation. Cases of children are from the following countries: Greece - 13, France - 10, Germany – 6, Austria – 6, Italy – 4, Poland – 2, Bosnia and Herzegovina - 2, Finland – 1, Portugal -1, Slovakia - 1.

Of these, there are **15** cases of children victims of sexual violence and exploitation, and **2** cases of trafficking and sale of babies.

The data suggest that prevention, effective protection measures and support and reintegration of children victims of all forms of exploitation, trafficking or abuse should be placed among the top priorities of the state policy for child protection, in line with the requirements of European institutions.

12 crisis centres for the support of children victims of trafficking have been created and operate across the country: in Balvan village, municipality of Veliko Tarnovo, and in the towns of Pazardzhik, Varna, Dragoman, Peshtera, Alfatar, Sofia, Montana, Silistra, Pleven, Plovdiv and Burgas.

From 01. 01. 2007, crisis centres are a delegated state activity, i.e. they are financed from the state budget through the budgets of municipalities. Two of them are operated by NGOs – those in Varna and Peshtera, and the rest are managed by the respective municipality.

The main services that are available in these crisis centres are provision of shelter and food, health services, psychological support, training in living and social skills, ensuring the participation of children in a school form of training, preparation for reintegration into family or failing that, adequate child protection measures are taken.

Every crisis centre operates year-round in non stop mode, and is capable of accommodating up to ten children. Children are placed in such a care centre is decided by the courts. Prior to the court's decision, the "Social Assistance" Agency at the current address of the child provides accommodation following the administrative order. The accommodation is for no more than six months, depending on the individual needs of the child. Cases are monitored over a period of 1 year. One remaining problem the lack of profiling of centres and they still accommodate both children victims of trafficking and children victims of violence. But according to the report of the European Agency for Fundamental Rights "Child Trafficking in the EU - Challenge, Perspectives and Best Practices" from 2009, only three EU countries - Bulgaria, Italy and Belgium have special crisis centres for victims of trafficking that are a delegated state activity.

Referral and childcare are performed under the Coordination mechanism for referral and care for cases of unaccompanied children and child trafficking victims returning from abroad functioning since 2005, which regulates the specific steps of interaction between institutions involved at central level (Ministry of Foreign Affairs, Ministry of Interior (MI), State Agency for Child Protection, Agency for Social Assistance) and at local level (Social Assistance Directorate/Child Protection Directorate, Regional Departments of MI, Regional Education Inspectorates, Regional Health Care Centres, district judges, prosecutors, social services providers).

It was updated in November 2010 by the institutions responsible for its implementation. New aspects of the Coordination Mechanism relate to expanding the system of central and local bodies, introduction of the option for receiving signals for unaccompanied children and child trafficking victims returning from abroad, the stages of referencing and care in each specific case, and the detailed description of powers of all involved institutions. Coordination on the implementation of this mechanism is performed by the Interior Minister and the Chairman of the SACP. Under the Coordination Mechanism and with the direct assistance of the staff in diplomatic and consular missions of the Republic of Bulgaria abroad, individual cases of unaccompanied Bulgarian children and children trafficked out to other countries are identified. As an established practice, Directorate “Consular relations” of the Ministry of Foreign Affairs, immediately informs the competent authorities in Bulgaria. On both sides, timely action is taken to secure shelter to these children, to provide them with temporary care and, if necessary - to ensure their protection. Where necessary, officers of diplomatic and consular representations abroad participate directly or contribute to the provide translation. In the presence of police attachés or consular officials, children victims of trafficking or children taken out of the country without parents, are identified for the issuance of identity documents, and if necessary they are returned to the country. Contact with bodies at central and local level is maintained.

When signals of missing children, or of alleged victims of trafficking, are received from relatives, contact is immediately established and/or signals for assistance are sent to foreign authorities through the MFA and our consular offices in these respective countries. All joint activities are conducted in accordance with the principles of complete confidentiality.

The Social Assistance Agency, through its territorial structures /Directorate “Social Assistance” / Department “Child Protection”/ monitors the repatriated children for a period of one year and, if necessary, for a longer period of time. Within their powers, the Chair of the SACP has submitted to the Minister of Interior opinions for the imposition of compulsory administrative measure under art. 76a of the Law on Bulgarian Identity Documents for 31 children who were involved in activities harmful for their development. For 2010, 10 children were repatriated from other countries to the Republic of Bulgaria.

Protection of children from all forms of exploitation, abuse and violence:

- 1) The Committee has already asked whether all forms of corporal punishment of children are prohibited, including corporal punishment in the family. According to the report, there is no explicit prohibition of corporal punishment in Bulgaria. However, the Law on Child Protection of 2000 is cited, which stipulates that children have the right to protection from all actions which undermine their dignity, including any physical or psychological violence and all forms of influence which are not in the best interest of the child. The Law on Protection from Domestic Violence of 2005 protects children victims of domestic violence. The Committee emphasizes that in cases where the state is citing legislation that could be interpreted as prohibiting all forms of corporal punishment, it must be accompanied by convincing evidence that this legislation is actually interpreted and applied in this way and that necessary measures have been taken to ensure broad awareness of the issue. The Committee asks for such evidence to be provided in next report.**

In recent years, cases of child abuse are causing public controversy, which involves not only professionals working with children but also the wider society. The topic of

guaranteeing the security, health and lives of children in Bulgaria is becoming ever more important. The development of effective methods for working with children victims of violence is an ongoing process that requires thorough study and understanding of the reasons and factors why a child becomes a victim.

An international legal instrument in the field of child protection is the Convention on the Rights of the Child, ratified by Bulgaria in 1991. Art. 19 of the Convention guarantees the right of the child to protection from all forms of violence.

According to the Regulations implementing the Law on Child Protection, “child abuse is any act of physical, mental or sexual abuse, neglect, commercial or other exploitation, resulting in actual or potential harm to the health, life, development and dignity of the child whether done in the family, school or in a social environment”.

Since its establishment in 2001, the State Agency for Child Protection is collecting information on the number and profile of children victims of violence, which allows for their development processes to be monitored, to identify trends and take adequate measures to prevent violence and ensure the protection of children.

In 2004, in implementation of the National Action Plan against the sexual exploitation of children for commercial purposes /2003-2005/, a **specialized website www.stopech.sacp.government.bg** was created and is currently functioning. The main task of the site is to provide complete information on the issues of sexual and labour exploitation, such as national legislation, international standards, national documents, best practices, useful information. The main focus of the site is the **Form for Reporting**, and for 2008 the number of submitted signals is 143. In 2009, through the website were received 431 signals for violations of children rights and main issues to be tackled are: family violence (physical, psychological, sexual, neglect), school violence, relations between parents (divorce, parental rights, prohibition of contact between the parent and the child, abuse by one of the parents), lack of conditions for raising a child, legal advice. From the signals received can be concluded that a major problem among children is still violence in all its forms. On the other hand, the increasing number of signals shows that Bulgarian society is becoming to manifest ever greater intolerance towards any forms of violence aimed at children. For 2010, submitted signals were 430.

At the end of 2007, the State Agency for Child Protection, with the financial support of UNICEF in Bulgaria, launched the pilot project National Helpline for Children with telephone number 080019100. After the pilot project end /April 2009/ management of the telephone line was transferred to the State Agency for Child Protection, for the purpose of introducing the EU-wide telephone number **116 111**.

Thus, Bulgaria became the fourteenth member state of the European Union to implement decision 2007/698/EC of the European Commission.

The national helpline for children in Bulgaria **116 111** provides an opportunity for counselling, specialized information on children’s rights, crisis intervention and if necessary - guidance to appropriate services and service providers. The line is free and provides children with an accessible mechanism for receiving special help at any time.

Since the launch of the national helpline for children until the end of 2009, 10 760 calls were received. The number of actual consultations was 2 414, and 5 400 of the calls ended in the calling side silently closing the phone. In 455 instances, callers were redirected to other authorities and services. Predominant callers are children, most often teenagers and rarely adults or children under 12 years of age.

In 2010, the National helpline for children 116 111 received 66 366 calls. The number of actual consultations was 1 695. Callers were predominantly children. The largest number of consultations related to emotional problems – 8 065. Consultations relating to violence were 1

047. In 235 cases, action was necessary to investigate the case and signals were sent to departments for child protection.

In March 2010 was signed an Agreement for cooperation and coordination of the work of regional structures and bodies for child protection in cases of children victims of violence or at risk of violence and crisis situations. Parties to the agreement are the authorities for protection under Art. 6 of the Law on Child Protection - namely the Minister of Labour and Social Policy, the Minister of Interior, the Minister of Education and Science, the Minister of Justice, the Minister of Foreign Affairs, the Minister of Culture, the Health Minister, the President of the State Agency for Child Protection /SACP/, the Executive Director of the Social Assistance Agency and the Executive Director of the National Association of Municipalities in Bulgaria, and the agreement was later joined by the Chief Prosecutor of the Republic of Bulgaria.

Thus, in one of the most important and difficult areas of child protection, the inter-ministerial approach was introduced, and the work of multidisciplinary teams at the local level. The main objective of the Coordination Mechanism is to pool the resources and efforts of partners involved to ensure an effective system of interaction in work on cases of children victims of violence or at risk of abuse, and where crisis intervention is necessary. This achieves a unified approach by different Bulgarian institutions for the taking of concerted action in the event of violence or child abuse. The mechanism also clearly distinguishes the responsibilities of individual institutions for effective collaboration, including the taking of measures against any possible recurrence of violence and child abuse. Regular training events are held on the implementation of the Coordination Mechanism for cooperation in cases of violence and child abuse, which introduced an inter-ministerial approach and work in a multidisciplinary team.

A working group of the Ministry of Justice prepared a draft law amending and supplementing the Law on Protection against Domestic Violence. The bill was approved by Decision No. 818 of the Council of Ministers of 23 October 2009.

A study made by the Inspectorate of the Minister of Justice under the Judicial System Act on matters relating to the application of the Law on Protection against Domestic Violence found that the law was well received by the citizenship, and is successfully applied by the courts. It was suggested to widen the circle of persons against whom the injured person may seek protection, to also include the person with whom one of the parents is or was in marital cohabitation.

In order to ensure better protection of children from violence, to improve prevention and to ensure financial implementation of the law, that bill **included the following amendments and supplements:**

1.1. The definition of “domestic violence” was supplemented, to expressly provide that domestic violence committed in the child’s presence will also be considered mental and emotional abuse.

1.2. The circle of persons against whom protection can be sought now includes the persons with whom the victim is in the relationship in the collateral line up to the fourth degree inclusive, those with whom it is or was in a relationship by marriage up to third degree inclusive, those with whom the victim is in cohabit, and the person with whom one parent of the injured person is or was in cohabit.

1.3. The range of persons entitled to file an application for a protection order against domestic violence is expanded. State fee for application or appeal against the order will not be collected. It is specified that an order for immediate protection may be issued when the “danger” is “direct, immediate or subsequent”.

1.4. A procedure for removal of the offender from the common home of dwelling is envisaged, to be performed with the assistance of police from the local police department at

the location of the property to ensure the implementation of this measure, if the person refuses to comply voluntarily.

1.5. Individuals working to protect the victims of domestic violence are identified. They must be licensed and/or registered under the Law on Social Assistance to provide social services and registered at the Central Register of non-profit legal entities, in order to perform activities in the public benefit under the Law on Non-profit Legal Entities.

1.6. It is envisaged that each year prior to 31 March, the Council of Ministers will adopt a **National Programme for Prevention and Protection from Domestic Violence and that funds for financing the implementation of obligations under the programme shall be determined annually in the Law on the State Budget of the Republic of Bulgaria for the respective year under the budgets of relevant ministries**, as defined in the National Programme. It is also envisaged that the Law on the State Budget of the Republic of Bulgaria for the year will determine the budget of the Ministry of Justice for the funding of projects of non-profit legal entities that meet the requirements and provided that they carry out activities under this law to develop and implement programmes on:

- Prevention and protection from domestic violence;
- Providing assistance to victims of domestic violence;
- Training of persons from NGOs or persons working for them to perform protection against domestic violence;
- Rehabilitation of persons who commit domestic violence - this programme will help the perpetrator realize the violence they have caused and to overcome their stress, anger and violent traits.

Entities defined in the Law that work to protect the victims of domestic violence are entitled to a subsidy from the state budget under the terms and conditions determined by the regulations implementing the law.

Implementation of measures imposed by this Law is guaranteed by the amendment of Art. 296 of the Penal Code, effective April 2009. Imprisonment of up to three years or a fine of up to five thousand BGN is provided for a person that does not fulfil an order for protection against domestic violence.

The Law amending the Law on Protection against Domestic Violence was adopted by the National Assembly on December 9, 2009, promulgated in SG, No. 102 of 22.12.2009, and is effective 22.12.2009.

Protection against improper use of information technology:

- 1) **The Committee asks to be informed of any subsequent action taken /SACP after the SACP project “Internet and Child Rights”) in this area, and repeats its request for information on any legislation on Internet service providers or any codes of conduct concerning e.g. child pornography.**

SACP participates in the **Public Committee against harmful and illegal content on the Internet**, which among its other activities also monitors the activities of established in 2005 National hotline to combat harmful and illegal content in the Bulgarian Internet space (www.web112.net).

A special section was created on the web-site of SACP, entitled “Children and the Information Society”, which is periodically updated. This section offers a link to free software designed to filter applications and help parents restrict illegal and negative Internet content.

Upon submission to the SACP of any signal of illegal and harmful content on the Internet, the Agency refers it either to the Chief Directorate Combating Organized Crime (CDCOC), the Ministry of Interior, or to the National Hotline: www.web112.net for verification of the information for taking any actions necessary to monitor and block content.

In 2009 and 2010, the SACP, together with representatives of the Council of Children to the SACP, organized discussions on the need for awareness of dangers on the Internet and implementation of the project “Net alert”, in cooperation with Microsoft-Bulgaria. Its purpose is to promote dialogue between children and young people in Bulgaria to share best practices in the culture of on-line communication - for less aggression, more security, and rational use of Internet resources.

Scope of the provisions as interpreted by the ECSR

Paragraph 1: Minimum age for employment in all sectors of the economy, including agriculture, and all workplaces, including family undertakings and private households, set at 15 years, subject to exceptions for children employed in prescribed light work with no risk of harm to their health, morals or education.

Paragraph 2: Minimum age for employment in prescribed occupations regarded as dangerous or unhealthy, which must be specified in legislation, set at 18 years, though exceptions are allowed if such work is essential for vocational training purposes, subject to strict conditions.

Paragraph 3: Prohibition of the employment of children still subject to compulsory education in work that would deprive them of the full benefit of their education. National legislation must limit working hours in school term time and offer sufficient leisure time during school holidays.

Paragraph 4: Limits, in legislation, regulations, contracts or practice, in the working hours of persons under 18 years of age to take account of their development needs, and particularly their need for vocational training.

Paragraph 5: Right of young workers and apprentices to a fair wage or other appropriate allowances, determined with reference to the basic or minimum wage paid to adults, after deduction of social security contributions and taxes.

Paragraph 6: Right of young persons for time spent in vocational training during normal working hours to be treated, with the consent of the employer, as part of the working day.

Paragraph 7: Employed persons under 18 years to be entitled to a minimum of four weeks' annual holiday with pay, subject to the same arrangements as those applicable to the annual paid holidays of adults (Article 2, paragraph 3).

Paragraph 8: Persons under 18 years of age shall not be employed in night work, with the exception of certain occupations provided for by national laws or regulations.

Paragraph 9: Persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to compulsory and regular medical examinations.

Paragraph 10: Article 7, paragraph 10, guarantees the right of children to protection against all forms of exploitation and against the misuse of information technologies. This Article covers also the trafficking of human beings since this is a form of exploitation. This Article is interpreted by the Committee akin to the right to life and dignity, similar to the rights guaranteed by the European Convention on Human Rights. States party must take specific measures to prohibit and combat all forms of sexual exploitation of children.

This prohibition must be accompanied by an adequate supervisory mechanism and sanctions. States party must prohibit the use of children in other forms of exploitation such as, domestic/labour exploitation, including trafficking for the purposes of labour exploitation, begging, or the removal of organs.

States party must also take measures to prevent and assist street children.

For a list of selected other international instruments in the same field, see Appendix.

