



European  
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Charter

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**EUROPEAN COMMITTEE OF SOCIAL RIGHTS  
COMITE EUROPEEN DES DROITS SOCIAUX**

**April 2016**

**THIRD REPORT  
ON THE NON-ACCEPTED PROVISIONS OF  
THE EUROPEAN SOCIAL CHARTER**

**BULGARIA**

Meeting in Sofia on 18 June 2015

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## I. SUMMARY

With respect to the procedure provided by Article 22 of the 1961 Charter – examination of non-accepted provisions – the Committee of Ministers decided in December 2002 that "states having ratified the Revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification" and "invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the states concerned".

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

Bulgaria ratified the Revised Charter on 7 June 2000 (see the country factsheet at Appendix I) and the Committee's first report on the non-accepted provisions was based on a meeting organised in Sofia on 4-5 October 2005. In the report the Committee expressed its opinion that the following provisions posed no problems of conformity as follows:

Article 2§1 – Right to reasonable daily and weekly working hours

Article 2§3 – Right to annual holiday with pay

Article 15§§1-3 – Right of persons with disabilities to independence, social integration and participation in the life of the community

Article 17§1 – Right of children and young persons to assistance, education and training

Article 19§§ 4a) and b), 5, 7, 9 – Right of migrant workers and their families to protection and assistance

Article 27§1 – Right of workers with family responsibilities to equal treatment and opportunities

The situation in Bulgaria did not seem to be fully in compliance with the following provisions:

Article 4§1 – Right to a decent wage

Article 12§§2 and 4 – Right to social security

Article 13§4 – Right to emergency assistance for non-residents

Article 18§§1-3 – Right to engage in a gainful occupation in the territory of other Parties

Article 19§§6 and 8, 10 – Right of migrant workers and their families to protection and assistance

Article 23 – Right of elderly persons to social protection

Article 30 – Right to protection against poverty and social exclusion

Article 31 – Right to housing

Finally, as regards the following provisions the information provided was not sufficient:

Article 9 – Right to vocational guidance

Article 10§§1-5 – Right to vocational training

Article 19§§1, 2, 3, 4 c), 11 and 12 – Right of migrant workers and their families to protection and assistance

On 16 February 2007 Bulgaria notified the Secretary General of its acceptance of Article 2§3.

In 2010, the Committee was for the second time called upon to examine the non-accepted provisions in respect of Bulgaria. By letter dated 9 February 2010 the Committee invited the Bulgarian authorities to provide information on the 15 provisions of the Revised Charter which were still not accepted. Bulgaria submitted its report on 3 December 2010.

The Committee proceeded to the examination of the situation on the basis of this information and took the view that there were no legal obstacles to acceptance of the following provisions of the Charter:

Article 2§1, Article 12§2, Article 15§§1-3, Article 17§1, Article 19§§ 4a) and b), 5, 7 and 9, and Article 27§1.

In respect of the following provisions the Committee concluded that certain problems of conformity remained:

Article 4§1, Article 12§4, Article 13§4, Article 18§§1-3, Article 19§§11 and 12, Article 23, Article 30 and Article 31.

Finally, as regards Article 9, Article 10§§1-5 and Article 19§§1, 2, 3, 4 c), 6, 8 and 10 more information was needed to assess the situation.

With a view to carrying out the examination of the non-accepted provision for the third time, the Committee and the Bulgarian authorities agreed to organize a meeting in Sofia on 18 June 2015. The present report is based on the proceedings of this meeting, which consisted of presentations of the situation in Bulgaria in the light of the Committee's case law, as well as on written information (partly in English, partly in Bulgarian) submitted by the Ministry of Labour and Social Policy on 11 September 2015.

The meeting was chaired by Ms Ivanka HRISTOVA, Director for European Affairs and International Cooperation, Ministry of Labour and Social Policy. Interventions were made, inter alia, by Deputy Ministers of Labour and Social Policy, Mr Galeb DONEV, Mr Lazar LAZAROV and Ms Zornitsa ROUSINOVA.

The Committee delegation consisted of the President of the Committee, Mr Giuseppe PALMISANO as well as Ms Karin LUKAS and Ms Krassimira SREDKOVA. The Secretariat was represented by Mr Henrik KRISTENSEN and Mr Kevin BROWN.

During the meeting an exchange of views also took place concerning the Turin Process and possible activities relating to the Charter during the up-coming Bulgarian chairmanship (November 2015 to May 2016). For the programme of the meeting and the list of participants, see Appendices II and III.

On the basis of the information at its disposal the Committee considers that there are no major legal obstacles to acceptance by Bulgaria of the following provisions: Article 2§1, Article 15§§1-3, Article 17§1, Article 19§§3, 4 a) and b), 5, 7, 9, 10, Article 27§1 and Article 30.

It further considers that the situation in Bulgaria may give rise to problems of conformity in respect of the following provisions: Article 4§1 (the minimum wage is below 50% of the national average), Article 12§4 (absence of bilateral agreements and/or unilateral measures to ensure equal treatment), Article 13§4 (non-nationals have limited rights to emergency assistance) Article 18§§1-3 (non-EU nationals face difficult procedures to gain visas, with no plans for liberalisation), Article 19§2 (emergency assistance with accommodation and other needs is restricted for migrants), Article 19§6 (spouses do not acquire independent rights to remain within a sufficiently short period), Article 19§7 (interpretation services do not appear

to be available in all legal proceedings involving migrants who do not speak the national language), Article 19§8 (expulsion is permitted for grounds unrelated to national security or public order), Article 19§§11 and 12 (non-EU nationals do not enjoy the same rights to language education) Article 23 (the level of pension is insufficient, being below 50% of the median wage), Article 31§1 and §3 (there is insufficient action taken in practice to improve housing standards; municipalities lack funding to provide adequate social housing).

Finally, with respect to the following provisions more information is needed to assess the situation: Article 9, Article 10§§1-5, Article 12§2, Article 19§§1, 4(c) and Article 31§2.

In view of the conclusions of this report, the Committee wishes to encourage Bulgaria to consider accepting additional provisions of the Charter as soon as possible, so as to consolidate the paramount role of the Charter in guaranteeing and promoting social rights.

The Committee takes the opportunity of this Report to draw the attention of States Parties to the Declaration of the Committee of Ministers on the 50th anniversary of the European Social Charter (Appendix 3).