Article 8 - Right of employed women to maternity protection

With a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake:

1. to provide either by paid leave, by adequate social security benefits or by benefits from public funds for employed women to take leave before and after childbirth up to a total of at least fourteen weeks;
2. to consider it as unlawful for an employer to give a woman notice of dismissal during the period from the time she notifies her employer that she is pregnant until the end of her maternity leave, or to give her notice of dismissal at such a time that the notice would expire during such a period;
3. to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose;
4. to regulate the employment in night work of pregnant women, women who have recently given birth and women nursing their infants;
5. to prohibit the employment of pregnant women, women who have recently given birth or who are nursing their infants in underground mining, and all other work which is unsuitable by reason of its dangerous, unhealthy, or arduous nature and to take appropriate measures to protect the employment rights of these women.

Appendix to 8§2

This provision shall not be interpreted as laying down an absolute prohibition. Exceptions could be made, for instance, in the following cases:

- a. if an employed woman has been guilty of misconduct which justifies breaking off the employment relationship;
- b. if the undertaking concerned ceases to operate;
- c. if the period prescribed in the employment contract has expired.

Information to be submitted

Article 8§1

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information to demonstrate that the level of maternity benefit is adequate.

For the period since the previous report, the following amendments in **Art. 163 of the Labour Code /LT/ and Art. 45 of the Regulation on the working time, rest periods and leaves /NRVPO/** were adopted:

Art. 163. (1) (Amended - SG, No. 110/1999, SG, No. 52/2004, SG, No. 68/2006, SG, No. 109/2008, effective from 2.01.2009) Female worker or employees shall be entitled to pregnancy and childbirth leave of 410 days for each child, out of which 45 days are used obligatory before giving birth.

(3) Should the medical authorities err in predicting the date of childbirth and it occurs before the expiry of the 45 days from the beginning of the leave, the remainder of these 45 days shall be used after the childbirth.

Art. 45. (1) (Amended - SG, No. 96/2006, effective from 1.01.2007, SG, No. 10/2009, SG, No. 67/2009) Leave due to pregnancy and birth amounts to 410 days for each child and is to be used as follows:

1. (Amended - **SG, No. 21/2011**, effective 15.03.2011) in the amount of 135 days, 45 days of which before delivery - based on a relevant document issued by the health authorities pursuant to Art. 26, para. 1 of the Ordinance on Medical Expertise, adopted by Ordinance No. 87 of the Council of Ministers of 2010 (SG, No. 36/2010, amended and supplemented SG, No. 5/2011) and adoption leave for the remainder up to 135 days - based on the relevant document issued by the health authorities and the act of transfer of the adopted child;

2. (Amended - SG, No. 10/2009, SG, No. 67/2009) for the remainder up to 410 days - based on the written request of the mother (adoptive mother) to the employing entity, to which a birth certificate of the child or an act of transmission of the child for adoption and a declaration in accordance with Annex No. 7 shall be attached; the entity shall authorize the leave from the day referred to in the application.

During the above leave, persons are paid compensation on terms and in amounts as determined by a separate law - the Social Security Code. The time of leave is recognized as labour service.

Social Security Code

Art. 49. (1) (Supplemented - SG, No. 104/2005, SG, No. 105/2006, amended SG, No. 109/2008, v from 1.01.2009, SG, No. 98/2010, effective 1.01.2011) The daily cash benefit at pregnancy and child-birth shall be determined in the amount of 90 percent of the daily average gross remuneration or the insurance income on which contributions are paid or due, and for self securing persons - paid contributions for sickness and maternity for the period of 18 calendar months preceding the month of occurrence of temporary incapacity due to pregnancy and childbirth. Daily benefits can not be greater than the average daily net wage for the period used for calculation of compensation, and not less than the minimum daily wage established for the country and is determined in accordance with Art. 41, para. 2-5.

Art. 50. (1) (Supplemented - SG, No. 1/2002, amended SG, No. 68/2006, effective from 1.01.2007, SG, No. 105/2006, SG, No. 109/2008 , effective 1.01.2009) The mother insured for sickness and maternity is entitled to monetary compensation for pregnancy and birth for a period of 410 calendar days, 45 days of which before delivery.

Art. 52. (Amended - SG, No. 109/2008, effective 1.01.2009) Upon termination of insurance for sickness and maternity benefits during the receipt of compensation for pregnancy and birth of the insured person, cash compensation is paid until expiration of compensation for pregnancy and birth under Art. 50.

Reasons for the increase of the amount of leave for pregnancy, childbirth and adoption to 410 days:

The changes are aimed at raising incomes of the working woman, for the duration of the insurance risk “maternity”, which is intended for the care and raising of the newborn baby, during which term the woman can not pursue employment. Child care, inextricably linked with an increase in the cost of raising the child, objectively necessitates an increase in income of the mother. Satisfaction of this need is guaranteed by the changes in regulations on the

period of compensation in the amount as specified in Article 49 of the SSC, that the mother is entitled to receive.

Amount of benefits for pregnancy and childbirth

According to data of the Social Security Institute for 2009, 858 043 compensation were paid, with an average amount of 354.84 BGN per compensation.

Article 8§2

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

According to **Art. 313a**, para. 1 LC (New - SG, No. 52/2004) (1) (Supplemented - SG, No. 103/2009, effective 29.12.2009) A pregnant female worker or employee, and a female worker or employee at an advanced stage of IVF treatment, shall use rights under Art. 140, par. 4, item 2, Art. 147, para. 1, item 2, Art. 157, par. 2, Art. 307, 309, 310 and Art. 333, par. 5, after authenticating her condition to the employer with proper document issued by the competent health authorities.

(2) In case of abortion, the employee under par. 1 shall notify the employer within 7 days.

(3) The employer and company officials shall keep secret the circumstances under para. 1 and 2.

Art. 333. (5) (New - SG, No. 52/2004, amended SG, No. 46/2007, suppl. SG, No. 103/2009, effective 29.12.2009) A pregnant worker or employee as well as a worker or employee in an advanced stage of IVF treatment may be fired only with notice pursuant to Art. 328, par. 1, items 1, 7, 8 and 12, and without prior notice pursuant to Art. 330, par. 1 par. 2, item 6. In the case of Art. 330, par. 2, item 6, she may be fired only by prior authorization of the Labour Inspectorate.

(6) (New - SG, No. 25/2001, previous para. 5 SG, No. 52/2004, amended SG, No. 108/2008) An employee who uses leave under Art. 163, can be dismissed only pursuant to Art. 328, par. 1, item 1.

Art. 328. (Amended - SG, No. 21/1990, SG, No. 100/1992) (1) The employer may terminate the employment contract by giving prior written notice to the employee within the terms under Art. 326, par. 2 in the following cases:

1. the closure of the enterprise;

7. upon failure of the employee to follow the company or its subsidiary, where they are employed, when it is moved to another location or locality;

8. when the position occupied by the employee should be released to restore an illegally dismissed employee who has held the same position prior to them;

12. upon objective inability to fulfil the contract.

Art. 330. (1) (Amended - SG, No. 100/1992) The employer may terminate the employment contract without prior notice where the employee is detained to serve a prison sentence.

(2) (Amended - SG, No. 100/1992) The employer shall terminate the employment contract without notice if:

6. (Previous item 6 - SG, No. 100/1992, previous item 5 SG, No. 83/1998) the employee is dismissed for disciplinary reasons.

Law on Civil Servants

Protection against termination of employment relation

Art. 107b. (New - SG, No. 95/2003, amend. SG, No. 24/2006) (1) The appointing authority may terminate the employment of a female civil servant who uses leave for pregnancy and childbirth, only under Art. 106, par. 1, item 1 (*i.e. prior notice upon closure of the administration*)

(2) (Supplemented - SG, No. 103/2009, effective 29.12.2009) The appointing authority can not terminate the employment relation pursuant to Art. 106, par. 1, item 2 (*i.e., by prior notice if the job position is closed*) with a female state employee who is pregnant or is in an advanced stage of IVF treatment. Termination of the relationship in this case is allowed if there is another appropriate position in the same administration and the employee refuses to take it.

Additional provision

(New - SG, No. 95/2003)

§ 1. (New - SG, No. 95/2003, suppl. SG, No. 30/2006, repealed SG, No. 94/2008, effective 1.01.2009, New SG, No. 103/2009, effective 29.12.2009) For the purposes of this Law “women (female worker or employees) at an advanced stage of IVF treatment” are women (female worker or employees) who are in the stage of treatment by methods of assisted reproduction covering the period from follicular puncture to embryo transfer, but no more than 20 days.

Reasons for this change:

With the amendments to the Labour Code promulgated in issue 103/2009 of the “State Gazette” female worker or employees in advanced stage of IVF treatment are included in the category of employees enjoying special protection for labour and protection against dismissal, along with pregnant women, nursing mothers and mother of children of up to three years.

The aim is to create safeguards to ensure the implementation of art. 52, para. 3 of the Constitution of Bulgaria, i.e. the function of the state to ensure protection of public health and in particular, the obligation under Art. 126, par. 1 of the Law on Health to ensure the protection of the reproductive health of citizens.

The large number of people with fertility problems is among the main factors in current negative demographic processes, and is an issue of great public importance.

The amendments to the Bulgarian labour legislation have been brought in compliance with the requirements of Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in safety and health at work of pregnant workers and breastfeeding workers, and Directive 76/207/EEC of 9 February 1976 on the principle of equal treatment between men and women as regards access to employment, vocational training and promotion, and working conditions.

The legislative changes have been prepared in accordance with the jurisprudence of the Court of Justice in Luxembourg in this area. The rapid development of reproductive medicine in the world poses new requirements to legislation which should regulate the new public relations adequately. For reasons connected with the principle of legal certainty and consideration of the interests of business and employers, protection against dismissal conferred by this bill applies only to workers who at the date of notification of the dismissal are in an advanced stage of IVF treatment.

The final regulations make the appropriate corresponding amendments to the Civil Service Law and the Law on Protection against Discrimination.

Article 8§3

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

Pursuant to **Art. 166, para. 1 LC**, the female worker or employee who alone nurses her child, is entitled to paid leave to breastfeed until the age of 8 months of her child, for 1 hour twice daily, or with her consent for 2 hours at a time. For a female worker or employee working at a reduced working day of 7 or less hours, that leave is 1 hour a day. After the age of 8 months of age, that leave is one hour a day and is allowed to the worker or employee at the discretion of the health authorities until breastfeed is necessary.

(2) Where a worker or employee has twins or premature child, the amount of leave under the preceding paragraph is 3 hours a day until the age of 8 months of the child and two hours - after the age of 8 months of the child, for the period specified by health authorities when breastfeed is necessary. In these cases, if the worker or employee is employed on a workday of 7 or less hours, the initial amount of leave for nursing the child is 2 hours and after the child becoming 8 months of age - 1 hour per day. Leave under this paragraph shall be used at two instances, and with the consent of the worker or employee - at a time.

(3) Leave granted under the conditions and amounts referred to in this Article shall be granted both to the adoptive mother and the mother of a step child.

(4) Leave under the preceding paragraphs shall be paid by the employer.

Article 8§4

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

Labour Code

Night work

Art. 140. (1) (Amended – SG, No. 25/2001) The normal duration of the weekly working hours at night for a five-day work week shall be up to 35 hours. The normal duration of the night working hours for a five-day work week shall be up to 7 hours.

(2) (Amended - SG, No. 25/2001) Night work shall be work performed between 10.00 p.m. and 6.00 a.m. as for the employees under 18 years of age – between 8.00 p.m and 6.00 a.m.

(3) The employer shall provide to the employees hot food, refreshments and other facilities for the effectiveness of the night work.

(4) Night work shall be prohibited for:

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

2. (Supplemented – SG, No. 100/1992, Amended – SG, No. 52/2004, Supplemented – SG, No. 103/2009) pregnant female workers and employees, and workers and employees who are in advanced stage of IVF treatment;

3. (Amended – SG, No. 52/2004) mothers of children of up to 6 years of age, as well as mothers who take care of disadvantaged children, notwithstanding of their age, unless by their written consent;
 4. (Supplemented – SG, No. 100/1992) reassigned employees, except with their own consent, and only when such employment will not be detrimental to their health in the opinion of the medical authorities;
 5. (Supplemented – SG, No. 100/1992) employees who are continuing their education while under employment, except with their own consent.
- (5) (New – SG, No. 52/2004, repealed SG, No. 48/2006)

The new element, compared to the previous report, is the inclusion in item 2 of para. 4 of “workers and employees who are in advanced stage of IVF treatment”, the reasons for which have been outlined above.

Article 8§5

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

Pursuant to **Art. 307, par. 1 LC** (Amended - SG, No. 100/1992; SG, No. 52/2004) (1) (Supplemented - SG, No. 103/2009, effective 29.12.2009) The employer may not assign and requires from pregnant women and nursing mothers, and from workers at an advanced stage of IVF treatment, to perform work, which endangers or threatens their safety or health.

(2) (Supplemented - SG, No. 103/2009, effective 29.12.2009) A pregnant woman or nursing mother, and a worker or employee in an advanced stage of IVF treatment may refuse to perform work, which is known to be harmful to the health of the mother or child, or which a risk assessment has determined as posing a significant risk to the health of the mother or her child.

(3) The list of work assignments and working conditions under par. 1 is determined by the Minister of Labour and Social Affairs and the Minister of Health.

Art. 309. (Amended and supplemented - SG, No. 100/1992) (1) (Amended - SG, No. 52/2004, amended and supplemented SG, No. 103/2009, effective 29.12.2009) When a pregnant or nursing woman, as well as worker and employee in an advanced stage of IVF treatment, performs work inappropriate for her condition, under prescription of the health authorities, the employer shall take measures necessary to temporarily adjust working conditions at the workplace and/or working hours, in order to eliminate the risk to their safety and health. If the adjustment of working conditions in the workplace and/or working hours is technically and/or objectively infeasible or is not justified on reasonable grounds, the employer shall take necessary measures to move the worker or employee to another suitable job.

(2) (Supplemented - SG, No. 52/2004, amended SG, No. 103/2009, effective 29.12.2009) The recommendation of the health authorities is obligatory for the pregnant or breastfeeding women, for a female worker or office employee in the advanced stage of IVF treatment, and the employer. Until the implementation of the prescription for reassignment of the employee, she is released from the obligation to carry out any work inappropriate for her condition and her employer shall pay compensation amounting to her gross salary for the month preceding the date of issuance of the injunction.

(3) (Amended - SG, No. 52 of 2004) In the cases under para. 1, the worker or employee shall receive remuneration for the work performed. When it is lower than the salary of the previous work, she is entitled to financial compensation for the difference in wages under a separate law.

(4) (suppl. - SG, No. 103/2009, effective 29.12.2009) The employer, in conjunction with health authorities, determines annually any positions and jobs suitable for occupation by pregnant women and nursing mothers, and for workers and employees in the advanced stage of IVF treatment.

In Ordinance No. 7 of 16.06.1993 on the harmful and hard work assignments prohibited for women (promulgated in SG, No. 58/1993), issued pursuant to Art. 307, par. 2 of the Labour Code are defined certain works (listed in an annex to Art. 2 of the Ordinance) which are difficult or harmful to the health and maternal functions of women. The provision of Art. 2 prohibits the employment of women for the work included in the list. In addition, Art. 3. of the Ordinance prohibits the reassignment of pregnant women and nursing mothers at work places located in the area of pollutants which are harmful as per the list under Art. 2. No changes to Ordinance No. 7 for the period since the previous report have been made.

Questions of ECSR:

Article 8 - Right of employed women to maternity protection

Paragraph 1 - Maternity Leave

The report states that the bill presented to the National Assembly will amend the Labour Code in this respect, making it compulsory to take 45 days leave before birth and 90 days after birth. The Committee wishes to remain informed of any developments in this regard and in the meantime, since the situation did not change during the corresponding period, it concludes that the situation is not in accordance with the Revised Charter.

Conclusion

The Committee concludes that the situation in Bulgaria is not in accordance with the Revised Charter because there is no statutory period of six weeks of leave after birth.

As mentioned above, the female worker or employee is entitled to leave due to pregnancy and birth amounting to 410 days for each child, of which 45 days must be before delivery.

Ordinance on Medical Expertise (OME)

Art. 26. (1) Leave due to pregnancy and childbirth of the socially secured female person amounts to 135 calendar days for each child and is allocated among 3 hospital certificates, as follows:

1. for 45 calendar days before birth; the hospital certificate shall be issued solely by the physician who performed the monitoring of the pregnant woman, the hospital certificate must indicate the term of birth;

2. for 42 calendar days immediately after birth – by the doctor who conducted the delivery, and if birth occurred without medical supervision – by the GP;

3. for 48 calendar days (continuation of the previous hospital certificate):

a) after discharge from the hospital – by the GP of the child or the GP of the mother;

b) where the child is left for hospital care in the hospital due to medical reasons – the hospital certificate shall be issued by the Medical Advisory Committee (MAC) of the hospital's Maternity Ward, where the sick child is placed for treatment.

(2) When a child dies, is submitted for adoption or is placed in a nursery school with full state support before the expiry of 42 days of birth, a hospital certificate under par. 1, item 3 shall not be issued.

(3) During a leave of pregnancy and childbirth, hospital certificate for other reasons shall not be issued.

(4) In case of abnormal pregnancy, a hospital certificate shall be issued following the general order established for diseases of general nature.

It should be noted that under Bulgarian law, the first part of the leave for pregnancy and childbirth amounting to 135 days is mandatory for women as it is given based on the hospital certificate, issued by the competent medical authorities:

Art. 18. (1) The insured person may not at its discretion without the permission of their GP or MAC of the hospital issuing the hospital certificate return to work before the expiration of the leave already granted. Insurers are not allowed to admit insured persons to work provided that they are on leave due to temporary incapacity.

Due to the above, we believe that the situation in Bulgaria is in accordance with the Revised Charter.

Paragraph 2 - unlawful dismissal during maternity leave

The Committee has found earlier that the situation is not in accordance with the Revised Charter on the grounds that the dismissal of pregnant women (as opposed to women on maternity leave) is not prohibited.

A Draft Law amending the Labour Code was presented to Parliament recently. This Draft Law proposes to strengthen the protection of pregnant workers and limit the grounds on the basis of which a pregnant woman can be dismissed from work. The Committee asks to be informed of any developments on this issue. At the same time, it concludes that the situation is not in accordance with the Revised Charter.

The Committee has noted earlier that where recovery at work is not possible, compensation is limited to an amount equal to the gross salary for six months. The Committee concluded that in this respect, the situation is not in accordance with the Revised Charter, since the imposition of such restriction may in some cases prevent adequate compensation of the worker and effectively deter the employer.

Conclusion

The Committee concludes that the situation in Bulgaria is not in accordance with Article 8§2 of the Revised Charter on the grounds that:

- National legislation does not prohibit the dismissal of pregnant workers (who are not on maternity leave) and;**
- National legislation unnecessarily limits the amount of compensation that may be awarded to illegally fired women.**

As mentioned above, a pregnant worker or employee, as well as worker and employee in an advanced stage of IVF treatment can be dismissed only in certain cases (Art. 333, para. 5 LC). Such person enjoys the privileges granting protection against dismissal after verifying her condition before the employer with a document issued by the competent health authorities.

If the employer violates the above provisions and dismisses the female employee, this constitutes a labour dispute related to termination of employment.

Labour disputes are heard by courts which are the only authority on such matters /Art. 360, par. 1 LC/. Proceedings on labour cases are free for employees. They do not pay fees and litigation costs, including requests for annulment of effective judgments on employment cases.

Pursuant to Art. 358, par. 1, item 3 and par. 2, item 2 of the LC, action may be brought in court within a 3-year limitation period from the date when the right that is subject of the claim has become due or could have been exercised.

Due to the above, we believe that the situation in Bulgaria is in accordance with the Revised Charter.

As regards the second finding, please see Question 5.

Paragraph 3 - Dismissal from the work of nursing mothers

The Committee notes that breastfeeding breaks in Bulgaria are enough, 2 hours a day, but finds it necessary the period to which they relate – up to the age of 8 months of the child - to be guaranteed. The Committee wants to know whether the practice of women who wish to continue to breastfeed their children after the completion of this period of eight months will be granted the necessary certificate by the competent medical authorities.

Until it has obtained the requested information, the Committee concludes that the situation in Bulgaria is in accordance with Article 8§3 of the Revised Charter.

Art. 166, para. 1 LC regulates the right of the worker or employee who alone nurses her child, to a paid leave to breastfeed until the age of 8 months of her child for 1 hour twice daily, or with her consent for 2 hours at a time. For a worker or employee working at a reduced working day of 7 or less hours, that leave is 1 hour daily. After the age of 8 months of her child, that leave is one hour daily and is allowed to the worker or employee at the discretion of the health authorities until breastfeeding is deemed necessary.

After the age of 8 months of the child, breastfeeding leave is one hour daily and is allowed to the female worker or employee at the discretion of the health authorities until breastfeeding is deemed necessary.

If a female worker or employee has twins or a premature child, the amount of leave after the age of 8 months of the child is 2 hours, at the discretion of the health authorities until breastfeeding is deemed necessary. In these cases, if the female worker or employee works on a reduced working day of 7 hours or less, the amount of leave for breastfeeding after 8 months of the child is 1 hour per day.

Due to the above, time for breast-feeding a child is guaranteed by law.

Paragraph 5 - Prohibition of dangerous, unhealthy or difficult working conditions

The Committee has already noted that the statutory provisions for reassignment appear to apply only to pregnant women or nursing women, while women who have recently given birth are not mentioned. Therefore, it has requested information on the protection of this group of female workers. The Committee also notes that parts of the

lists contained in Ordinance No. 7 / 1993 on hazardous and heavy work prohibited for women concern pregnant or breastfeeding women only, but not women who have recently given birth. Again, the Committee wants to know if this group of women are not protected, or whether these texts also apply to women who have recently given birth.

Until it has obtained the requested information, the Committee concludes that the situation in Bulgaria is in accordance with Article 8§5 of the Revised Charter.

As stated above, the protection under **Art. 307, par. 1 LC** from work, which jeopardizes or endangers health or safety concerns pregnant women and nursing mothers, as well as female workers at an advanced stage of IVF treatment.

In Ordinance No. 7 of 16.06.1993 on the harmful and hard work prohibited for women, certain types of work have been defined (in the list annexed to Art. 2 of the Ordinance), which are difficult or harmful to the health and maternal functions women. The provision of Art. 2 prohibits the employment of women for the types of work included in this list.

As far as women who have recently given birth, whether breastfeeding or not, qualify for the leave for pregnancy and childbirth pursuant to Art. 163 LC (i.e., 410 days), we would like to receive further interpretation of the European Committee of Social Rights on the duration of protection required for this category of women from unsafe, unhealthy or difficult working conditions, after their return to work.

Scope of the provisions as interpreted by the ECSR

Paragraph 1: guarantees the right of employed women to maternity leave of at least 14 weeks for all categories of employees. In all cases there must be a compulsory period of postnatal leave of no less than six weeks which may not be waived by the woman concerned. Maternity leave must be accompanied by the continued payment of the individual's wage or salary or by the payment of social security benefits or benefits from public funds. A benefit must be adequate and must be equal to the salary or close to its value.

Paragraph 2: provides that it must be unlawful to ordinarily dismiss female employees from the time they notify the employer of their pregnancy to the end of their maternity leave. In cases of dismissal contravening this provision of the Charter, national legislation must provide for adequate and effective remedies, employees who consider that their rights in this respect have been violated must be able to take their case before the courts.

Paragraph 3: all employed mothers who breastfeed their babies must be granted time off for this purpose. Time off for nursing should in principle be granted during working hours should be treated as normal working time and remunerated as such. Time off for nursing must be granted at least in principle until the child reaches the age of nine months.

Paragraph 4: does not require States party to prohibit night work for pregnant women, women who have recently given birth and women nursing their infants, but to regulate it in order to limit the adverse effects on the health of the woman.

Paragraph 5: prohibits the employment of the women concerned in underground work in mines. This applies to extraction work proper. Certain other activities, such as those involving exposure to lead, benzene, ionizing radiation, high temperatures, vibration or viral agents, must be prohibited or strictly regulated for the group of women concerned depending on the risks posed by the work.

For a list of selected other international instruments in the same field, see Appendix.

Article 16 – The right of the family to social, legal and economic protection

With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.

Information to be submitted

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.**
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.**
- 3) Please provide pertinent figures, statistics or any other relevant information to show that Article 16 is applied in practice, including information on domestic violence, information on child care arrangements and housing for families, the level of family benefits, the number of recipients as a proportion of the total population, as well as information on tax benefits and other forms of financial assistance for families.**

General information:

The National Strategy for Demographic Development of Bulgaria (2006 - 2020) sets a number of priorities of horizontal dimension, including the promotion of birth by creating an environment conducive to the upbringing of children. This demographic trend of the strategy involves supporting families through the Law on Family Allowances, which provides for families to receive a lump sum granted at childbirth, a lump sum allowance for raising twins from birth to 1 year of age, a lump sum allowance for full-time student mothers to raise a child from birth to 1 year of age, monthly allowances for raising a child up to one year, monthly benefits for children up to graduation of secondary education, but not more than 20 years of age, a lump sum for pregnancy, a target lump sum for first graders.

An important aspect to ensure appropriate conditions for families to stimulate the birth and upbringing of children in Bulgaria is the legal regulation of maternity and parental leave. Under the provisions of the Social Security Code and the Labour Code, the right of the female employee to leave due to pregnancy and birth amounts to 410 days (12 months) for each child, provided that the woman has been insured for 12 months. For this period, compensation amounting to 90 percent of the labour income of the woman is paid. For the remainder of the period of annual leave until the age of 2 years the child, the mother receives compensation in the amount of the minimum wage.

Since the beginning of 2009, paternity leave was also introduced, which ensures active participation and presence of the father in the early days of the birth of the child - from birth to the 15-th day of the child. The other change is the right of the father to paternity leave from the 6-th to the 12-th month of the child with the mother's consent.

According to the report on the implementation of the National Strategy for Demographic Development, under Article 53 of the Law on Employment Promotion lone parents are provided with support, and also employers who have opened jobs and provided employment for unemployed people, as well as single parents (adoptive parents) and/or mothers (adoptive) with children under 3 years of age are provided with funds for salary and insurance contributions for a period not exceeding 12 months.

Support is also provided to unemployed mothers – under Art. 53a of LEP. The measure provides support for employment of unemployed mothers (adoptive mothers) with children from 3 to 5 years old, as the state budget provides funds to employers to pay them wages and insurance contributions for a period not exceeding 12 months.

a) Social protection:

Questions of ECSR:

1. The Committee would like to receive information on family counselling in Bulgaria and whether the state is paying for these services.

According to Art. 21, para. 1, item 4 and item 5 of the Law on Child Protection, among the main functions of Directorate “Social Assistance” (an authority for Child Protection at the municipal level) is to provide **advice and consultation** on the upbringing of children, provide information about existing services and assist and support parents and families of children in need. All advice provided by the “Social Assistance” Directorate are free for children and families.

Families at risk may be directed to providers of social services for counselling. **Family counselling and support** is provided primarily within the “**Centre for Social Support**” social service for children and families. As of 31.01.2011, 62 such centres were built in the country, with a total capacity of 2 851 seats. Use of all social services, which are activities delegated by the state, is free for children and families. Necessary funds for maintenance of these social services are provided by the state budget.

In 2010, the implementation of a new approach was launched, aimed at preventing the social exclusion of children and families at risk /children from low-income families, incl. children from vulnerable ethnic groups, particularly the Roma, children with disabilities under 7 years of age/ through the implementation of a **Social Inclusion Project**, which is financed by a loan from the International Bank for Reconstruction and Development (the World Bank) of EUR 40 million. The project allows municipalities to run services for early childhood development, prevention of risks in early childhood, for better coverage and improving the readiness of children for inclusion in the education system and also provides support for the development of parenting skills among parents and vulnerable groups, etc.

Under the Social Inclusion Project, 67 municipalities have been approved at the first stage of application. Services for children from 0 to 3 years and their parents to be provided by municipalities under the SIP are: formation and development of parenting skills, early treatment of disabilities through the creation of a Centre for Early Treatment of Disabilities, family counselling and support; health consultation for children, baby sitters, family centres, reduction of the fee for enrolment of children in nurseries.

Services for children from 3 to 7 years of age and their parents to be provided by municipalities under the SIP are: integration of children in kindergartens and preschool groups/classes (including a reduction of the fee for kindergarten subscription), monitoring of readiness for training, family counselling and support, health services for children, family centres, additional training for an equal start in school, individual educational support for children with disabilities.

Residential protection of vulnerable families

Families at risk can use social services, providing them with shelter. Such social services are:

Crisis Centre - a complex of social services for victims of violence, trafficking or other forms of exploitation, which are provided for up to 6 months and are aimed at providing individual support to persons, assisting them meet their daily needs and provide legal advice

or social psychological help when immediate intervention is required, including mobile crisis intervention teams. As of 31.01.2011, **13** crisis centres for children and adults have been created across the country, with a total capacity of **145** seats.

Centre for temporary accommodation - a complex of social services for homeless persons, aimed at helping them meet their daily needs for a period not exceeding 3 months during the calendar year. As of 31.01.2011, **12** such centres have been created across the country, with a capacity of 713 seats.

Unit "Mother and Child" - provides temporary accommodation for up to 6 months of pregnant women and mothers at risk of abandoning their children; encourages parental affection; supports young mothers through social, psychological and legal counselling and support. As of 31.01.2011, **10** such units have been created across the country, with a capacity of **75** seats.

2. The Committee would like to know whether family associations are involved in the formulation of policies relating to families.

The Civil sector, including parent organizations and associations, plays a key role in formulating and monitoring the implementation of policies relating to children and families. As an established practice in the work of the Ministry of Labour and Social Policy, which is strictly followed in the process of drafting of legislation and strategic documents in support of children and family, is for working groups to involve representatives of NGOs working in this field, including parent organizations.

Except in the drafting of legislation and strategic documents, parent organizations are active members of a number of advisory bodies working to support children and families. Parent organizations are members of the National Council for Child Protection, which discusses all issues related to supporting children and families. Parent organizations are members of the National Council on Disability, which discusses issues related to supporting children with disabilities and their families.

Domestic violence against women:

The Committee asks the Government to provide an extensive description of the situation according to the request contained in the general introduction.

/From the General Introduction: "29. In the light of these Conclusions and in the interest of equal treatment of countries, the Committee decided not to make conclusions regarding the situation of domestic violence until they obtain full information. The Committee asks that the next report under Article 16 provides an overall description of the situation (legal and practical measures, statistics, court decisions), which the Committee will study, in terms of the principles of interpretation. Special attention will be paid to measures that have improved the situation/."

Vulnerable families:

The Committee noted the Framework for Integration of the Roma in Bulgarian Society, adopted in 1999 and the Action Plan adopted by the Government in 2003, and would like to receive information on whether these measures have made it possible to solve the inequality in treatment as regards the economic Protection of Roma families.

A. Formulation of national policy priorities at the strategic level for integration of the Roma

The ten-year duration of the Framework for Integration of the Roma in Bulgarian Society, adopted in 1999, has expired and it was replaced by a second *Framework*

Programme for Integration of the Roma in Bulgarian Society for the period 2010 to 2020, adopted by the Council of Ministers on 12 May 2010.

The Second Framework Programme is a strategic document, which is implemented through the National Action Plan on the “Decade of Roma Inclusion 2005-2015” initiative, which differs from the Action Plan referred to by the Committee above, as the latter was adopted by the Government in 2003 and refers to the first Framework Programme.

Both the previous and the current Framework Programmes are national strategic documents and formulate priority areas and lines of action for Equal Integration of the Roma in Bulgarian society. Priority areas and directions are consistent with those of the National Action Plan for the “Decade of Roma Inclusion 2015-2015”, namely: education, health care, housing, employment, culture, non-discrimination and equal opportunities.

The Framework Programme is tailored to the political framework of the European Union to respect the principle of ensuring equal opportunities and non-discrimination on the different grounds, including ethnicity.

The Framework Programme corresponds with the Programme of the Government for the European Development of Bulgaria 2009 - 2013, with the National Action Plan for the “Decade of Roma Inclusion 2005-2015”, and is based on the government approach for active involvement of the Roma in the implementation of policies concerning the Roma community.

The main strategic goal is to create conditions for equal integration of the Roma in social and political life by achieving equal opportunities and equal access to rights, benefits, goods and services, participation in all public areas, and to improve the quality of life in accordance with the principles of equality and non discrimination.

It is the policy framework for coordinating the activities of state bodies for implementation of policy on the Roma inclusion as part of national policy to improve the quality of life of citizens and ensure equal opportunities for all.

The Framework Programme is based on an integrated approach to creating conditions for protecting human rights and respect for ethnic identity.

As a major strategic document covering all directions where efforts should be target to improve the situation of the Roma with a view to their successful integration, it also has an indirect relation to the issues relating to the provision of economic protection¹ of the Roma families.

Direct results of its implementation for the economic protection of Roma families must be analyzed based on the activity of the competent bodies applying relevant sector policies in the field of social assistance and employment.