The European Committee of Social Rights remains at the disposal of the Bulgarian authorities for continued dialogue on the non-accepted provisions. It also wishes to encourage the authorities to allow national non-governmental organisations to lodge collective complaints by making the declaration pursuant to Article 2 of the Protocol providing for a system of collective complaints.

The next examination of the provisions not yet accepted by Bulgaria will take place in 2020.

## **II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS**

### **Article 2§1**

#### **Situation in Bulgaria**

In its capacity as an EU member state, Bulgaria has incorporated Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time in its national regulations. In Bulgarian legislation Directive 2003/88/EC is transposed through the amendments and supplements to certain texts of the Labour Code, State Gazette, issue 48 of 2006, enacted as of 1 July 2006.

Under Bulgarian labour legislation the established normal duration of weekly working time is up to 40 hours and of the working time per day – up to 8 hours. The specified normal duration of the working time may not be extended unless in the cases and following the procedure provided for by the Labour Code.

As regards absolute working time limits, the following information was provided:

The extension of working time is a power of the employer and is carried out under the following conditions:

- a) the existence of production-related reasons;
- b) the employer is obliged to perform preliminary consultation with representatives of the trade union organizations and representatives of the workers and employees under Article 7, para. 2 of the Labour Code;
- c) the extension is admissible in working days only, as the duration of the working day may not exceed 10 hours. For workers who work under conditions of reduced working time the extended working time may be up to 1 hour exceeding the reduced working time; reduced working time of 6 or 7 hours is established for workers and employees, who work under specific conditions and for workers and employees below the age of 18 (Article 137 of the Labour Code – reduced working time);
- d) upon extension of the working time, the duration of the working week may not exceed 48 hours, and for workers and employees with reduced working time – 40 hours;
- e) the extension of the working time is admitted for up to 60 working days in one calendar year, but not for a period longer than 20 consecutive working days;
- f) extension of the working time for certain categories of workers is not admissible for individuals below the age of 18 and pregnant women (Article 147 of the Labour Code), for other categories such extension can only take place after their consent in writing on a case-by-case basis (mothers of children below the age of 6, mothers taking care of children with disabilities, individuals subject to vocational rehabilitation, individuals who study without interrupting their occupation).

The procedure for extension of working time is set forth by Section 8 of the Ordinance on Working Time, Rest Periods and Leaves (OWTRPL):

- a) it is performed by an order in writing by the employer for each individual case – issued not later than 3 working days prior to the extension date;
- b) the employer shall notify in advance the labour inspectorate – within 2 working days as of the order's issuance (this notification requirement was abolished as from 17 July 2015; cf. Article 136 para. 1 of the Labour Code);
- c) the employer shall keep a special book for reporting the extension, accordingly the the working time compensation.

Compensation of extended working time through the duration of the working time during a subsequent period:

- a) the employer shall compensate the extension of the working time through its respective reduction within up to 4 months for each extended working day;
- b) when the employer does not compensate the extension of the working time within the specified term, the worker or employee is entitled to determine on his/her own the time when the working time extension is to be compensated through the respective reduction thereof, by notifying in writing the employer thereon at least two weeks in advance;
- c) upon termination of the employment relation before compensating the difference to the normal working day, same shall be paid as overtime work.

“Extension of the working time” is a form of flexible work organization and it is admissible on working days only. It is not admissible to assign the work on such grounds for the weekly days off work or for official holidays. The workers and employees, for whom such work organization is introduced, continue to work after the end of their normal working time for a definite period. The “more” work during the definite period of the “working time extension” is compensated by “less” work during a subsequent period of “working time reduction.” In this manner the completed work – the working hours calculated on average for both periods equal to the working hours which the worker or employee is obliged to complete in accordance with his/her employment agreement.

For the purpose of guaranteeing the right of the workers and employees to fair salary it is envisaged, in the event of termination of the employment agreement before the compensation has taken place, for the overtime working hours to be paid as overtime work (increased payment for overtime work).

### **Opinion of the European Committee of Social Rights**

Article 2§1 guarantees workers the right to reasonable limits on daily and weekly working hours, including overtime. The underlying aim is to protect worker’s safety and health.

This right must be guaranteed through legislation, regulations, collective agreements or any other binding means. In addition there must be an appropriate authority, such as a labour inspection, to ensure that the limits are respected in practice.

The Charter does not expressly define what constitutes reasonable working hours, but on the basis of the Committee’s case law normal working hours of 8 hours per day and 40 hours per week have always been regarded as compatible with the Charter. Extremely long working hours of up to 16 hours or more on any one day or up to 60 hours or more in one week have been found by the Committee to be unreasonable and contrary to the Charter, except in case of force majeure. These hours are inclusive of any overtime.

The Committee notes the clarification on the possibility of extending working time following consultation with trade union or workers’ representative provided for by Article 136a of the Labour Code. It also welcomes the explanations provided at the meeting on Article 113 of the Labour Code which allows workers to agree to work more than 48 hours per week under certain circumstances. Finally, it acknowledges with particular interest the reasoned opinion of the General Labour Inspectorate Executive Agency in support of the acceptance of Article 2§1.

On the basis of the information at its disposal, concerning the situation both in law and in practice, the Committee considers that there are no obstacles to acceptance by Bulgaria of Article 2§1.

## **Article 4§1**

### **Situation in Bulgaria**

Basic principles and rules in respect of wages are contained in the Labour Code. The Labour Code comprises a set of rules for determining salaries in particular and specifically listed cases.

The amounts of the minimum wage and the additional benefits under employment legal relation are regulated by the state. The Council of Ministers by a decree sets the minimum wage established for the country. Pursuant to Decree No. 139 of 4 June 2015, the amount of the minimum monthly salary as of 1 January 2015 is BGN 360. Since 1 July 2015 the amount of the minimum monthly salary for the country is BGN 380.

Essential elements of the legal regulations are contained in the secondary legislation acts, which specify, elaborate and particularize the legal norms.

The determination of wages in the real economy is carried out on a market basis, subject to the mechanisms of contemporary European patterns of industrial relations. Wages are negotiated at bipartite principle by collective bargaining agreements and internal rules for the organization of salaries thereto. Pursuant to Article 50 of the Labour Code the collective bargaining agreement may regulate matters of labor and social relations. Every employer must have internal rules for salaries in place. This obligation is regulated by Section 22, para. 1 of the Ordinance on the Structure and Organization of Salaries (OSOS). The internal rules on salaries elaborate and specify the procedure and method of payment for work, which allows the achievement of the desired management, production, economic and social objectives.