B. Formulation of measures to implement the national policies for Roma integration at the operational level

A clear expression of its political will to implement a coherent policy for the integration of the Roma is the involvement of Bulgaria in the above-mentioned international initiative “Decade of Roma Inclusion 2005-2015”, officially opened in Sofia on 2 February 2005 on the invitation of the then Bulgarian Prime Minister Mr. Simeon Saxe-Coburg and Gotha and the Hungarian Prime Minister, Mr. Ferenc Gyurcsany in the presence of senior leaders from eight Member States from Central and Eastern Europe and the World Bank President, Mr. James Ulfelson and the Chairman of the “Open Society” Institute, Mr. George Soros.

¹ Economic protection in this case should be considered as a set of measures aimed at providing social assistance to the most needy, providing conditions for access to the labor market (education campaigns, retraining, information campaigns, etc.), in order to overcome difficulties related to the process of finding a job, access to medical care, in cases of long-term unemployment and lack of health insurance, etc.

With its involvement in the international initiative, the country made a political commitment "... to combat Roma poverty, social exclusion and discrimination against the Roma" (Rules of Procedure of the Decade, Introduction).

Under this commitment, the objectives, general rules and guidelines for the Decade were adopted. With this act, Bulgaria joined an international mechanism for resolving problems of the Roma community in the country and in other Member States through participation in the exchange of experience and best practices.

In connection with planning the implementation of measures resulting from participation in this initiative, each member state is committed to developing a National Action Plan.

In pursuance of this commitment, a National Action Plan has been prepared and periodically updated in Bulgaria. Since 2006, this is the responsibility of the MLSP (a forthcoming government decision is expected to change the administrative level responsible for coordinating the preparation and monitoring on the Plan).

*Currently operational in Bulgaria is the first National Action Plan for the "Decade of Roma Inclusion 2005-2015"*², adopted on April 14, 2005 on a meeting of the Council of Ministers, which has the following priority areas: education, health, housing, employment, protection discrimination, and culture. This plan is currently being updated.

It is produced as a result of the joint operation of the institutions involved in the implementation of measures for the integration of vulnerable ethnic minorities. As regards the financing of these measures, each of the competent institutions has the commitment to earmark funds in its annual budget, to be used for funding the implementation of measures. The funds are ultimately provided from the state budget. In some cases, the measures are financed by funds provided by external donors under dedicated programmes, including programmes of the European Union, in which case the government provides funds from the state budget to co-finance these projects.

In 2010, the preparation of a new National Action Plan began. Formulation of measures for implementation under this plan will be aligned with the strategic guidelines established by the Second Framework for Integration of the Roma in Bulgarian Society, adopted by the Council of Ministers on May 12, 2010.

Institutions involved in the development and implementation of the plan are formulating measures based on sectoral strategies and programmes developed by them, as follows:

In the area of improving access to education

- **Strategy for Educational Integration of Children and Pupils from Ethnic Minorities**, approved by the Minister of Education and Science on 11 June 2004, followed by the adoption of National Action Plan for implementation of the Strategy - 2004/5 - 2008/9. On March 4, 2010, **the updated Strategy for Educational Integration of Children and Pupils from Ethnic Minorities** was approved.

- A Centre for Educational Integration of Children and Pupils from Ethnic Minorities operates under the cap of the Ministry of Education and Science, and it runs a Programme that reflects the priorities and directions as set out in the Strategy. The programme is funded by the state budget annually.

² It should be clarified that this plan, and the Action Plan referred to in the question of ECSR, adopted by the Government in 2003, are different documents. In the drafting process, both were aimed at implementing the same policy, and their respective measures were performed by the same institutions, so two plans are no longer needed. At present, the Framework Programme for Integration of the Roma sets national priorities, encompassing guidelines of the international initiative. As a result, measures to implement these strategic directions are planned in the Action Plan for the "Decade of Roma Inclusion 2005-2015".

In the field of access to health care

- **Health Strategy for Disadvantaged Persons from Ethnic Minorities 2005-2015**, adopted by the government in September 2005. Its implementation takes place through an Action Plan for the period. The Strategy is an integral part of the National Health Strategy. It aims to achieve improve the health of disadvantaged Bulgarian citizens and stop some of the current negative trends in the health of the nation.

- **Programme “Prevention and Control of HIV/AIDS”**, implemented with grants from the Global Fund to Fight AIDS, Tuberculosis and Malaria, aimed at the **prevention of HIV/AIDS among groups most vulnerable to the disease, incl. the Roma.**

- **National programmes** that involve activities directed towards persons from ethnic minorities:

- National Programme for Prevention and Control of AIDS and sexually transmitted diseases;
- National Programme for prevention, early diagnosis and treatment of tuberculosis;
- National Action Plan for strengthening the surveillance system of communicable diseases

In the field of improving housing conditions

- **National Programme for Improving Housing Conditions of the Roma in Bulgaria 2005-2015** - adopted by Decision of the Council of Ministers under Protocol No. 12 of March 22, 2006. It is being implemented through annual Action Plans. Funds for the programme are allocated from the state budget.

- In connection with the adoption on May 19, 2010 of a modification in Art. 7(2) of Regulation 1080/2006 on the European Regional Development Fund, restricting the allocation of resources in urban areas for renovation of common parts of residential buildings occupied by different families, or restricting the change of use of buildings to provide housing for low-income families for marginalized groups only, measures will be taken to bring the text of OP “Regional Development” (OPRD) in section Operation 1.2 “Housing” to comply with this change and based on that, measures will be taken to provide social housing. Accommodation in such buildings will be linked to specific commitments leading to social integration, such as long-term repayment of the home, finding employment, mandatory training, mandatory schooling of children, mandatory vaccination and others;

- Within the framework of Priority Axis 1 “Sustainable and Integrated Urban Development” of Operation 1.2 “Housing”, a scheme was created under the OPRD to provide support for the provision of modern social housing accommodation for vulnerable, disadvantaged and minority groups and other disadvantaged groups. The scheme amounts to EUR 8 million and is expected to be published in mid-2011. The scheme aims to contribute to social integration by improving the standard of living and overall quality of life of disadvantaged and vulnerable persons, including the Roma.

In **conclusion**, the achievement of economic protection of Roma families will be the result of:

a) integrated approach used to define strategic priorities at the national level and formulate and implement measures at the operational level to implement these priorities;

b) a legal base that has been created in the country, regulating the procedures for the protection of vulnerable groups in various aspects, consisting of the following laws: Family Code, Law on Social Assistance, the Law on Family Allowances, Law on Child Protection and the relevant secondary legislation.

As regards the implementation of this legislation and any results that may have been achieved in recent years as a result of this legislation, information should be provided by relevant institutions that are competent to implement and enforce these acts.

The Committee takes note of the project for integration of the Roma, as regards access to social services, the social integration project (deadline 2004) and the government's strategy for social policy, adopted in 2002. Presentation of these programmes alone, without any evidence of their effectiveness, as regards the equal access of Roma families to family support, does not allow the Committee to conclude that the situation has improved. The Committee also notes from another source (European Commission against Racism and Intolerance, Third report on Bulgaria, 2003) that there is a lack of integrated policy in implementing the programme, as no financing has been provided in the state budget and regional budgets. The Committee asks that information is provided in the next report, demonstrating that the measures have resulted in effective economic protection of Roma families. At this stage, the Committee is of the opinion that the situation is not in accordance with Article 16 of the Revised Charter.

b) Legal protection:

Questions of ECSR:

Conciliation/mediation services

The Committee asks that the next report contain information on the operation of mediation services, and these should be examined in accordance with the principles of interpretation of Art. 16.

- The concept of Mediation:

In the Republic of Bulgaria, mediation is governed by the Law on Mediation (SG, No. 110 of 17.12.2004, amended and supplemented SG, No. 86 of 24.10.2006, supplemented SG, No. 9 of 28.01.2011)

In connection with the implementation of Directive 2008/52/EC of the European Parliament and the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters (OJ, L 136 / 3 of 24.5.2008), a Draft Law amending the Law on Mediation has been prepared, which is to be promulgated in the State Gazette.

According to the Law on Mediation, mediation is a voluntary and confidential procedure for alternative dispute resolution where a third party - a mediator, assists the disputing parties to reach agreement. The subject of mediation may be any civil, commercial, labour, family and administrative disputes related to consumer rights and other disputes between individuals and/or legal entities, including cross-border disputes (as specified in the above Draft Law).

The above Draft Law amending the Law on Mediation introduces the requirement of confidentiality of mediation: "The mediator shall not be questioned as a witness about any circumstances that he/she has been entrusted with by the participants in mediation process and which are of importance for resolving the dispute subject to mediation, except with the express consent of the participant that has entrusted them". An exception under the proposed project and in accordance with the requirements of the Directive can be made in the following cases:

"Exception to the confidentiality of mediation shall be allowed in cases where:

1. This is necessary for reasons relating to the protection of public order, the protection of the interests of children must be ensured, or harm to the physical or mental integrity of a person must be prevented, or

2. Disclosure of the agreement that has been reached as a result of mediation is necessary for the implementation and enforcement of that agreement.”

Regulations for settling disputes between spouses concerning children through mediation or the courts:

Chapter Twenty-Six of the Code of Civil Procedure governs proceedings on matrimonial disputes:

This chapter governs claims for divorce, annulment of marriage and establishing the existence or nonexistence of marriage between the parties. Minors of spouses under limited judicial disability and may themselves bring matrimonial actions and respond to them. Matrimonial proceedings shall be suspended at the request of the wife if she is pregnant and until the age of 12 months of the child. In the first session of the trial in a divorce action, the parties must appear in person. Should the claimant fail to appear without a good cause, the case is terminated. After the resolution of preliminary matters and matters concerning the regularity of the application, the court is obliged to direct the parties to mediation or other means of voluntary settlement. If the parties agree to initiate mediation or other voluntary means of dispute settlement, proceedings shall be suspended. Either party may request the reopening of proceedings within 6 months. If such a request is not done, the case is terminated. When agreement is reached, depending on the case or its contents, the case shall either be terminated or proceedings for divorce by mutual consent shall be launched. Should the parties fail to agree to mediation or any other means of voluntary settlement, proceedings shall continue. (Reference Art. 318-321 CCP).

c) Economic security Questions of ECSR:

Family support in sufficient amounts:

The Committee considers that if it is to be in accordance with Art. 16, the monthly allowance for children should be an adequate supplement to income, and a significant percentage of “median equivalised income”. In its previous conclusions, the Committee asked that the report contains information on this equivalised income, where possible, calculated using the Eurostat methodology. The government was also asked to provide information on other family support /assistance at birth and monthly benefits for the child up to one year/, and any tax relief and benefits in kind, which compensate for the low level of basic child allowance.

In the absence of information on the number of beneficiaries and on other tax incentives to offset the low level of basic child allowance, the Committee believes that the situation is still not in compliance with the Revised Charter.

The main objective of policies aimed to support children and families is the raising of children inside the family. One of the most effective tools of that support is the provision of family allowances for children under the Law on Family Allowances for Children. **About 84% of all children in the country are covered by the family support system.** Legal opportunity has been created for assistance to be paid as social investment, in the form of e.g.

kindergarten fee, in-kind assistance, etc. Families can receive various monthly and one-off family benefits, depending on the particular the case and if they meet the necessary conditions.

Types of family benefits

- *Lump-sum aid for pregnancy* is available to pregnant women whose income per family member for the previous 12 months is lower or equal to the income determined by the State Budget Law of the Republic of Bulgaria for the respective year /for 2010, this income is 350 BGN per family member/, and the amount of this benefit can not be lower than the amount for previous year /for 2010, this benefit amounted to **150 BGN**/. This benefit is granted to pregnant women when they have no right to compensation for pregnancy and childbirth under the Social Security Code /SSC/. Insured pregnant women who do not have the insurance periods as required under the SSC are also eligible for such benefit. The benefit is paid for the period of 45 days before the scheduled term of birth. In 2010, **17 639** pregnant women have received such aid.
- *Lump sum aid for childbirth* (amounts of this aid: **for a first child - 250 BGN for a second child - 600 BGN, for each additional child - 200 BGN**) is provided to the mother at birth of a living child, regardless of family income, when the child has not been abandoned in a specialized institution for children. On the birth of twins, one of which is the second child's mother, aid is paid for each twin child - in the amount for a second child. If by the age of 2 years of the child, any permanent disabilities of 50 and over 50 percent have been established, the mother is paid an additional one-off payment, established by the State Budget Law of the Republic of Bulgaria for the year, but not less than that for the previous year. For 2010, the amount of such assistance is **100 BGN**. In 2010, one-off benefits were paid for the birth of **72 226** children.
- *Monthly benefits for raising a child up to one year* are provided in cash and/or in the form of social investments for the mother (adoptive woman), when the income per family member for the previous 12 months is lower or equal to the income determined by the State Budget Law of the Republic of Bulgaria for the year /for 2010, this income is 350 BGN per family member/. For children with lasting disabilities, established by the respective panel of medical experts, the benefit is paid until the age of 2 of the child, regardless of family income. Assistance is also provided to foster families and to families of relatives taking care of a foster child, regardless of family income. The amount of aid they receive can not be lower than that for the previous year. For 2010, aid amounted to **100 BGN**. In 2010, the average monthly number of cases where this type of aid has been granted is **23 201**.
- *Monthly benefits for a child until completion of secondary education, but for not more than 20 years of age* are provided in cash and/or in the form of social investments for families whose income per family member for the previous 12 months is lower or equal to the income determined by the State Budget Law of the Republic of Bulgaria for the year /for 2010, this income is 350 BGN per family member/. For 2010, aid amounted to **35 BGN**. Families of children with disabilities receive this benefit in double /**70 BGN**/, regardless of family income. In 2010, the average monthly number of children that have been granted this type of aid is **839 698**.
- *Target lump grants for first graders* are provided to families whose children are enrolled in the first grade at a state or municipal school. Aid is granted to families whose income per family member for the previous 12 months is lower or equal to the income determined by the State Budget Law of the Republic of Bulgaria for the year

/for 2010, this income is 350 BGN per family member/ and is intended to cover part of the costs incurred at the beginning of the school year. The amount of this aid is fixed annually by decree of the Council of Ministers upon proposal of the Minister of Labour and Social Policy and may not be less than the amount of aid during the previous year. For 2010, the aid amounted to **150 BGN**. In 2010, such aid was granted to **42 399** first graders.

- *Lump sum allowance for raising twins from birth to 1 year* - it is provided to the mother (adoptive mother) to care for twins from birth to one year of age, regardless of family income when children are not placed in a specialized institution for children. The aid amounts to **1 200 BGN**. In 2010, such aid was provided to **2 056** children.
- *Lump sum allowance for raising a child until the age of 1 year, provided to student mothers, studying in full time education* - it is provided to the mother (adoptive mother) who is studying in full-time form of training for raising a child until the age of one year, regardless of family income when the child is not placed in a specialized institution for children. The aid amounts to **2 880 BGN**. In 2010, such assistance was provided in **1 934** cases.
- *Target assistance to mothers with many children to travel for free once a year - round trip by rail and bus transport in the country* – it is provided to mothers with many children, regardless of family income. In 2010, such assistance was provided to **7 461** mothers.
- *A monthly supplement for children with disabilities under 18 years of age until their completion of secondary education, but not later than 20 years of age*, is made available to families taking care for children with disabilities. The aid amounts to 70% of the minimum wage for the country, regardless of family income /For 2010, the minimum wage was 240 BGN/. For 2010, the aid amounted to **168 BGN**. Such aid in 2010 was provided in the monthly average of **20 144** cases.

A fundamental principle relating to the implementation of the provisions of the Law on Family Allowances for Children is non-discrimination based on sex, race, ethnicity, human genome, nationality, origin, religion or belief, education, beliefs, political affiliation, personal or social status, disability, age, sexual orientation, marital status or property status.

The purpose of family benefits is not to cover the cost of raising children, but to help families **in a series of other measures and services to support the raising of children**. Among these measures, the support provided pursuant to the **Law on Child Protection /LCP/** plays an important part - aid to prevent abandonment of children, support for reintegration, assistance for raising children in families of relatives and/or foster families. The amount of these benefits depends on the size of guaranteed minimum income, which for 2011 is 65 BGN.

Therefore, when assessing the “adequacy” of monthly family allowances, they should be considered in the broader context of the social assistance system, and the whole package of measures and benefits should be taken into account (monthly, targeted, single, energy benefits, involvement in various programmes, including employment, provision of social services, etc.) aimed to help people under a differentiated approach, on which the whole support system is built. Therefore, it would not be correct to set a single amount of family allowances for all cases, which would then be compared with the average equivalent income in the country /according to research by the National Institute of Statistics “Household

Budgets in the Republic of Bulgaria 2009”³, the median disposable income in equivalent unit - BGN - per month is 384.37 BGN/.

Scope of the provision as interpreted by the ECSR

Notion of "family" as defined in domestic law.

States party are free to decide how they will provide social, legal and economic protection to their various types of families, particularly one-parent families and vulnerable families, including Roma.

a Social protection

- there should be an adequate supply of family housing and families' needs should be taken into account in drawing up and implementing housing policies. Housing should be of an appropriate standard and with all the basic amenities. The destruction of accommodation and forced evictions are incompatible with Article 16.

There should be effective means of appeal, arrangements for rehousing in decent accommodation and appropriate financial assistance. Vulnerable families should be offered proper protection, including suitable temporary and permanent housing, and evictions should be prohibited unless they comply with the relevant procedural safeguards.

- there should be financially affordable child care facilities of a suitable standard, measured in terms of the number of children aged 0-6 years covered, staff-child ratios, staff training, availability of suitable premises and the cost for parents.

- there should be appropriate family advice services and families' point of view should be taken into account when drawing up family policies.

b Legal protection

- there must be full equality of rights and responsibilities between spouses, particularly with regard to marital authority, property and the use and administration of assets, and towards children, in terms of parental authority and management of children's property. There should be legal arrangements for settling disputes between spouses and concerning children, and mediation services.

- there should be legal and practical protection from domestic violence (though violence against children is covered by Article 17).

c Economic protection

- family or child benefits must provide an adequate additional income for a significant number of families, in terms of median net monthly income, as calculated by Eurostat, and may be supplemented by other forms of economic protection.

- vulnerable families must be protected in accordance with the principle of equal treatment.

For a list of selected other international instruments in the same field, see Appendix.

³ <http://www.nsi.bg/otrasal-publikacia.php?n=217&otr=21>. According to the methodology of the study: "Earnings are coded according to the Classification of Revenues, developed for the needs of the survey of household budgets, and harmonized in 2008 with the requirements of Eurostat on EU-SILC."

Article 17 – The right of children and young persons to appropriate social, legal and economic protection

With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:

2. to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools.

Information to be submitted

Article 17§2

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.**
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.**
- 3) Please provide pertinent figures, statistics or any other relevant information, in particular on the number of children failing to complete compulsory schooling dropping out of education without qualifications and on measures to combat absenteeism.**

As stated in the previous Report under this provision of the ESC(r), pursuant to the Law on Public Education, promulgated in SG, No. No. 86 of 18.10.1991, education in state and municipal schools is free. Schooling up to 16 years of age is compulsory. Training of children with special educational needs and/or chronic diseases is integrated.

The following changes in legislation have occurred:

Law on Public Education:

Additional provisions:

- § 4. (1) Foreign citizens shall have the right to be educated in the Bulgarian schools in compliance with the laws and the by-law normative acts of the Republic of Bulgaria.
- (2) (Amend. - SG, No. 36/1998) School education shall be free of charge for the foreign citizens who:
1. (Suppl. – SG, No. 9/2001) have permits for a permanent residence in the country, as well as for students in compulsory schooling age – children members of the family of a foreigner who is in possession of a permit for permanent residence in the country;
 2. are admitted under acts of the Council of Ministers;
 3. are admitted under intergovernmental agreements in which this issue has been settled;
 4. (New – SG, No. 105/2006, in force from 01.01.2007) students aged for obligatory school education – children of citizens of European Union Member States, of the countries of the European Economic Space and of Switzerland, exercising labour activity on the territory of the Republic of Bulgaria, in case when they reside in the country together with their parents, respectively with their guardians or custodians.

§ 4a. (New – SG, No. 105/2006, in force from 01.01.2007; amend. – SG, No. 74/2009, in force from 15.09.2009) To students aged for obligatory school education – children of citizens of European Union Member States, of the countries of the European Economic Space and of Switzerland, exercising labour activity on the territory of the Republic of Bulgaria, in case when they reside in the country together with their parents, respectively with their guardians or custodians, free education in Bulgarian language shall be provided, and also education in cooperation with the countries of origin in their native language and culture under the conditions and following a procedure, determined by the Minister of Education, Youth and Science.

Initiatives are being implemented in the field of education, aimed at ensuring equal access to education for all children. This is one of the priorities of the **Ministry of Education, Youth and Science (MEYS)**. Improving school environment and building the necessary infrastructure and network services are critical to serious risk groups such as children and students with disabilities, people from ethnic minority groups, especially Roma pupils who for various reasons have dropped from the educational system. During 2008-2010, the following national programmes financed from the state budget were implemented with the aim to provide measures and activities related to ensuring equal access to quality education for children and students:

- **National Programme for better inclusion of pupils in compulsory school age** through the following operational areas:
 - “Provision of textbooks for students in the I - IV grade in state, municipal and private schools in Bulgaria”;
 - “Optimizing the school network by providing transportation to state and municipal schools for pupils in primary school grades”;
 - “Providing breakfast and/or fruit and/or milk (tea), including yogurt products to each student in the I-IV grade and in preparatory groups and classes”.
- **Creation of accessible architectural environment in schools to integrate children with special educational needs.**
- **With care for each student** - module “Providing additional training to students, in order to raise their level of achievement in educational preparation”.
- **Modernization of furniture and equipment at school** - module “Creating an accessible architectural environment”.
- **Educational inclusion of children and pupils from ethnic minorities.**
- **School without violence** - model the Ministry of Education, UNICEF and the Society of Psychologists in Bulgaria (SPB) for a general school policy against violence and harassment.
- **Scholarships for students after completion of primary education.**
- **Student dormitories** (funds under standards).
- **Transportation of students.**
- **Educational inclusion of children and pupils from ethnic minorities.**
- **Boarding schools** – funds for day-to-day organization of the school day and canteens.
- **Creation of accessible architectural environment in schools to integrate children with special educational needs.**

Funds from the European Social Fund under Operational Programme “Human Resources” /Operational Axis 4: “Improving access to education and training”/ are also being used. The most important programmes are:

- Creating a favourable multicultural environment for practical implementation of intercultural education.
- Making the school attractive to young people.
- Educational services for students lagging behind the study material.
- Supporting the training of children and pupils with special educational needs.

With respect to children with special educational needs, appropriate **policies** are being developed to ensure access to education. They are laid down in the following **documents**:

- **National Programme for the Development of School Education and Pre-school Education (2006-2015)**. It defines two main objectives of education policy - equal access to education and quality education. These objectives are of even greater importance for pupils with special educational needs;

- **Programme for the Development of Education, Science, and Youth Policies in Bulgaria (2009-2013)**. It defines the strategic priorities of the Ministry of Education, Youth and Science. One of the most important strategic directions is ensuring equal access to education and an open education system. Equal access to quality education is directly connected with the creation of conditions for sustainable development - creating the proper conditions and environment at school and university level, but also building a system of services and appropriate infrastructure to support and facilitate the exercise of the right to education for everyone. It can be achieved by applying the principles of inclusive education;

- **Ordinance No. 1 of 23.01.2009 for the education of children and students with special educational needs and/or chronic diseases**.

Regulations in this ordinance reflect, on the one hand, contemporary European trends in the training and integration of children with disabilities, and on the other hand – the practical experience of Bulgaria in this field. It emphasizes on integrated training and inclusion of children and pupils with special educational needs in the mainstream school environment, in accordance with ministry policy. It defines the elements of a supportive environment for the successful education of children and pupils with special educational needs.

Measures to ensure access to quality education have been introduced and implemented. They relate to:

- **Providing a supportive environment for the training and education of children with special educational needs in mainstream schools and kindergartens**

In all schools and kindergartens where children and pupils with special educational needs are being taught, by orders of their respective Directors have been established teams of specialists to assess the educational needs and prepare individual educational programmes. Teams are provided with ongoing advice from both the teams for complex pedagogical assessment (TCPA) to the Regional Inspectorates of Education (RIE), and the resource centres to support the integrated education of children and pupils with special educational needs, created in 2006. Individual programmes have been developed for children and students with special educational needs. A new curriculum for the special subject *useful skills* has been approved for children and students with impaired vision. Annually, free textbooks are being printed in Braille for visually impaired students and free textbooks for all subjects are supplied to pupils with special educational needs from preparatory to seventh grade.

Over 2 000 teachers have been trained with funds from the budget and funds under different projects and programmes to work with individuals and students with special educational needs.

Support has been provided for school graduates with special educational needs to sit their state matriculation exams. The provisions of Art. 28 of Ordinance No. 3 of 17.05.2004 on the organization and conduct of state matriculation exams regulate special conditions

under which graduates with special educational needs sit their state matriculation exams. In this connection, during the 2007/2008 school year, the Ministry of Education has provided the necessary conditions, cooperation and equipment to 157 graduating students with special educational needs to sit their state matriculation exams, to 130 graduating students with special educational needs during the 2008/2009 school year (duration of exams for each student with special educational needs has been increased with 120 minutes; accessible architectural environment has been created, separate rooms for each student with special educational needs teachers has been provided, as well as consultants, such as psychologists, speech therapists, depending on the type of disability and individual needs of graduates; oral exam format for graduates with disabilities who are unable to sit a written examination; adapted text (Braille or enlarged print) and equipment (Braille machines, Braille printers, Braille paper, magnifiers, audio recordings, CDs, a special computer programme for blind graduates).

During the current school year, conditions for inclusion of pupils with special educational needs of IV, V, VI and VII grade in external evaluation were provided for the first time. For students with impaired vision (82 for the country) examination materials were prepared and printed in Braille and enlarged print.

- Creating conditions for integrated education of children with special educational needs in the educational system

In pursuance of the policy for access to quality education, a number of activities have been implemented, aimed at the integrated education of children and pupils with special educational needs in kindergartens and schools. As a result of implemented activities, the number of children and pupils with special educational needs in integrated training was significantly increased. At the end of the 2009/2010 school year, in kindergartens and schools 8 820 pupils with special educational needs were undergoing integrated education, which is an increase of 9.8 percent over the previous year.

The 28 resource centres to support the integrated education of children and pupils with special educational needs are functioning successfully. Experts in these resource centres have a key role in integrating children and students with special educational needs in the general education process and ensuring their right to affordable and quality education. In 2010, 1 089 resource teachers, psychologists, speech therapists and speech and hearing rehabilitators have been appointed at the resource centres. This represents an increase of 14.3 percent in the number of resource teachers and other professionals, compared to 2009.

- Optimizing the system of special schools

In the last three years, an intensive process of optimizing the network of special schools and units was carried out: 43 special schools were closed, of which 5 special schools were closed during the 2008/2009 school year - 2 schools for students with mental retardation and 3 remedial schools. The number of special schools was sharply reduced - from 76 during the 2003/2004 school year, to 50 during 2008/2009 school year. For the most part, students from the closed schools for children with special educational needs were redirected to integrated education in mainstream schools with resource assistance. The number of children who were taught during the school year 2008/2009 in special schools for children with special educational needs was 4 607. The table shows children with special educational needs by types of special schools.

Type of special school	Number of special schools for children with disabilities	Number of students in special schools for children with disabilities
Schools for children with impaired vision	2	316
Schools for children with impaired hearing	3	553
Special schools for children with mental disabilities	50	3053
Total:	55	3922

- Updating curricula in all teacher education programmes (bringing teaching qualification) in university education to improve training for work with children and pupils with special educational needs

To implement this action, by letter of the Minister of Education, Youth and Science the Rectors of universities were invited to take urgent action to change the curricula and include courses in the 2010/2011 school year on basic education of students aimed at preparing them to conduct a quality education process of children and pupils with special educational needs in kindergartens and schools.

Specific measures for inclusive education are being developed. Forthcoming activities regarding inclusive education relate to the implementation of measures envisaged in the Programme for the Development of Education, Science, and Youth Policies in Bulgaria (2009 - 2013) and implementation of activities under national programmes of the Ministry of Education, Youth and Science and under the Operational Programme “Human Resources”, in accordance with the regulations and standards of the European Union in the field of inclusive education of children and pupils with special educational needs, lifelong learning and realization in the labour market.

Early school leaving is one of the serious challenges not only of modern education, but also the entire modern society. According to the results of sociological surveys, the main reasons for dropping out are defined as: social, economic, ethno-cultural, psychological and pedagogical reasons. Social reasons are most often associated with family relationships – parents’ lack of interest, problems between parents in the family, etc. Ethno-cultural reasons are mostly typical of children from different ethnic origins. For example, the ethnic and cultural specifics of the Roma community involves early marriages for girls. The most serious economic reasons for dropping out of school are poverty, unemployment of parents and dropping quality of life.

In order to reduce the dropout rate and achieve the national goal in relation to Work Programme “Europe 2020” - 11% drop-out in 2020 - the following measures have been taken and activities implemented:

- implementing measures to prevent school dropping through the National Programme “Care for Each Student” and the “No School Bell” Project led to a significant reduction in the percentage of dropouts, from 20.8 % in 2000, to 14.3 % in 2009;

- implementing activities for provision of educational services to children lagging behind in the material - completed project “Educational services for children lagging behind in curriculum and gifted children”;
- providing training for talented students to participate in student competitions - projects have been implemented in 235 schools to train 9 000 talented students, with the involvement of 100 teachers;
- providing additional training to enhance students’ achievement in general education - school projects were implemented for the further training of 6 856 students from 760 schools, with the involvement of 1 160 teachers;
- organizing and conducting student competitions and national competitions – during school year 2009-2010, 19 Olympiads and 17 national competitions were held.

The processes of ensuring conditions for all-day organization of the school day for students in first grade; optimization of special schools and reforming their activity to provide a supportive environment for inclusive education and training of children and pupils with severe and multiple disabilities; measures to prevent dropout have been started and will continue. Amendments to the legislation governing actions with respect of children, students and persons over 16 years of age with deviant behaviour are being prepared.

By implementing the above programmes and activities and accompanying measures, problems are solved relating to providing a supportive environment for vulnerable groups, building new models to work with them; eliminating segregated schools and kindergartens in villages and neighbourhoods with predominantly Roma population, training children of migrant workers from EU Member States, EEA and Switzerland.

For the period July 2009 - June 2010, the following was achieved:

- in 2009 was created an architecturally accessible environment in 4 state schools of total value 781 783 BGN, which has increased by 2% the number of public schools and service units with architecturally accessible environment;
- the number of children and pupils with special educational needs /SEN/ included in mainstream education was increased – the total number of SEN pupils included in mainstream education for the period June 2009 - June 2010 is 8 820, which is 9.8 percent more than in the previous year;
- training activities were conducted with the participation of 1 040 teachers and other professionals working with children and pupils with SEN, an increase of 25% compared to the number of trainees in the previous year;
- The process for resource provision of inclusive education continues - for the period from July 2009 to June 2010, 1 089 resource teachers and other specialists were provided, an increase by 14.3% in the number of resource teachers and other professionals;
- special schools are being reformed to provide an opportunity for development of children with special educational needs and deviant behaviour;
- conditions for the creation of a tolerant multicultural environment in Bulgarian schools are being created, through the development and wider application of specialized training programmes for ethnic tolerance of students teachers and parents, the study of cultural behaviour, cultivating tolerance and understanding, as a result of which for the 2009/2010 school year, host schools and students from ethnic minorities studying there have increased by 5%;
- efforts to ensure conditions necessary for access to education of students for whom Bulgarian is not a mother tongue, studying in a multicultural Bulgarian-speaking

environment continue - the number of students for whom Bulgarian is not a mother tongue currently trained in a multicultural environment has increased by 3%.

Activities of the Ministry of Labour and Social Policy (MLSP):

Special place in the priorities of the MLSP has been given to children and young people. The main policy objectives related to the welfare of children and young people in Bulgaria are raising children in the family and providing support to parents to ensure all necessary conditions for the development of minors as decent people and their active social inclusion.

For the period from 2004 to 2009, a number of changes in legislation were made, key strategic documents were developed - the National Strategy for Children 2008-2018 and the annually adopted National Programme for Child Protection, which placed among their priority areas the improving of access to quality education and developing of a system for coordinated action to protect children from violence and all forms of exploitation.

At the beginning of 2010, decisive actions were taken by the government to introduce a qualitatively new approach to policies for children and the family. In March 2010, the Ministers adopted the National Strategy “Vision for the Deinstitutionalization of Children in Bulgaria”, which set the strategic framework of the new approach. As a result of the implementation of this strategic document, it is expected that in the long run, after going through a reduction of the number of children in institutions, the classic type of institutions will be closed down completely within 15 years. The planned measures are aimed primarily at preventing institutionalization through the provision of family support and development of social services within the community.

In early 2010, changes were made in the Law on Social Assistance and its implementing rules, introducing the planning of social services at district and municipal level, based on an analysis of the target groups.