Through OSOS the Council of Ministers determines the structure and organization of salaries, the types and minimum amounts of additional benefits, and the procedure and method of calculating the salaries of employees. This Ordinance shall apply to employees under employment relations at all enterprises, regardless of their form of ownership and funding sources.

Pursuant to OSOS the gross salary consists of basic salary and additional benefits. Additional benefits may be specified in the Labour Code or any other enactment or in a collective bargaining agreement and/or individual employment agreement. Statutorily regulated are also the additional benefits for overtime for night-time working and overtime work, for time available for a research degree related to the work performed, for length of service and professional experience, as their minimum amounts are also legally defined. Higher amounts may be determined under collective bargaining or individual employment agreements and the internal rules on salaries. Subject to contractual definition can be the additional benefits for achievements in the work performance (the so-called gratuities and bonuses), profit sharing, changes in the working conditions of temporary nature and others. Labor law permits additional benefits or any part thereof to be paid in kind if so provided for under an instrument issued by the Council of Ministers, under collective bargaining agreement or individual employment agreement. Additional benefits in kind may comprise hot meals, other food products, goods, etc. Their equivalence is included in the gross salary of the worker or employee.

The amounts and/or mechanisms for the formation of basic salary are among the mandatory documents required by the internal regulations of the organization. Each organization is responsible for determining, based on economic parameters what salaries it will pay its



workers, as the minimum amount thereof may not be smaller than the minimum national salary defined for the country.

The minimum salary (MS) is particularly important socially recognized instrument to ensure economic security for working people.

Payment for work in the public sector:

Labour legal relations between the state and the civil servants are governed by the Civil Servants Act, effective since 27 August 1999, the minimum and maximum amounts of basic salaries by levels and degrees, the amount of bonuses, as well as the procedure for their obtaining are determined by ordinance of the Council of Ministers and may not be lower than those specified in the labor legislation (Section 67 pt. 3 of the Civil Servants Act). Pursuant to Section 68 of the Act, the minimum basic salary for the lowest position to be occupied by a civil servant shall be determined annually by the Law on State Budget of the Republic of Bulgaria and may not be lower than the amount for the previous year

In the budgetary sector wage payments are based on an act by the Council of Ministers, which depending on the capacity of the budget also sets forth the limits which the amount of a salary for a particular position may reach. Each single administration elaborates and specifies its methods for the allocation of funds.

The state is involved in regulating the processes of wage payments only by determining the minimum salary (Article 244 of the Labour Code), as well as the types of minimum amounts of the additional benefits. This process is subjected to consultation with the social partners at the National Council for Tripartite Cooperation. Social dialogue is a fundamental tool in the field of wages. Under Article 50 of the Labour Code, the collective bargaining agreement regulates issues of labor and social insurance relations of workers and employees that are not settled by the provisions of the law. The Labour Code allows collective bargaining except in matters that are not regulated by law, and on issues which are not included in the applicable legal framework and which however affect labor and social insurance relations, as well as living standard issues. According to practice, all matters concerning living standard are coordinated and are subject to consultation with the National Council for Tripartite Cooperation.

Considering the lagging behind of the country in terms of occupational income within the European Union and the existence of significant differentiation between low-income groups of employees, and the medium and high levels, the minimum salary for the country is increased in a targeted and gradual manner, as in the year 2015 it reaches BGN 380 (after 1.07). Placing the amount of the minimum salary on objective basis is a priority for MLSP and the development of a mechanism for its determination is the responsibility of the government and the social partners.

Although not statutorily regulated, in its practice on determining the minimum salary the administration seeks to adhere to the idea of not allowing a net amount of the minimum salary that falls significantly below the poverty line for the country - calculated as per a national methodology adopted on the grounds of conducted tripartite dialogue. Hence, for the year 2015 the net amount of the minimum salary is slightly below the official national poverty line, but after 1 July 2015, it will exceed it.

The determination of the minimum salary is carried out after preliminary steps and broad discussion within the tripartite process so as to take into account both the social aspects and economic realities and opportunities of companies - employers.

There are no opportunities in the economy and from the viewpoint of the labour market for significant statutory binding of the minimum salary with the average one at levels significantly above the current ones. This would lead to a dangerous situation on the labor

market and in particular, to the probability of compromising the achieved levels of employment/unemployment.

### **Opinion of the European Committee of Social Rights**

Article 4§1 requires States "to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living".

The Committee defined its current method of assessment in 1998 in Conclusions XIV-2. The basis of this method is an examination of the relationship between the lowest or minimum wage on the one hand and the average wage on the other hand. The Committee proceeds from the fundamental assumption that in order for the situation to be in conformity with the Charter the lowest wage should not fall too far behind the national average wage in a given country.

The Committee considers that a wage amounting to at least 60% of the average wage will provide the wage earner concerned with a decent living standard. In order to assess whether this 60% threshold is met, the Committee takes into account the lowest wages paid to full-time workers in the labour market and calculated net, that is after deduction of any taxes and social security contributions, whether it is a statutory minimum wage or wages fixed by other means, notably collective agreements.

The lowest wages are then held up against the net average wage for a full-time earner in the national labour market. The Committee has asked that the average be calculated across all sectors of the economy, but the Committee has accepted that information is limited to a representative sector or category of workers such as unskilled workers in manufacturing industry.

If the lowest wage in a given State does not satisfy the 60% threshold, but does not fall very far below – this means wages situated between 50% and 60% - the Committee will not automatically consider the situation to be in breach of the Charter, but will ask the Government to provide detailed evidence that the lowest wage is sufficient to give the worker a decent living standard, even if it is below 60 % of the national net average wage. In particular, consideration will be given to the costs of having health care, education, transport, etc.