In May 2010, the Ministry of Labour and Social Policy started work on an overhaul of legislation relating to policies for children and families. The approach applies integration of child and family support. This is related to the development of:

- Analysis and concept on the regulation and implementation of integrated policies for children and families;
- Analysis and concept on the structural provision of the support system for children and families;
- Analysis and conception on the responsibilities of the institutions involved.

In the period 2005 – 2009, a pilot project of ILO - IPEC was implemented at central and local level in eight pilot municipalities, with the support of representatives of state institutions at central and local level - MLSP, SACP, Ministry of Interior, Ministry of Education, ASA, Chief Labour Inspectorate and various NGOs, aimed at introducing a system to monitor child labour.

Due to their flexibility, social services are the most appropriate and adaptable instrument for dealing with various problems arising from social exclusion, or leading to social exclusion. The most commonly used social services aimed at children involved or at risk of involvement in child labour are crisis centres, shelters for homeless children, centres for work with street children, community support centres, centres for family-type accommodation and “Mother and Child” units, as well as sheltered homes, providing support for children leaving specialized institutions. The number of these social services during the past period is as follows:

	Type of social service in the community	2008г.	2009г.	30.06.2010г.
1	Protected homes	71	94	93
2	Shelters for homeless children	5	4	4
3	Unit "Mother and Child"	9	10	10
4	Community Support Centre	26	42	42
5	Centre for Work with Street Children	9	11	11
6	Crisis Centre	6	9	9
7	Centre for family-type accommodation	6	30	43
8	Centres for temporary accommodation	15	12	12
	Total number	147	212	224

In 2010, the implementation of a new approach was started, aimed at preventing the social exclusion of children and families at risk /children from low-income families, incl. children from vulnerable ethnic groups, particularly the Roma, children with disabilities aged up to 7 years/, through the implementation of the **Social Inclusion Project**, funded by a loan from the International Bank for Reconstruction and Development (World Bank) amounting to 40 million Euros. The project allows municipalities to develop services for early childhood development, prevention of risks in early childhood, for better coverage and improving the readiness of children for inclusion in the education system and provision of support for the formation of parenting skills among parents and vulnerable groups, etc.

One of the most successful forms of support to families with children is financial support provided under the **Law on Family Allowances for Children**, through the implementation of programme "Support to families with children". The legislation guarantees the payment of lump sum benefits for childbirth. This sum is differentiated, depending on whether the child is first, second, etc. The payment of monthly family allowances for children is guaranteed; these are paid from the child's birth until adulthood, and if the child is taught, until 20 years of age. The disbursement of this aid is linked to family income. In 2009, the threshold for access to this assistance was increased to 350 BGN, resulting in providing coverage to about 84% of all children in the country by the system of family support. The payment of such benefits is related to school attendance by the child.

A requirement has been introduced in the Rules implementing the Law on Family Allowances for Children when applying for a monthly allowance for children up to secondary education, but not more than 20 years of age, for families to submit a certificate from the school that the child is enrolled as a student when it is of school age. To this end, the requirement was introduced for school directors to send to the regional directorate for social assistance at parents' permanent address a monthly report on students with five or more unexcused absences from school for the month.

A legal opportunity has been created for assistance to be paid as a social investment, such as fee for kindergarten, in-kind assistance, etc. Since the beginning of 2009, the amount of monthly benefits for children has been increased and is now 35 BGN. Families of disabled children receive double the amount of such aid, or 70 BGN and the aid is paid regardless of family income.

Also, from early 2009, a single allowance was introduced for raising twins until the age of one year (1 200 BGN per child in 2009 and 2010), and for raising a single child under one year of age by mothers who are undergraduate university students in a full time form of education (2 880 BGN for 2009 and 2010); both benefits are available regardless of family income.

In March and April 2010, changes were made in the Law on Family Allowances for Children and the Rules on its application, which introduced a new type of family allowances for children - monthly allowances for children with disabilities, amounting to 70% of the minimum wage /for 2010, the aid amounted to 168 BGN per month/. Prior to this, the aid was paid under the Law on the Integration of Persons with Disabilities. In April 2010, a change in the Rules of application of LFAC was made, which introduced the requirement that in order to apply for monthly benefits for a child before completion secondary education, but prior to 20 years of age and for monthly benefits for a child until the age of one year, parents must submit a certificate attesting that all required immunizations and medical screenings of the child have been made. According to data from the Agency for Social Support, family benefits granted are as follows:

Lump sum for pregnancy:

As of 31.12.2009, a lump sum for pregnancy has been provided to 19 818 women. The total amount paid is 2 965 245 BGN.

For 2008, a total of 17 515 women have received support. The total amount paid is 2 965 275 BGN.

As of 31.03.2010, a lump sum for pregnancy has been provided to 4 467 pregnant women. The total amount paid is 670 673 BGN.

Lump sum for childbirth:

For 2009, a lump sum for childbirth has been provided for 77 900 newborns. The total amount paid is 29 435 815 BGN.

For 2008 a lump sum for childbirth has been provided for 73 321 newborns. The total amount paid is 25 097 795 BGN.

For the first quarter of 2010, a lump sum for childbirth has been provided for 17 751 newborns. The total amount paid is 6 562 390 BGN.

Monthly benefits for raising a child under one year of age:

By December 2009, a monthly average of 22 089 mothers received monthly benefits for a child up to 1 year of age. The total amount paid is 27 134 071 BGN.

For 2008, a monthly average 22 117 mothers have received benefits. The total amount paid is 28 383 572 BGN.

Until March 30, 2010 a monthly average of 23 838 mothers received monthly benefits for a child up to 1 year of age. The total amount paid is 7 280 010 BGN.

Monthly benefits for a child prior to completion of secondary education, but not after accomplishing 20 years of age:

For 2009, monthly benefits for children were received by a monthly average of 571 416 families for 841 728 children. The total amount is 358 331 311 BGN.

For 2008, monthly benefits for children were received by a monthly average of 561 977 families and 828 276 children. The total amount is 251 383 182 BGN.

For 2010, monthly benefits for children were received by a monthly average of 582 582 families for 855 946 children. The total amount is 93 145 834 BGN.

Target lump sum for first graders:

For the 2009/2010 school year, 40 883 first graders have received a targeted lump sum amounting to 150 BGN. The total amount paid is 6 099 380 BGN.

For the 2008/2009 school year, 30 537 first graders have received a targeted lump sum. The total amount paid is 4 704 030 BGN.

Lump sum for raising twins from birth to 1 year:

In 2009, the “Social Assistance” Directorates have paid 3 650 920 BGN for 4 689 children - twins. The aid granted for the first quarter of 2010 relates to 438 children, for which 532 280 BGN were paid.

Lump sum for a child from birth to 1 year to student mothers:

Until 31.12.2009, 1 434 student mothers have received 3 521 286 BGN. As of 31.03.2010, student mothers have received 1 132 246 BGN, for 408 cases respectively.

In addition to support under the Law on Family Allowances for Children, families of children at risk receive support under the Law on Child Protection. In support of measures for child protection, financial support can also be provided through the programme “Protection of children through the transition from institutional care to alternative care in a family environment”. Financial support is part of the work on prevention of child abandonment, reintegration, provided when placing children in the families of relatives, or in host families. In 2008, 5 488 932 BGN were used to provide support in 3 585 average monthly cases. For 2009, funds spent under this programme amounted to 6 716 510 BGN for 3 950 average monthly cases. Under the “Protection of children through the transition from institutional care to alternative care in a family environment” Programme, 7 400 000 BGN were earmarked in the budget for 2010, to be used for activities implemented under the Law on Child Protection.

Questions of ECSR under Art. 17, para. 2:

- School drop-outs

The Committee is interested in whether there are any measures to assist needy families to meet any unforeseen expenses at school and expenses for textbooks from second grade onwards, especially after finding from another source that there is no formal provision for schools to buy textbooks for needy children.

The Committee notes that students can, upon completing their primary education, receive financial aid or scholarships in certain circumstances. The Committee calls on the next report to contain information on what criteria are applied to provide grants and scholarships, and any information on funds that are allocated by the Ministry of Education and Science for children suffering from chronic diseases or with special educational needs.

As stated above, to ensure the measures and activities related to ensuring equal access to quality education for children and students, a National Programme for Better Coverage of Students in Compulsory School Age was implemented in the 2008-2010 period, using funds

from the state budget. One of the operational directions of the programme is “Provision of textbooks for students in I-st – IV-th grade, studying in state, municipal and private schools in Bulgaria”.

ORDINANCE No. 207 of 03.10.1994 of the Council of Ministers (SG, No. No. 83 of 11.10.1994, effective 10.01.1994) governing conditions for receiving scholarships from students who complete their primary education.

Art. 1. Upon the terms and conditions of this Ordinance, scholarships and grants shall be awarded for students in the regular form of education which are:

1. Bulgarian citizens - students in state and municipal schools in the country;
2. Bulgarian citizens - students abroad;
3. Foreigners - students in Bulgarian state and municipal schools, enrolled on the basis of intergovernmental agreements or other acts of the Council of Ministers.

Art. 2. (1) Scholarships shall be awarded from the beginning of each school year and from the beginning of the second term and shall be paid for the period from 1 October to 30 June inclusive.

(2) Allotted scholarships will be reviewed after the first term on the basis of school marks of the student during the first term and a current statement of income.

(3) (Amended - SG, No. 63/1995) To pupils with special educational needs and children without parents or with only one parent, scholarship shall be granted from the month following the month during which the grounds for receipt have occurred, and shall be paid for 12 months.

(4) Scholarships may be obtained no later than three months from the end of the month to which they relate.

.....

Art. 4. (1) Funds for scholarships shall be provided annually from the state budget and municipal budgets.

(2) For Bulgarian citizens studying abroad, scholarships shall be provided from the budget of the Ministry of Education, Youth and Science.

Art. 5. (Amended - SG, No. 63/1995) (1) Scholarships shall be awarded after completion of primary education:

1. (Amended - SG, No. 5/1999) to pupils with special educational needs regardless of the degree of disability and children without parents or with one parent – and shall amount to 21 BGN;

2. (Amended - SG, No. 5/1999) to students with a monthly income per family member below the national minimum wage, if their grades are no less than very good 4.50 – and shall amount to 18 BGN;

.....

Art. 8. (1) (Amended - SG, No. 5/1999) On the proposal of pedagogical council, the director of the school may granted in special cases a one-off payment of up to 120 BGN.

(2) Support under par. 1 shall be a one-off grant for the school year.

(3) The total amount of grants under par. 1 shall be up to 3 percent of funds approved for the payment of scholarships.

The Committee noted that during the school year 2001/2002 there were 372 primary schools (grade I-IV), 1 950 primary schools (grade I-VIII), 22 secondary schools

and 160 secondary specialized schools⁴. During the school year 2002/2003 they were respectively 325, 1901, 22 and 161. The total number of pupils in primary and secondary education in 2001/2002 was 708 092, with a total 52 389 teachers; in 2002-2003, it was 681 333 students with a total of 48 783 teachers. The Committee noted that there was an overall decline in the number of schools and attending students. It would like to be informed about the reasons for this decline and whether it has prevented children, especially those in rural areas, from continuing their education.

The Committee reiterates its request for information on other possible measures for education of minority children, particularly the Turkish minority. In conclusion, the Committee asks that a copy of the Draft Strategy for Educational Integration of Children and Students from Ethnic Minorities is included in next report.

The Committee notes from another source⁵ that the basic rate of children commencing school in 1997-2000 was 93% for females and 95% for males. According to the report, 15 000 children have dropped out of the school system during the 2002-3 school year. Most of the dropouts from primary education are of the Roma and socially vulnerable families. According to another source⁶, the official rate of school drop-outs is 6-7%, which means 45 000 children have dropped out of school.

The Committee considers that the number of school drop-outs is too high and therefore the situation is not in accordance with the Revised Charter. The Committee would like to see the next report indicate all results achieved by measures taken to ensure access to school and to prevent premature exit. In particular, the Committee questions whether the initiatives of the Ministry of Education and Science have led to a reduction in the number of children who fail to complete their education and whether they have ensured equal access to quality education for children from different ethnic groups. The Committee reiterates its request for information about the level of absence from school in compulsory education. The Committee asks for updated information on the number of school drop-outs, including data on ethnic groups.

The number of pupils in primary and secondary education is directly related to the demographic development of the country. In this sense, the low birth rate in recent years is the led to fewer children being enrolled in the educational system. The proportion of dropouts from the system remains relatively constant, as it moves within the range of 2 to 3% of the total number of children. In this connection, a number of measures have been taken, both in terms of responsible parenting and family support, and to implementing additional social measures to promote staying in school.

Bulgaria has reported significant progress in reducing the share of so-called “early school leavers”. If in 2000 a total of 20.3 percent of youths between 18 and 24 have not completed secondary education, and are not participating in any form of education or training, for 2007 their share has dropped to 16.6% (16.9% for women and 16.3% for men), with a EU average of 14.8%.⁷

In connection with school drop-out (1-8 grade), NSI data show that:

- For the 2005/2006 school year, 17 310 students have dropped out of school, which accounts for 3% of students between the first and eighth grade.

⁴ Source: National Institute of Statistics

⁵ State of the World's Children 2004 (UNICEF).

⁶ OECD

⁷ National report of the Republic of Bulgaria on strategies for social protection and social inclusion 2008-2010 http://nmd.bg/wp-content/uploads/2009/11/NPD_2008_2010.pdf

- During the 2006/2007 school year, for various reasons, 19 379 students have dropped out of school, or 3.6% of students in primary education.
- During the 2007/2008 school year, for various reasons, 15 718 students have dropped out of school.
- During the 2008/2009 school year, for various reasons, 13 577 students have dropped out of school.

These persons should not be considered to have left the education system completely. It is possible that during the years to follow they could continue their education in the same or different school. The growing number of students that have left school for the 2006/2007 school year is mainly due to them going abroad (18.8% for the 2006/2007 school year, at 15.7% for the previous). The highest proportion is of those who have left for family reasons (46.6%), while the number of drop-outs who have left because of lack of desire to study has decreased from 28.4% in 2005/2006 to 25.3% in 2006/2007.

Two sociological surveys have been conducted to explore the reasons for dropping out of school that helped shape the profile of children dropping out of school and the complexity of reasons for dropping out.

Under a joint project of the Ministry of Education and Science and UNICEF “Preventing Students from Dropping out of School” a draft national action plan has been drawn up for reducing the number of early school leavers in compulsory school age for the period 2007-2010. During the implementation of project activities, the Ministry of Education and UNICEF announced a competition for selection of one NGO offering a project proposal for prevention of dropping out of school at the municipal level.

The main project objective is to develop and implement in a pilot form during the school year 2008/2009 a successful model for dropout prevention and reducing the number of dropouts at the municipal level. The project duration is 22 months and will be implemented in two pilot communities - Dimitrovgrad and Oryahovo, selected according to the percentage of school dropouts for the 2006/2007 school year (2.75% and 3.6% for Dimitrovgrad and Oryahovo, respectively). The selection of pilot communities was made in accordance with the requirements of The Ministry of Education and UNICEF on the percentage of school dropouts in pilot municipalities.

In order to prevent early school leaving, the National Programme for the Inclusion of Pupils of Compulsory School Age is currently implemented. An emphasis in the programme has been placed on providing access to school, regardless of the place of residence of the child and the economic situation of its family. Key steps in this direction are: the provision of free textbooks to all pupils from grades 1 to 4, providing breakfast for all children from grades 1 to 4, and free transport. Target groups are children from preschool preparatory groups.

The implementation of the National Programme is characterized by social, health and educational effect. The programme has helped to improve facilities in schools. In many schools, municipal administrations have carried out repairs of school canteens that have not been used for years. The monitoring conducted throughout the country showed a lasting effect on retention of children in schools, reduction of the risk of dropping out of the education system and real contributions for the family budgets of parents.

One of the important measures for preventing school dropout is the involvement of students in various extracurricular forms of training. In this respect, in addition to existing measures to ensure equal opportunities in education, the Employment Agency has implemented the project “Teachers for Extracurricular Activities and Vacations”.

Part of the objectives of the project “Teachers for Extracurricular Activities and Vacations” are to ensure a qualitatively new way of organizing and conducting the short- and

long- term relaxation of students, organizing extracurricular activities related to teaching, developing road transport culture in students which is to be a factor for their good discipline and behaviour in traffic conditions, reducing traffic accidents with students. Additional services being offered to students supplements the care of parents and helps improve student's achievement in school. Moreover, is increasing employability and providing employment for unemployed teachers, sports people and teacher assistants in the operations and activities associated with active recreation of students, the organization of extracurricular activities and is assist teachers in carrying out the education process in schools, etc. Employers are provided with funds for the period of employment of such employee earmarked for: salary, bonuses under the Labour Code; funds for basic paid annual leave and health and social security contributions paid by the employer. Unemployed persons are appointed under an employment contract for a period of 12 months.