### **Article 9: Right to vocational guidance**

#### **Situation in Bulgaria**

The Ministry of Labour and Social Policy informed the Committee that pursuant to Section 4, i. 1 of the Vocational Education and Training Act (VETA) vocational guidance is a part of the vocational education and training system in Bulgaria. Vocational guidance ensures the informing, consulting and advising of students and other persons as regards the choice of profession and career development (Section 5 of VETA). Vocational guidance is carried out for professions and majors included in the List of professions for vocational education and training (Section 6 para.1 of VETA). A right to carry out vocational guidance for students and other persons is delegated to the centres for information and vocational guidance (CIVG) that have obtained a license from the National Agency for Vocational Education and Training (Section 22 of VETA). The centres for information and vocational guidance may be public, municipal or private.

The Employment Promotion Act (EPA) regulates the provision of employment services, vocational guidance for jobseekers<sup>1</sup> registered with the Labour Office Directorate. The EPA provides for the provision of information, advice and counseling on career choices and career development (i. 32 §1 of the Additional Provisions to EPA). Vocational guidance services are included in the scope of mediation services and are provided by the Employment Agency and licensed centres for provision of information and guidance (Section 65 para. 2 of the EPA) selected under the Public Procurement Act, as well as within the projects implemented by the social partners participating in NAPE for the respective year and financed by the state budget for active policy.

Vocational guidance organized following the procedure provided for under EPA is provided free of charge.

### *Jobseekers*

The Ministry of Labour also provides vocational guidance for the unemployed under the Employment Promotion Act. It is free of charge, and guidance is given by agencies in each of the territories. Around 100 centres are operated across Bulgaria, to ensure that the service is accessible. Guidance and training is given to advisors prior to their engagement with clients.

Under the Employment Promotion Act private “information and professional guidance centres” may be licensed to provide employment advisory services. The centres are available for everyone, they have regional spread, including 30+ career consultants.

In 2013 -2014 the number of people who were advised doubled from 80,000 to 160,000.

Vocational training under the legislation applies to permanent residents and citizens of EU member States, refugees or other persons protected on humanitarian grounds.

The Labour Unions stated that they run two centres which provide vocational advice, and they have served more than 3000 people during their period of operation.

Jobseekers receive information on the functions and tasks that are performed while practicing various professions, knowledge, skills and competences required of persons exercising different professions, training opportunities and career development.

Professional counseling as an element of vocational guidance is individual or group. Consultation is carried out through provision of information and advice, in accordance with the conditions and opportunities of the labor market, the requirements of the profession and the wish of the individuals.

In 2013, in the group events for vocational guidance organized at Labour Office Directorates (LODs), 10,542 persons participated and individual counseling was provided to 73,583 individuals. At licensed centres for information and vocational guidance services are provided to 999 unemployed persons.

In 2014, group events for vocational guidance at LODs were attended by 31 089 persons (three times more than in the previous year), and individual counseling was provided to 142 710 persons (two times more than in 2013). At the licensed centres for information and vocational guidance, services are provided to 2,000 unemployed persons. Under the Project

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<sup>1</sup> Jobseekers include unemployed, employed persons, students who wish to work during their free from study time, persons who have acquired their pension entitlement for years of service and old age; persons who have acquired entitlement to professional pension for early retirement, who do not work.

"Compass", implemented by the trade union LC Podkrepa in vocational guidance there have been included 2220 unemployed persons. In 2015 under projects that are implemented by the social partners, financing is allocated from the state budget for vocational guidance to be provided to 5500 unemployed persons from groups that are in disadvantaged position on the labor market.

During the period 2012-2015 the Employment Agency implemented the project "Career development of employed persons", financed under OP HRD 2007-2013. As a result of the project activities 10 career centres have been established and function at the "Regional Employment Services" – Sofia, Montana, Lovech, Ruse, Varna, Burgas, Haskovo, Plovdiv, Blagoevgrad and Central Administration of the Employment Agency. Their main objective is to support career development of employees and self-employed persons through professional counseling and guidance. The main functions of the career centres are providing updated information on the labor market, career opportunities, providing guidance and advice in choosing a career, organizing and conducting seminars, meetings with employers and the organizing of "Career Days". Vocational guidance services are provided to 6155 employed persons, of whom 362 self-employed. Career development plans are drawn up for 3428 employed persons, 38 "Career Days" and 317 seminars have been organized for employed persons.

At the career centres 30 skilled career consultants work, who have been trained within the project. The main duties of the consultants are focused on security, assistance and various services for career information, advice and guidance for employed and self-employed individuals. Consulting services are offered in relation to increasing personal capacity and continued personal development; study of professional interests through specialized guidance tools; consulting for establishment of individual skills, priorities, advantages and obstacles to career development; investigation of training opportunities; planning and management of their career; preparation of individual plans for career development.

Labour Office Directorate 'work centres' also provide information and counselling. Conditions are provided for self-study for all who wish, through the provision of free access to specialized informational materials for vocational guidance. Information concerning professions is also available on the webpage of the Employment Agency.

### *Students*

In 2012-2014 the Bulgarian authorities upgraded the qualifications and created a special diploma. They developed new materials during the project, including 80 topics with interactive exercises in vocational guidance for students from grade 5 to 12.

Within the project "System for vocational guidance in school education" training programme on career guidance is implemented for students from first to twelfth grade.. Out of the 502,779 students planned to participate in the programme, by 31.12.2014 a total of 529,621 students have been included therein. 393,109 of them have participated in vocational guidance activities and 136,512 have completed the programme.

Career guidance activities with students from first to twelfth grade have been implemented in over 80% of schools on the territory of the country. Pupils and students from public, municipal and private schools have participated in them: from general education schools and specialized vocational schools at the Ministry of Education and Science, schools of arts and culture at the Ministry of Culture and sports schools at the Ministry of Youth and Sports. Special attention is paid to students from homes for children deprived of parental care. Activities involving students in the programme are: practical exercises; forums career guidance; group discussions on topics related to the choice of education and profession; group counseling to inform students about the terms and conditions of admission to the secondary/ higher education schools; individual counseling aimed at supporting students to

improve their motivation to learn and overcome personal problems related to their choice of education and profession.

At the vocational guidance centres the guidance service is provided free of charge to students, parents, teachers, school principals, school counselors and citizens.

With the creation of web-based resources for career guidance, the service is available to all students in the school education system, including those living in villages that are remote from the region centre town. There is an online booking system for advisory appointments.

The Ministry of Education and Science informed the Committee that vocational guidance for students is statutorily based on provisions of the Public Education Act (PEA) and the Vocational Education and Training Act (VETA). Section 33 of PEA regulates the right, subject to the interests and abilities of the children and students in the fields of art, science, technology, production and sports in their free time to organize activities at schools and at the units servicing the public education system. Section 4 of VETA regulates the inclusion of vocational guidance in the system of vocational education and training as well.

There exist a number of centres for career guidance to students (CVG). In 2012, under the project "System of vocational guidance in school education", financed under "Development of Human Resources", an operational programme funded by the European Social Fund, 28 centres for vocational guidance for students were established, with headquarters in all major regional cities of the country. Project funds were used for carrying out construction and repair works at CVGs, as well as for supplying office furniture and equipment. Their main objective is to provide services informing and consulting students from I to XII grade of school education.

The methods used in the programme are diverse. Specific tools to be used by advisors for counselling include 30 short films on interactive topics, web based resources (accessible via the national portal, <http://orientirane.mon.bg>) which give information on schools, universities and vocational guidance centres, and questionnaires for the evaluation of interests, abilities and preferences of students.

The main functions of CVGs are related to providing information on the opportunities of the education system, the institutions in secondary and higher education and the provision of assistance to students in their transition from education to employment.

Furthermore, the government have also established Centres for Information and Vocational Guidance (CIVG) in accordance with Section 21 of VETA. They can be public, municipal or private, Bulgarian with foreign participation and foreign. Licenses for establishing of CIVG are issued by the National Agency for Vocational Education and Training (NAVET). A Manual of Procedures is elaborated for assessing the capacity and quality of the centres for information and guidance. As of 31.05.2015, 33 licensed CIVG operate.

There are also career centres within the higher education system. There are 38 career centres employing specially trained counselors. The centres provide information to students about various opportunities for education and work. Services for students include: information available on internships and jobs; information about specific employers; training and search strategies and work experience; assistance in preparing a CV, cover letter and other documents required when applying for a specific position, etc. Employers are able to use the career centres to announce vacancies for internships, thus obtaining guarantees that the information will reach their desired audience.

With regard to counselling staff, for the provision of services at vocational guidance centres for career guidance to students 150 counsellors are employed, 28 of whom are heads of

CVGs. As to their acquired higher education, 53 career counselors are "Psychology" graduates, 10 have a degree in "Social Activities", 45 in "Pedagogy", "Philosophy" and "Sociology" and 41 in engineering. All counselors have at least 2 years of experience in secondary education. Within the period 2012 -2014 basic and additional qualification courses were held for the counsellors. The basic qualification was accomplished with their certification under the international programme Global Career Development Facilitator (GCDF). Overarching qualification includes training for work with the specific methodological tools created under the project.

The Employment Agency also organizes group vocational guidance for students in secondary education schools.

### **Opinion of the European Committee of Social Rights**

According to Article 9, the right to vocational guidance must be guaranteed:

1. within the school system (information on training and access to training);
2. within the labour market (information on vocational training and retraining, career planning, etc.).

Vocational guidance must be provided:

- free of charge;
- by qualified and sufficient staff;
- to a significant number of persons.

It shall also be adequately financed by the State and the information available and the means used to disseminate it should be aimed at reaching as many people as possible.

Vocational guidance of persons with disabilities is dealt with under Article 15 of the Charter for States having accepted both provisions.

According to the Appendix to the Charter, equal treatment shall be provided to nationals of other States lawfully resident or regularly working on the territory of the State concerned. This implies that no length of residence is required from students and trainees residing in any capacity, or having authority to reside in reason of their ties with persons lawfully residing, on the territory of the Party concerned before starting training. This does not apply to students and trainees who, without having the above-mentioned ties, entered the territory with the sole purpose of attending training.

The Committee notes that tools have been created to offer advice to students and workers. It notes in particular that career guidance activities with students from first to twelfth grade have been implemented in over 80% of schools on the territory of the country.

It notes that the Employment Promotion Act (EPA) regulates the provision of employment services, vocational guidance for jobseekers, who are able to obtain counselling for free.

The Committee notes that pursuant to Section 2 of EPA in exercising the rights and obligations under the law, no direct or indirect discrimination is permitted, neither any privileges or restrictions based on nationality, origin, gender, sexual orientation, race, skin color, age, political and religious beliefs, membership in trade unions and other public organizations and movements, family, social and material status, and mental and physical disabilities. However, it also notes that the right to vocational training is granted to foreigners

who are permanent or long-term residents, those granted asylum or other humanitarian protection, and the family members of EU Blue card holders. It is also available to residents of EU member states or EEA/Swiss residents. Where Bulgaria has signed an international treaty to provide training this right may be extended to other nationalities. It appears to the Committee that the above rules could entail a restriction on the rights of non-EU/EEA nationals and it would therefore need clarification as to whether equal treatment is effectively accorded to such nationals.

The Committee also needs to know whether the Public Education Act (PEA) and the Vocational Education and Training Act (VETA) guarantees equal treatment to nationals of all other States Parties, including non-EU nationals.

The Committee notes that free counselling is provided to jobseekers under EPA, and to students under PEA and VETA.

Nevertheless, the Committee acknowledges the advances made in the quality and accessibility of vocational guidance and subject to the above-mentioned clarification concerning the personal scope it considers that there are no major obstacles to acceptance by Bulgaria of Article 9 of the Charter.

## **Article 10 – Right to vocational training**

*Paragraph 1: Technical and vocational training; access to higher technical and university education;*

*Paragraph 2: Apprenticeship;*

*Paragraph 3: Vocational training and retraining of adult workers;*

*Paragraph 4: Long term unemployed persons*

*Paragraph 5: Full use of facilities available*

### **Situation in Bulgaria**

The Ministry of Labour and Social Policy provided information concerning the Vocational Education and Training Act (VETA), which is the main law that regulates the organization, governance and funding of the system of vocational education and training in Bulgaria.

Pursuant to Section 3 of VETA the main tasks of the system of vocational education and training include the acquisition of professional qualification, obtaining legal capacity to practice certain professions requiring such capacity, including regulated professions, continuous improvement training, formation of motivation for successful development in civil society.

Vocational education ensures the mastering of the general education minimum for secondary education and the obtaining of professional qualifications (Section 5 para. 3 of VETA). Vocational training includes:

- initial vocational training - acquisition of initial qualification in a profession or part of profession;
- continuous professional training - improvement of qualification in a profession or part of profession.