Apart from national programmes, a number of local initiatives and initiatives by NGOs are taking place, targeting specific groups of children. Other measures taken are at the legal level in the field of family and social support.

We do not have data on children dropouts from the educational system along ethnic lines.

On the integration of children and students from ethnic minorities in the educational system.

In recent years, the policy of the Ministry of Education and Science on the educational integration of children and pupils from ethnic minorities is implemented through the Strategy for Educational Integration of Children and Pupils from Ethnic Minorities, adopted in 2004. A Plan for its implementation for the 2004-2009 period was adopted. The Advisory Board of Education of children and students from ethnic minorities established by Order No. RD 09-528 of 25.06.2003 of the Minister of Education and Science, at its meeting in December 2009, took decision to establish working groups to update the Strategy and to develop its implementation plan for the 2010-2015 period. Subsequently, the Strategy has been updated and the Plan for its implementation for the 2010-2015 has been adopted.

The structure implementing the policy of the Ministry for children and students from minority groups is the Centre for Educational Integration of Children and Pupils from Ethnic Minorities, established by government Decree No. 4 of 11.01.2005. The centre is a secondary dispenser of budget funds, implementing activities on a project basis with the purpose of ensuring equitable access to quality education, and it should be specifically noted that equal access does not mean equal care for all children but rather care differentiated according to their differing needs. This means that for those children who have no equal start, it is necessary to take special care to achieve their full participation in the educational process. In 2010, under the National Programme No. 5 "School – an Area for Students", module B was provided for and implemented: Full day organization of primary education. 1 053 proposals were received and evaluated under the modules. The number of submitted project proposals clearly demonstrates that the system needs the organization of such training at an early stage that would be especially useful for students from the minorities whose mother tongue is other than Bulgarian and whose mastering of the Bulgarian language, during their full-day activities in a Bulgarian-speaking environment typically leads to better quality of their education. Enclosed to this report is *Information about the activities of the Centre for Educational Integration of Children and Pupils from Ethnic Minorities (Annex 3)*.

On the other hand, Phare projects BG 2003, 2004, 2005 under component "Education" are also targeted at improving the status and integration of minority groups with a special focus on the Roma.

Work on the educational integration of children and pupils from ethnic minorities is a process that will continue in the coming years, under the cited documents and strategies, and priority will be given to the quality of education in segregated schools and multicultural education in a Bulgarian-speaking environment. In the draft Law on School Education, texts have been proposed to regulate the process integration, which provide for closure of segregated kindergartens and schools, by taking into account regional specificities. The expected results are an approximately 5% increase for each year in the number of children and pupils in integrated kindergartens and schools, as well as the development of standards for funding all-day training for students from ethnic minorities.

Priority measures:

- Desegregation of existing segregated “Roma” schools in cities and prevention of secondary segregation in ethnically mixed schools;
- ending the practice of enrolling Roma children with normal levels of development in special schools and integrating children from special schools in mainstream schools;
- increasing the percentage of Roma children involved in the forms of pre-school education and training;
- inclusion of all Roma children in compulsory schooling age in the public education system, work with children-dropouts to return to school.

Indicative activities in this direction are:

- identify the reasons for dropping out, including ethno-cultural ones, and developing measures for their removal;
- approbation and introduction of mechanisms to work with Roma parents who do not support their children’s education;
- creation and maintenance of an information system, recording family environment and factors associated with the risk of dropping out among students at risk of early school leaving;
- approbation and introduction of mechanisms for pedagogical work with students at risk of dropping out, in order to increase their motivation and overcome gaps in their knowledge;
- introducing flexible mechanisms for pedagogical work with student drop-outs for their reintegration into the school system and completion of their education, both for children in Bulgarian schools and for those who have spent periods abroad;
- introduction of full-time organization of learning in primary schools.

Copies of the Strategy for Educational Integration of Children and Students from Ethnic Minorities and Updated Strategy for Educational Integration of Children and Students from Ethnic Minorities (Appendices 4 and 5) have been enclosed.

Scope of the provisions as interpreted by the ECSR

Paragraph 2: Provision of primary and secondary education free of charge. Reduction of absenteeism at school and dropout rates regarding compulsory education.

For a list of selected other international instruments in the same field, see Appendix.

Article 27 - Right of workers and employees with family responsibilities to equal opportunities and treatment

With a view to ensuring the exercise of the right to equality of opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake

...

2. to provide a possibility for either parent to obtain, during a period after maternity leave, parental leave to take care of a child, the duration and conditions of which should be determined by national legislation, collective agreements or practice;

3. to ensure that family responsibilities shall not, as such, constitute a valid reason for termination of employment.

Appendix to Article 27

It is understood that this article applies to men and women workers with family responsibilities in relation to their dependent children as well as in relation to other members of their immediate family who clearly need their care or support where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity. The terms “dependent children” and “other members of their immediate family who clearly need their care and support” mean persons defined as such by the national legislation of the Party concerned.

Information to be submitted

Article 27§2

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.**
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.**
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.**

Article 27§3

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.**
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.**
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.**

In recent years, Bulgaria has improved its national legislation, in a process of adaptation to EU directives on equal treatment between women and men in employment and social security; it has created institutions and introduced policies to implement the principle of gender equality.

Since 2008, the uniform national policy for achieving equality between women and men is formulated in the *Strategy for Promoting Gender Equality 2008-2015*, approved by the Council of Ministers on 10 December 2008. The strategy is in line with the European Roadmap for Equality Women and Men (2006 - 2010), approved by the European Commission on March 1, 2006, the European Pact for Gender Equality and the new social

vision for Europe. The strategy is consistent with the commitments of Bulgaria for the promotion of equal treatment between women and men: the UN Convention on the Elimination of All Forms of Discrimination against Women; the IV-th World Conference on Women (Beijing, 1995), etc.

A guiding vision of the Strategy is the aim of achieving real social change through anti-discrimination legislation and strengthening of institutional mechanisms for promoting gender equality and equal treatment, combined with special incentive measures for adopting new behaviours. The main objective of the strategy is the creation of guarantees for equal rights, equal treatment, equal access to public resources and equal participation in decision-making of both women and men in Bulgaria, with a view to their successful personal and social integration and promoting equality between women and men in all spheres of social, economic and political life.

The specific objectives that will contribute to its implementation are: non-discrimination on the basis of sex in any area of public life; overcoming the effects of past discriminatory actions by taking active measures against groups of women and men who are victims of multiple discrimination, including by gender; and groups of women and men which are adversely affected by the burdens involved in the process of transition to market economy; balancing not only those rights of Bulgarian citizens that are protected by the Constitution and laws of the country, but also the ability of all people living in the country to benefit from these rights.

Within the implementation of the annual the National Action Plan for Employment that has been adopted annually by the government during the past eight years, specific measures and projects are being implemented aimed at raising the awareness of Bulgarian society to the problems of equality and reconciling work and family life. They are aimed at increasing public awareness and employers' awareness of the principles of equality between women and men, in order to remove barriers for employment.

In order to promote equality in security rights of parenting men and women, incentives were introduced for insured fathers for their more active involvement in parental commitments, and for improving the reconciliation of work and family life of insured persons – both mothers and fathers.

National Action Plan for Employment 2011

Measures taken to reduce the negative impact of the economic crisis on employment have a positive effect on the integration of women into the labour market. In 2011, women will keep their equal access to measures aimed at increasing employment and improving qualifications. The use of incentives to encourage employers to create jobs and hire unemployed mothers with small children will continue. Funds from the state budget will be used to finance the costs of employers for wages and benefits, in order to encourage a more balanced participation in the labour market of persons from vulnerable groups.

The implementation of programmes and measures to increase participation of women in the labour market will continue in 2011. They are based on an integrated approach aimed at reducing barriers to employment, promotion of participation in various forms of lifelong learning, better reconciliation of professional, private and family life. Unemployed mothers with small children are one of the disadvantaged groups in the labour market who are at risk of poverty, and this risk is increasing, if active policies are not implemented. Despite the signs of the beginning of economic recovery, prospects for employment of mothers with young children should be supported by the targeted actions of the state.

In 2011, the implementation of the scheme “Back to Work” continued. It is implemented under Operational Programme “Human Resources”. Return to work for parents with children from 1 to 3 years of age shall be assisted by providing free baby-sitters. As a

priority, the operation includes single parents, large families, parents of children with disabilities, families where one or both parents are disabled, families where the monthly income of parents is lower than two average wages. Persons who wish to take care for their young children are being included in trainings and then hired under labour contracts. As a priority, employment is provided include unemployed people in pre-retirement age and unemployed persons with education and training in the spheres health, education and social activities. Support for single mothers will be provided under the scheme “New Opportunities”, which is implemented under Operational Programme “Human Resources”. It provides opportunities for municipalities to use financial assistance to set up social enterprises such as public laundries, public dining rooms, landscaping and urbanization enterprises.

Support for achieving actions in this direction will be given to policies restricting child poverty and the intergenerational transmission of poverty between generations through comprehensive support for the child and family, and services and assistance preventing the risks of exclusion and poverty for both the child and parents.

The main interventions are aimed at prevention, and in 2011, work will be done for: legislative reform to introduce an integrated system to provide support for children and families, support to families with children; providing quality and inclusive education; providing comprehensive support to children with disabilities and their families, homeless children and young people leaving specialized institutions; for implementation of enhanced control over children’s rights.

The Ministry of Labour and Social Affairs and the Employment Agency have implemented in 2010 the following programmes and incentives in support of women’s employment:

1. In 2010, under National Programme “In Support of Motherhood”, which supports the early return of mothers to work, on average 861 persons have been appointed to take care of their small children. With the implementation of the programme, conditions were created for a better balance between work and private lives of working parents with young children.

2. In 2010 continued the implementation of the measure stipulated in the provision of Art. 53 of the Law on Promotion of Employment /LPE/, aimed at encouraging employers to hire unemployed people - single parents (adoptive parents) and/or mothers (adoptive mothers) with children under 3 years of age. Funds from the budget for active policy of MLSP have been used for the funding of salary costs and benefits of employees. **In 2010, under this measure, employment was provided to 380 unemployed mothers with children under 3 years of age.**

3. In order to achieve market integration of unemployed mothers with children from 3 to 5 years of age, an incentive measure stipulated in the provision of Art. 53s of the Law on Employment Promotion was implemented. Employers creating jobs and providing employment to unemployed persons are provided with funds for salaries and benefits. **In 2010, under this measure employment was provided for 263 unemployed mothers with children from 3 to 5 years of age.**

4. In 2010, the scheme “Back to Work” was implemented - the project “Child-minder - a chance for professional realization from training to employment” under OP “Human Resources”. The project encourages the reconciliation of work and family life of parents with young children by providing free baby-sitters. Care for young children is provided by unemployed persons who are trained to acquire key competences required for child care. The project provided funds for salaries and benefits for employees. **In 2010, the project included 755 families.**

Labour Code

Leave for Pregnancy, Birth and Adoption

Art. 163. (1) (Amend., SG, No., No 100/1992, SG, No. 110/99; amend., SG, No. 52/2004, In force from 1st of August 2004; amend. SG, No. 68/3006, in force from 01.01.2007; amend. – SG, No. 109/2008, in force from 02.01.2009) Female employees shall be entitled to a leave for pregnancy and birth amounting to 410 days for each child, of which 45 days shall obligatorily be used before the childbirth.

.....
(6) (Amend., SG, No., No 100/1992; amend. - SG, No. 48/2006, in force from 01.07.2006) A female employee who adopts a child shall be entitled to a leave under para 1 in an amount equal to the difference between the child's age on the day when it was given up for adoption until the expiration of the period of the leave due for childbirth.

(7) (new – SG, No. 108/2008, in force from 01.01.2009) When the mother and the father are married or live in the same household, the father shall be entitled to 15-day leave for birth of a child as from the date of discharging the child from the medical establishment.

(8) (new – SG, No. 108/2008, in force from 01.01.2009; amend. – SG, No. 109/2008, in force from 02.01.2009) With the consent of the mother (the adopting-mother) after the child has reached the age of 6 months, the father (the adopting father) may use the remaining leave until 410 days instead of her.

(9) (new – SG, No. 108/2008, in force from 01.01.2009) For the time the father (the adopting father) uses the leave under Para 8, the leave of the mother shall be suspended.

(10) (Amend., SG, No., No 100/1992; prev. text of Para 07, amend. – SG, No. 108/2008) For the time of the leave under Para 1 - 9 the persons shall be paid pecuniary compensation under conditions and in amounts determined in another law.

(11) (new - SG, No. 68/06, in force from 01.01.2007; prev. text of Para 08 – SG, No. 108/2008) The order and the manner of using the leave under para 1 shall be determined by an ordinance of the Council of Ministers.

Leave for Raising a Child Accommodated with Friends and Relatives or Receiving Family (new, SG, No. 52/2004)

Art. 164a. (new, SG, No. 52/2004, in force from 1st of August 2004) (1) Right to leave for raising a child until the accomplishment of 2 years of age shall have the persons with whom a child is accommodated by the order of art. 26 of the Law for protection of the child.

(2) When the child is accommodated with spouses the leave shall be used only by one of them.

(3) During the leave under para 1 and 2 cash indemnification shall be paid in terms and in sizes determined by an individual law. The leave shall be considered as length of service.

(4) The leave under para 1 and 2 may not be used simultaneously with a leave under art. 164.

Unpaid Leave for Raising a Young Child up to 2 years of age (title amend., SG, No. 25/2001; amend., SG, No. 52/2004)

Art. 165. (1) (Amend., SG, No., No 100/1992; amend., SG, No. 52/2004, in force from 1st of August 2004) After using a leave under art. 164, para 1, upon the request of the female employee she may also be granted an unpaid leave until the child reaches 2 years of age, in case it is not placed in a child-care establishment. With the consent of the mother (adoptive mother) this leave may also be used by the persons under Article 164, para 3.

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

Leave In Case of Death or Severe Illness of a Parent

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

(2) (amend., SG, No. 52/2004, in force from 1st of August 2004) Should both parents of a child under the age of 2 die, and should the child not be placed in a childcare establishment, the balance of the leaves under the preceding paragraph shall be used by the child's guardian or, with his consent, by any parent of the child's mother or father.

Unpaid Leave for raising a Child up to 8 Years of Age (new, SG, No. 52/2004)

Art. 167a. (new, SG, No. 52/2004, in force from 1st of August 2004) (1) After using the leaves under art. 164, para 1 and art. 165, para 1 each of the parents (adoptive parents), if they work under legal terms of employment and the child has not been placed in an establishment at full state support, shall have the right, on request, to use unpaid leave amounting to 6 months for raising a child until accomplishment of 8 years of age.

(2) In the cases of art. 167, para 2 the guardian shall have the right to a leave under para 1 amounting to 12 months. With his consent a leave of up to 12 months or the remainder of the unused leave up to this size may be used by one of the parents of the mother or the father of the child.

(3) Where, upon accomplishment of 2 years of age of the child both parents die, and they have not used a leave under para 1, the guardian shall be entitled to such a leave, amounting to 12 months, and where the parents have used a part of the leave – to the remainder of the unused leave up to this size. With the consent of the guardian this leave may be used by one of the parents of the mother or of the father of the child.

(4) A parent (adoptive parent) who alone raises the child shall be entitled to a leave under para 1 amounting to 12 months in the cases where:

1. he is not married to the other parent and does not live with him in one household;
2. the other parent has been deprived of parental rights by an enacted decision of the court;
3. the other parent is deceased.

(5) In the cases of para 4, item 1 and 2 the other parent shall not have the right to a leave under para 1.

(6) The leave under para 1 may be used one time or in parts. When it is used in parts its duration may not be less than 5 working days.

(7) The person wishing to use a leave under para 1 must inform about that his employer at least 10 working days in advance.

(8) The time during which the leave under para 1 is used shall be recognized as length of service.

(9) The order and the way of using the leave under para 1 – 8 shall be settled by an ordinance of the Council of Ministers.

Besides the above provisions of the Labour Code concerning the right, amount and duration of different types of leaves of persons with family responsibilities outlined above, the Code also regulates obligations of the employer to maintain and improve the professional qualifications of employees:

Employer's duties to maintain and improve the professional qualification of the employees

Art. 228a. (new – SG, No. 108/2008) (1) The employer shall be obliged to provide conditions for maintenance and improvement of the professional qualification of the employees for efficient performance of their duties under the employment relationship in compliance with the requirements of the performed work and their future professional development.