VETA sets forth:

- requirements for candidates wishing to participate in vocational education and training, which relate to the minimum age, health status, incoming and outgoing level of education and admission qualification level;
- framework programme under which students and persons of and above the age of 16 can be trained and the requirements thereto;
- forms of training, organizational forms and teaching time for training programme mes for students and persons aged 16;
- vocational education and training and the requirements for institutions providing vocational training for persons aged 16;
- the institutions for vocational education and training and the requirements concerning the institutions that provide vocational training to persons of the age of 16 and more;
- ways for completion and certification of completed vocational training.

### Eligibility

Right to inclusion in vocational training under the terms and conditions of EPA is granted to Bulgarian citizens, the citizens of another Member-State of the European Union or another country that is a party to the Agreement on the European Economic Area or the Swiss Confederation, who are seeking for a job, and:

- foreigner individuals holding a permit for long-term or permanent residence in the Republic of Bulgaria;
- individuals who have been granted a right to asylum;
- individuals who have been granted refugee or humanitarian status;
- individuals to whom this is provided for under international treaties to which the Republic of Bulgaria is a party;
- individuals - citizens of third countries who are members of the family of Bulgarian citizens or nationals of a European Union Member-State, or of a country that is a party to the Agreement on the European Economic Area or of the Swiss Confederation;
- family members of foreigner individuals who have obtained long-term residence permit;
- holders of EU Blue Card, who have remained unemployed for a period of three months, or those wishing to change their job.
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Pursuant to Section 2 of EPA in exercising the rights and obligations under the law, no direct or indirect discrimination is permitted, neither any privileges or restrictions based on nationality, origin, gender, sexual orientation, race, skin color, age, political and religious beliefs, membership in trade unions and other public organizations and movements, family, social and material status, and mental and physical disabilities.

### Adolescents

The Ministry of Education and Science, which implements State policy in the field of vocational education and training, organizes the development and implementation of state educational requirements for acquiring qualification in professions, the elaboration of educational programmes and training materials, the elaboration and implementation of national examination programmes, methodological support for the work of schools, coordination, control and inspection of activities related to school education.

The Ministry of Labour and Social Policy participates in the implementation of the state policy in the field of vocational education and training, by identifying the needs of vocational education and training, by analyzing labor market trends; it participates in the development,



coordination and updating of the State educational requirements for acquiring qualification in professions; participates in the coordination of the list of professions for vocational education and training; participates in the coordination of the state plan for admission to schools; participates in the organization of vocational guidance; participates through its representatives in the board and in the expert committees of the National Agency for Vocational Education and Training (NAVET).

The Ministry of Education and Science provides, *inter alia*, the following information:

*1. Provision of general and vocational secondary education, university and non-university education and other forms of vocational training*

The social relations in respect of providing vocational secondary education and training are regulated by the Vocational Education and Training Act (VETA) – latest amendments and supplements, SG, issue 61 of 25.07.2014.

A new form of vocational education is introduced – training through work (dual education), which is to be applied both to students and adults (Section 5 para. 4; Section 17a paras. 1-5; Section 29).

The opportunities for access to vocational training are extended for students, persons above the age of 16 and persons with special educational needs (Section 11, i. 4b; Section 12, i. 1”a” and “b“; Section 14 para .4).

*2. Establishment of connections between secondary vocational education and university and non-university higher education*

To date, a consultation process is in progress as regards the possibilities for establishing a new type of institution for vocational education and training - integrated vocational college, which will provide training for attainment of professional qualification degree in a profession with admission after completed secondary education. It is envisaged at the integrated vocational colleges to be provided training in professions necessary to the regional and national economy. Possibilities are discussed for continuing education in similar or close major at a university after completion of training at the integrated professional college.

*3. Introduction of mechanisms for recognition/validation of knowledge and experience acquired in the context of training/working activity for the purpose of acquiring qualification or obtaining access to general, technical or university higher education*

Important amendments and supplements to VETA are introduced as of July 2014, focusing on the improvement of the access to life-long learning, which regulate in statutory manner, including, the possibilities for validation of vocational knowledge, skills and competences acquired through informal training or learning – Section 1 para. 1 i. 4; Section 4 i. 2; Section 5 para. 5; Section 6 para. 1; Section 9 para. 3; Section 40.

As of 1 January 2015 the Ordinance on the conditions and procedures for validation of professional knowledge, skills and competencies issued by the Minister of Education and Science, has entered into force.

*4. Introduction of mechanisms for recognition of qualifications obtained in continuing vocational education and training*

In the development, updating and coordination of the List of professions for vocational education and training and the state educational requirements for acquiring qualification in

professions there have been included representatives of ministries in the relevant sectors, organizations of workers and employees at national level, branches of trade union organizations, which have the ability to express the interests of the business.

### Adults

The Minister of Labour and Social Policy, jointly with the Minister of Education and Science develop and coordinate public policy for adult education; create conditions for the assessment and recognition of knowledge, skills and competencies of adults acquired through informal training and learning; examine, analyze and forecast the status, development and training needs of adults.

Access to lifelong learning – amended law to recognise and validate qualifications.

### Training centres

The National Agency for Vocational Education and Training (NAVET) is the State body to the Council of Ministers responsible for licensing activities in vocational education and training and for coordination between the institutions involved in vocational guidance, training and education. The main functions of the NAVET are related to the issuance and revocation of licenses for vocational training and vocational guidance, to controlling the activities of licensed CVTs and licensed CIVGs, to compiling a list of professions for vocational education and training, to the elaboration of State educational requirements for acquiring vocational qualification, etc.

The institutions for conducting vocational education and training are: vocational schools; vocational secondary schools; art schools; sports schools; vocational colleges; vocational training centres, centres for information and vocational guidance (Section 9 VETA).

The vocational training centres (VTCs) provide vocational training to persons above the age of 16. As per data of NAVET the number of licensed vocational training centres to date is 954.

Proposal for new integrated vocational colleges for professions. It would be possible to switch between academic and vocational training. The mechanism for integration is in the preparation phase.

### Areas of training

The scheme started with pilot vocations, particular those where a need was identified in the labour market. There are plans to expand it into other areas.

Vocational education and training is carried out in professions and occupations regulated in the List of professions for vocational education and training (LPVET) (Section 6 of VETA). LPVET is developed by the NAVET with the participation of social partners and is approved by the Minister of Education after consultation with the Minister of Labour and Social Policy, with the sectoral ministers and the representative organizations of employers and employees at national level. The list is updated on a current basis subject to the changing needs of the labour market.

Depending on the complexity of the acquired professional qualification professions are divided into four levels (Section 8 of VETA). The paths for acquisition of professional qualifications in vocational education and training are regulated by the Sixth Framework Programme validated by the Minister of Education and Science. The Framework Programmes stipulate the conditions for acquisition of various degrees of professional qualifications: requirements for applicants (separately for students and for people aged 16 and over), for training programmes, including the minimum age requirement, for incoming and outgoing educational and qualification level, opportunities for employability and

qualification improvement, organization of educational process - form of training and organizational forms, structure of the curriculum, determining the educational hours of theoretical and practical training, completion and certification of vocational training. For each profession state educational requirements set forth in LPVET as regards the obtaining of professional qualification in the profession. SER define the obligatory professional competencies that must be mastered in the course of training for practicing the particular profession. SER are mandatory for all educational institutions entitled to organize vocational training.

### Qualifications

The conditions and procedure for the validation of professional knowledge, skills and competencies are determined by the Minister of Education and Science. The Ordinance on the conditions and procedures for validation of professional knowledge, skills and competencies is issued at the end of November 2011 and entered into force on 1 January 2015.

Within the vocational education system, three paths are envisaged for the acquisition of vocational education:

- after completed VII grade for professions with third degree of professional qualification;
- after completion of primary education for professions with acquisition of II degree of professional qualification;
- after completion of primary education for professions with acquisition of II degree of professional qualification.

For the acquisition of vocational education there are different forms of organization of the educational process, but the most common is the daily form of education in the compulsory school age and day, evening, part-time and informal education forms for adults.

Vocational education is acquired after completion of XII grade and successfully passed:

- matriculation exams for secondary education;
- state examinations for acquiring professional qualification - theory of the profession and practice of profession.

Completed vocational education is certified by:

- diploma of secondary education;
- certificate of professional qualification;
- license issued for professions the exercise of which requires competence, including the exercise of regulated professions.

By changes in VETA in 2014 opportunities were regulated for acquiring professional qualification through validation of professional knowledge, skills and competences acquired through non-formal education or learning. Validation of professional knowledge, skills and competencies is the identification and recognition of professional knowledge, skills and competences acquired through non-formal education or learning, and their compliance with the state educational requirements for acquiring qualification in professions (Section 40 para. 1 of VETA). The right to perform validation of professional knowledge, skills and competences is delegated to vocational schools, vocational secondary schools, vocational colleges, art schools, sport schools and vocational training centers.

According to Section 40 para. 4 of VETA establishment of acquired professional knowledge, skills and competences is carried out by assessing the declared competencies of the student with the requirements of the profession. According to the results of the preliminary assessment a person may be directed to further training or be admitted to sit exams in the theory and practice of the profession. To persons who have successfully passed the exams there shall be issued an officially recognised validation certificate of professional qualification, or a validation certificate of professional qualification in a part of the profession when not all units have been completed.

The expenses for establishing, documenting, assessing and recognizing the experience of individuals as well as for conducting exams for acquiring professional qualification are in an amount determined by the relevant institutions, as such amounts may not exceed the actual amounts of the expenses. VETA provides that the amounts are not to be collected when the activities are financed by the programme and projects financed under European structural funds.

### Vouchers

Broad access for both employed and unemployed individuals to vocational training has been provided by the introduction of vouchers for training of employed and unemployed individuals (Decree No. 251 of 2009). Vouchers are an innovative tool for financing education, whereupon the choice of the type of education and training institution is a right of the trainee, depending on his/her individual needs.

Training through vouchers is financed under Operational Programme Human Resources Development ("OP HRD").

Providers of education through vouchers are the educational institutions that fulfill certain conditions, and are included in the list of training providers of vocational training and / or the list of providers of training in key competencies validated by the Executive Director of the Employment Agency. From the list of the approved training providers, individuals may both choose an educational institution and inform themselves about the professions and/or key competences, in which the institutions provide training, about the populated areas and addresses where trainings are conducted and about contact details of the respective training institutions.

More than 236,000 employed and unemployed persons have been successfully trained in exchange for vouchers within the schemes financed under Operational Programme "Human Resources Development" 2007-2013.

The training voucher is a registered personal security with a fixed par value in BGN issued by the Employment Agency and entitling its holder to engage in training. The voucher is provided directly to the person and covers all relevant training costs, including taxes, according to Bulgarian legislation. It does not require co-financing by the person or his/her employer.

The right to training vouchers is granted to unemployed individuals registered at LOD and employed individuals (persons who work under an employment agreement or are self-employed). The right to apply for vouchers is granted to individuals who meet the eligibility criteria for the target group of the project. Persons employed under official, employment or equal legal relation at the public administration, the administration of local authorities, the judiciary system, the education system, the Ministry of Interior and the Ministry of Defense are not entitled to vouchers for training. Individuals may not receive a voucher for inclusion in training for acquiring professional qualification in the same or lower level of the qualification that they already have. The training, which is funded by vouchers may be for acquiring a degree or qualification for a part of a profession or for acquiring key competences.

To participate in vocational training individuals must meet the minimal educational level for the profession or major, when the training is part of the profession, and the minimum result level of education in the event of training for attainment of professional qualification. Training for acquisition of key competences according to the European Reference Framework for key competences - native language, communication in foreign languages, mathematical competence and basic competences in science and technology, digital competence, initiative and entrepreneurship - is also financed by vouchers. For the duration of OP HRD (2007-2013) the same individual is entitled to receive only one voucher for vocational training and one voucher for training in key competences.

### Unemployed

Vocational training is an essential element of adult education under the Employment Promotion Act, which includes literacy training and training for acquisition and development of key competencies.

Vocational training is carried out in the professions included in the List of professions for vocational education and training, which is subject to validation by the Minister of Education and Science. The units of the Employment Agency (EA) organize training for unemployed persons without a preliminary job placement as per lists of professions developed based on a study of the needs of the labor market. The right to carry out vocational training under the EPA is delegated to licensed vocational training centers, vocational schools, vocational secondary schools, vocational colleges, art schools, sport schools and universities.