(2) In case of continuous absence of employee from work the employer shall be obliged to provide conditions for acquainting with the novelties in the work occurred during his absence, and for achieving the necessary qualification level for efficient performance of his employment duties.

Protection against unlawful dismissal is regulated in Art. 344 of the Labour Code, as stated in previous reports. Proceedings in labour cases are free for employees.

Law for Promotion of Employment

Programmes and measures to ensure equal opportunities through socio-economic integration of disadvantaged groups in the labour market

(Title amend. - SG, No. 26 of 2008)

Art. 52. (Amended, SG, No. No. 26/2003) (1) (Amended, SG, No. No. 38/2005, supplemented, SG, No. No. 18/2006) For each job created and filled by unemployed permanently disabled persons, including war-disabled persons, who are hired upon referral by the divisions of the National Employment Agency, the employer shall be provided with sums according to Article 30a (2) for the shorter of the period of employment of any such persons and twelve months.

(2) (Amended, SG, No. No. 38/2005) For each job created for casual, seasonal or hourly work filled by unemployed permanently disabled persons, who are hired upon referral by the divisions of the National Employment Agency, the employer shall be provided with sums according to Article 30a (2) herein for the shorter of the period of employment of any such persons and six months.

Art. 53. (Amended, SG, No. No. 26/2003) For each job created for full-time or part-time work, filled by unemployed persons who are single parents (or adopters) and/or mothers (or female adopters) with children under 3 years of age and who are hired upon referral by the divisions of the National Employment Agency, the employer shall be provided with sums according to Article 30a (2) herein for the shorter of the period of employment of any such persons and twelve months.

Art. 53a (New – SG, No. 26/2008) (1) For each job created, where mothers (adoptive mothers) with children from 3 - to 5-years of age, sent by the divisions of the Employment Agency were employed for work in full or part-time, the employer shall be provided with amounts pursuant to Art. 30a para. 2 for the time during which people were at work, but not more than 12 months.

(2) The employer has the right to offer employees under par. 1 training for acquisition of vocational qualification. For individuals involved in vocational training organized by the employer and the Employment Agency, the training institution shall be provided with funds pursuant to Art. 30a para. 2.

Labour Code

Protection against dismissal

Art. 333. (Amend., SG, No., No 100/1992, SG, No. 110/1999) (1) (amend., SG, No. 25/2001) In the cases under Article 328, para 1, items 2, 3, 5, 11 and Article 330, para 2, item 6, an employer may dismiss only with prior consent of the labour inspection for each specific case:

1. (amend., SG, No. 52/2004, in force from 1st of August 2004; amend. – SG, No. 108/2008) Mothers of children younger than 3 years of age;
(6) (new, SG, No. 25/2001; prev. para 5 – SG, No. 52/2004, in force from 1st of August 2004; amend. – SG, No. 108/2008) A worker or employee using a leave under Art. 163 can be dismissed only pursuant to art. 328, para 1, item 1.

A pregnant worker or employee can be fired only with notice pursuant to Art. 328, par. 1, p. 1, 7, 8 and 12, and without notice pursuant to Art. 330, par. 1 para. 2, p. 6. In the case of Art. 330, par. 2, item 6 she can be fired only by prior authorization of the Labour Inspectorate.

Questions and comments of ECSR:

The Committee takes note of information provided in the report of Bulgaria. The Committee noted that paid leave of two years may be used by the mother to take care for her first, second and third child under 2 years age, and 6 months for each subsequent child. She may also take unpaid leave of one year for a child under 3 years of age. Both periods of leave may be taken when the child is not in an institution.

The Committee noted that with the consent of the mother, both periods of leave can be used by the father or one of the ancestors of the child, provided that they are employed. The Committee wishes that the next report provides explanation what is meant by the words “consent of the mother”.

The Committee noted that the above provisions apply to all categories of workers.

A leave for pregnancy, birth and adoption is used by the father (adoptive father) upon written application, enclosing a model declaration, which is to be signed by both parents of the child.

Parental leave for raising a child up to two years of age is used based on the written application of the mother (adoptive mother), father or a parent of the mother/father. When the application is submitted by a person other than the mother, it should be accompanied by a declaration form signed by both parents of the child.

ORDINANCE on the working time, rest periods and leaves

Section II

Maternity Leave

Art. 45. (1) (Amended - SG, No. 96/2006, effective from 1.01.2007, SG, No. 10/2009, SG, No. 67/2009) Leave due to pregnancy and birth amounts to 410 days for each child and is to be used as follows:

1. (Amended - **SG, No. 21/2011**, effective 15.03.2011) in the amount of 135 days, 45 days of which before delivery - based on a relevant document issued by the health authorities pursuant to Art. 26, para. 1 of the Ordinance on Medical Expertise, adopted by Ordinance No. 87 of the Council of Ministers of 2010 (SG, No. 36/2010, amended and supplemented SG, No. 5/2011) and adoption leave for the remainder up to 135 days - based on the relevant document issued by the health authorities and the act of transfer of the adopted child;

2. (Amended - SG, No. 10/2009, SG, No. 67/2009) for the remainder up to 410 days - based on the written request of the mother (adoptive mother) to the employing entity, to which a birth certificate of the child or an act of transmission of the child for adoption and a declaration in accordance with Annex No. 7 shall be attached; the entity shall authorize the leave from the day referred to in the application.

(2) (Repealed, prev. 4 - SG, No. 54/2001, amended SG, No. 96/2006, effective 1.01.2007, SG, No. 10/2009, SG, No. 67/2009) Mother's leave granted under par. 1, item 2 is terminated upon her request in writing to the company or when:

1. the mother is deprived of her parental rights or her parental rights are limited following the established order;
2. the child is given for adoption;
3. the child is placed in a nursery school with full state support;
4. the child is placed under Art. 26 of the Law on Child Protection;
5. the child dies.

(3) (Repealed - SG, No. 54/2001, new SG, No. 96/2006, effective 1.01.2007, amend. SG, No. 10/2009, SG, No. 67/2009) Mother's leave granted under par. 1, item 2 is terminated upon her request in writing to the company or when:

1. the mother is deprived of her parental rights or her parental rights are limited following the established order;
2. the child is placed in a nursery school with full state support;
3. the child is placed under Art. 26 of the Law on Child Protection;
4. the child dies.
5. the adoption is terminated by the court.

Art. 45a. (New - SG, No. 10/2009, SG, No. 67/2009) (1) The leave for childbirth under Art. 163, par. 7 LC may be used based on the written request of the father. The application shall append a copy of a marriage certificate or a declaration by both the father and mother that the father has acknowledged the child and they live in a common household, as well as a document from the hospital stating the date of discharge of the child. The employing entity shall permit leave from the date specified in the application. If the father is not entitled to this leave, the enterprise is obliged to inform him without delay and give the reasons for refusal.

(2) The leave under para. 1 is declared and used in calendar days.

(3) The father is obliged to immediately notify the entity if, during the use of leave under par. 1:

1. marriage is terminated by a final court decision;
2. the father no longer lives in a household with the child's mother;
3. the child is given for adoption;
4. the child is placed in a nursery school with full state support;
5. the child is placed under Art. 26 of the Law on Child Protection;
6. the child dies.

(4) In the case of circumstances under para. 3, the leave under par. 1 is terminated.

(5) The father may terminate the use of leave by written request to the entity where he is employed.

Art. 45b. (New - SG, No. 10/2009, SG, No. 67/2009) (1) Leave under Art. 163, par. 8 LC is used by the father (adoptive parent) based on written application enclosing the birth certificate of the child and return in accordance with Annex No. 8. The employing entity shall permit leave from the date specified in the application.

(2) Leave under Art. 163, par. 8 LC cannot be used simultaneously with the leave under Art. 167 LC.

(3) The mother (adoptive mother) may at any time withdraw the consent given by her under Art. 163, par. 8 LC with a written application to the entity where she is employed, and to the entity where the father (adoptive father) is employed, and continue to use personal leave under Art. 163, par. 1 LC. The application to the employing entity, should append the birth certificate of the child or the act of transmitting the child for adoption and a declaration in accordance with Annex No. 7.

(4) The father can terminate the use of leave by written request to the employing entity.

(5) The leave under para. 1 is terminated when:

1. the father (adoptive father) is deprived of parental rights or his parental rights are limited under the established order;
2. the child is given for adoption;
3. the child is placed in a nursery school with full state support;
4. the child is placed under Art. 26 of the Law on Child Protection;
5. the mother (adoptive mother) continues to personally use the leave under Art. 163, para 1 LC;
6. the child dies.
7. adoption is terminated by the court;
8. employment of the mother (adoptive mother) is terminated.

(6) Use of leave under par. 1 does not end when the mother (adoptive mother) is using another type of leave.

Art. 46. (1) (Amended - SG, No. 54/2001) Leave for raising a child under two years of age under Art. 164, par. 1 LC is used based on the written application of the mother (adoptive mother) or the persons referred to in Art. 164, par. 3 LC. An entity shall permit the leave from the date specified in the application. If the person is not entitled to this leave, the entity shall inform her without delay and identify the reasons for refusal of leave.

(2) (Amended - SG, No. 54/2001, amend. and suppl. SG, No. 96/2006, effective 1.01.2007, amend. SG, No. 10/2009, SG, No. 67/2009) Where an application under par. 1 is filed by the mother (adoptive mother), it should append a declaration that she is not deprived of her parental rights or that her parental rights are not restricted under the established order, that the child was not given for adoption or to a specialized nursery school; that the mother (adoptive mother) has not given consent under Art. 164, par. 3 LC her leave to be used by the father (adoptive father) or one of their parents, and that the child is not being raised by a person under the programme. "In Support of Motherhood".

(3) (Amended - SG, No. 54/2001, SG, No. 96/2006, SG, No. 10/2009, SG, No. 67/2009) Where the application under par. 1 is submitted by a person under Art. 164, par. 3 LC, it should append declaration and report in accordance with Appendices 2 and No. 3 in duplicate.

(4) (Amended - SG, No. 54/2001) The mother (adoptive mother) may at any time withdraw by a written application to the employing entity the consent given by her under Art. 164, par. 3 LC and continue to enjoy a personal leave under Art. 164 LC. The application to the employing entity should append the declaration under para. 2.

(5) (Amended - SG, No. 54/2001) The persons under Art. 164, par. 3 LC may terminate the use of leave with a written application to the employing enterprise.

(6) (Amended - SG, No. 54/2001, SG, No. 10/2009, SG, No. 67/2009) The leave under art. 164, par. 1 LC is terminated:

1. when the mother (adoptive mother) is denied parental rights or her parental rights are limited following the established order;
2. when the mother (adoptive mother) gives consent that this leave is used by a person under Art. 164, par. 3 LC;
3. at the request of the mother (adoptive mother) – by a written application to the employing entity.

(7) (Amended - SG, No. 54/2001, SG, No. 96/2006, effective 1.01.2007) The leave under Art. 164 is terminated when:

1. the child is given for adoption;
2. the child is placed in in a specialized institution;
3. the child is placed under Art. 26 of the Law on Child Protection;
4. (Amended - SG, No. 10/2009, SG, No. 67/2009) The child is grown by a person under the programme "In Support of Motherhood";

5. the child dies;
6. adoption is terminated by the court;
7. (New - SG, No. 10/2009, SG, No. 67/2009) employment of the mother (adoptive mother) who has agreed that the leave is used by a person under Art. 164, par. 3 LC is terminated.
- (8) (Repealed - SG, No. 54/2001).
- (9) The use of leave under Art. 164, par. 3 LC does not cease when the mother (adoptive mother) uses another type of leave.
- (10) (Amended - SG, No. 10/2009, SG, No. 67/2009) The leave under Art. 164, par. 1 LC is used after the expiry of leave under Art. 163 LC, but can also be used before this, and when prior to it, leave under Art. 163 LC has not been used.
- (11) (Repealed - SG, No. 54/2001).

The Committee noted that statistical data provided in the report as regards paid working days do not allow a comprehensive assessment of how many workers actually take the leave. The Committee therefore repeats its request information on how parents take parental leave.

No statistics is available.

On Art. 27, para 3.

In the previous report, the Committee noted that there are no legislative provisions for terminating the contract solely on the basis of marital status. The Labour Code contains the following provisions: Art. 8 – By implementing the labour rights and obligations, neither direct, nor indirect discrimination shall be admitted, whether based on nationality, origin, gender, sexual orientation, race, colour of skin, age, political and religious beliefs, membership in a syndicate or other social organizations and movements, family and property status, existence of psychic or physical disorders, as well as differences in the contract term and duration of working time.

The Committee notes that among the grounds for termination of employment are: absence of qualities of the employee for effective work performance and failure of the employee to follow the employing entity or its subsidiary when it is moved to another location or area (Art. 328 of LC). The Committee also noted that the employer can offer by their own initiative termination of employment for compensation of not less than four times the last gross monthly salary received, unless the parties have agreed to a larger salary. (Art. 331 of LC).

The Committee can not fully understand whether the general grounds for termination of the contract are effective in deterring an employer to terminate the contract on these grounds. For the next report, the Committee wishes that clarification is given on what is meant in practice by “absence of qualities of the employee for effective work performance” and “failure of the employee to follow the employing entity or its subsidiary when it is moved to another location or area” (Art. 328 of LC). The Committee would also like to receive information whether termination of employment may be offered (pursuant to Art. 331 LC) on the basis of marital status and asks if the four times the gross monthly salary is in fact the monthly gross salary.

In connection with the clarification requested by ECSR on what is meant by “absence of qualities of the employee for effective work performance“ and “failure of the employee

to follow the employing entity or its subsidiary when it is moved to another location or area“ we hereby provide the following information:

In the presence of any of these grounds, an employer may, but is not obliged, to terminate the contract by giving written notice to the employee within the deadlines prescribed in the law. In the absence of qualities of the employee for effective implementation of the work contract, employment is terminated pursuant to Art. 328, par. 1, item 5 LC.

The three elements of the grounds for termination of employment under Art. 328, par. 1, item 5 of the Labour Code are: **absence of qualities of the employee, ineffective work performance** and a causal link between these two. This dismissal does not necessarily require a fault of the employee. He may have relevant knowledge and skills to perform the work, but could be insufficiently circumspect, thoughtful, polite, etc., which indicates a mismatch between the qualities that he has and the qualities that he must have, in order to work as necessary.

In failure of the employee to follow the employing entity or its subsidiary when it is moved to another location or area, the contract is terminated pursuant to Art. 328, par. 1, item 7 LC.

This requires a real moving of the entity in another location, not just the change of the address of management.

In connection with the clarification requested by the Committee, on whether termination of employment contract may be offered pursuant to Art. 331 LC on the basis of marital status and the amount of compensation, we provide the following information:

Pursuant to Art. 331, par. 1 LC, the employer can offer, on their own initiative, to the employee termination of employment for compensation, i.e., irrespective of reasons. If the employee does not act on the proposal in writing within 7 days, it is understood that the proposal is not accepted. If the employee accepts the offer, the employer owes him/her compensation of not less than four times the last gross monthly salary received, unless the parties have agreed to a higher amount of salary.

The above provision shows that the termination of employment contract on these grounds is initiated by the employer and is completed with the consent of the employee, and the parties may agree on the amount of compensation, but not less than four times the last gross monthly salary received, i.e. 4 gross wages.

Scope of the provisions as interpreted by the ECSR

Paragraph 2: Legislation, collective agreements or the practice shall regulate the possibility for either parent to obtain, during a period after maternity leave, parental leave to take care of a child.

Paragraph 3: Family responsibilities must not constitute a valid ground for termination of employment or hampering career development. Courts or other competent bodies should be able to award a level of compensation that is sufficient both to deter the employer and proportionate the damage suffered by the victim.

For a list of selected other international instruments in the same field, see Appendix.

A copy of the present report has been sent to all nationally represented organizations of workers and employees and employers.

- 1) The Confederation of the Independent Trade Unions in Bulgaria;
- 2) The Confederation of Labour - Podkrepa;
- 3) The Bulgarian Industrial Capital Association
- 4) Bulgarian Industrial Association - Union of Bulgarian Business
- 5) Bulgarian Union of Private Entrepreneurs - Vazrazdane
- 6) The Bulgarian Chamber of Commerce and Industry;
- 7) Confederation of the Employers and Industrialists in Bulgaria.
- 8) The Union for Private Enterprise

Two remarks were received from the Bulgarian Chamber of Commerce and Industry. The recommendation concerning the preface of the Report was taken into account. The other recommendation - do not mention *Ordinance No. 4* of 1999, repealed in 2006 – was not taken into account, because the Ordinance was in force in the year 2005, which is a part of the reference period of the Report.