The Employment Agency and its territorial departments ("Labour Office" Directorates) organize and finance training for professional qualification for unemployed persons:

- Upon submission of a request by an employer willing to hire them to work under employment agreement for a period not shorter than six months after successful completion of training;
- Without preliminarily guaranteed job position in professions offered by the regional employment authorities depending on the needs of the labor market;
- At the State Enterprise "Bulgarian-German Vocational Training Centre".

Employers may apply for funding of vocational training for unemployed persons against the commitment to employ them upon successful completion of the training on non-subsidized jobs in positions that correspond to the acquired qualification. They have the right to make the selection of trainees, as well as to specify the educational institution that meets the requirements of EPA for conducting the training or to request from the Labour Office Directorate to organize training (Section 63 of EPA Implementing Regulations).

The expenses for vocational training of unemployed persons are fully financed with funds from the state budget for active policy on the labor market disbursed to the training institution. Persons who participate in vocational training receive a scholarship for the period of training (Section 30a of the EPA). If the training takes place in a populated area other than the area of residence, the unemployed persons are provided with funds for accommodation and transport. The amount of funds for education, scholarship, travel and accommodation expenses are determined annually in the National Action Plan for Employment for the respective year.

Some changes to EPA are in a process of discussion, which are to provide opportunities for providing financial support to employers who open a job position for training through work (dual training) organized pursuant to VETA, to which an unemployed person has been sent by the Employment Agency (Section 30 para. 1 and para. 2 and insertion of new Section

46). The proposal aims at encouraging employers to create new jobs through job training (dual training), as the employers will be provided with support amounts to pay for a mentor.

Unemployed persons are provided with vocational training opportunities in the form of internship or apprenticeship.

An internship can be provided for an unemployed person who has acquired over the last 24 months training in a profession or part of profession required for such position, and who has no work experience in this profession (Section 41a and Section 46 of EPA). The employer who hires an unemployed person for internship is provided with amounts for salary of the person and/or for social insurance and health insurance contributions payable by the employer for the internship period. Such period may not be shorter than nine months. The amount of the salary of the person is determined on an annual basis in the National Action Plan for Employment.

An apprenticeship can be provided for an unemployed person with primary education and without any qualifications (Section 41a and Section 55 of EPA). The person is hired under employment agreement on a full-time or part-time basis. The employer is obliged to provide training to the employee in a profession or trade. The employer who has hired an unemployed person for apprenticeship is provided with amounts for salary of the employee and social insurance and health insurance contributions payable by the employer for the time during which the person has been employed. Such a period cannot be longer than 12 months. The employer is further provided with amounts for payment of additional benefits to the mentor for the period of mentoring, which can be up to 24 months if the employer retains the job position for the unemployed person hired for the apprenticeship for a further period, equaling the period of subsidization. The amounts of the salaries payable to the person and the amounts for additional benefit payable to the mentor are determined on an annual basis in the National Action Plan for Employment for the respective year.

Upon a start-up of independent economic activity by unemployed persons, EPA provides the following opportunities for training to obtain professional qualification:

- to unemployed persons entitled to cash benefit wishing to start a business for the production of goods and / or provision of services and who have received a lump sum under an approved business plan, additional funds can be extended in the form of credit for qualification in the subject of the business and /or its management under the approved project;
- to unemployed people who have started up their own business as a micro enterprise under the Small and Medium-Sized Enterprises Act on the grounds of approved business plan, means are provided for acquiring professional qualification in the subject of business and / or its management under the approved project.

#### Disadvantaged groups

The Employment Promotion Act envisages opportunities for employers to apply for funds from the state budget for vocational training in hiring certain groups of persons in disadvantaged position on the labor market:

- Unemployed mothers (adopters) with children at 3 to 5 years of age;
- Unemployed persons who have served a sentence of imprisonment and are directed by the divisions of the Employment Agency and are hired within 12 months as of their release from the place of serving the sentence;
- Persons at the age of 50 to 64 who are entitled to occupational pension for early retirement;

The funds for training are provided by the Employment Agency directly to the educational institution.

### Employed persons

The Employment Promotion Act provides opportunities for training of employed persons (Section 44 and Section 63 of EPA). Under Section 63 of EPA employers may apply to the Labour Office Directorate for organizing and financing training for acquiring professional qualification or training in key competences of:

- employees in micro and small enterprises;
- employees who are required whose qualifications should be amended because of amended requirements for appointment to the job position with the same employer.
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Training of employed persons is financed up to the validated maximum amount of the funds for training of one employed persons as defined in the National Action Plan for Employment for the respective year. The financing of training of employed persons is provided with equal participation by the Employment Agency and by the employer. Training of individuals in enterprises fully subsidized by the state budget is not performed.

Training of employed persons are held in non-working time. The type and level of training of employed persons against vouchers within a specific project shall be determined subject to the project itself and in accordance with its objectives.

### Amendments

Proposals for amendments to VETA as regards validation have been developed under the project "New opportunity for my future", financed under OP HRD 2007-2013 in collaboration with the European Social Fund. 14,000 individuals have consulted the providers of the programme with a view to participation. More than 6,000 individuals have successfully passed the validation procedure and obtained professional qualification within the project.

So as to achieve greater consistency between the knowledge and skills of the workforce and the job requirements, the changes in VETA of 2014 have introduced a new form of vocational training - training by working (dual training). Implementation in practice of duality expands training opportunities for access to practically oriented and linked to the needs of employers vocational training. Leading institution is the Ministry of Education and Science.

Learning through work (dual training) is a form of partnership between the educational institution (vocational school, vocational secondary school, college or training center) and one or more employers, including practical training in a real working environment, and vocational education activities.

Learning through work (dual training) will apply to persons over the age of 16 who are within the education system (students in XI and XII grades) and for persons over the age of 16 who are on the labour market.

Practical training with an employer in a real working environment will be carried out under the guidance of a mentor designated by the employer. A mentor can be an employee at the enterprise, having qualification in the profession for which training will be carried out and at least three years of working experience in the same profession and has passed training for mentors provided by the employer.

In connection with training through work (dual training) VETA establishes responsibilities for the employers associated with declaring before the training institutions of the admission for training through work (dual training), participation in the development of syllabi and curricula, training of mentors.

Under VETA practical training at the enterprise can be implemented based on a contract between the trainee and the employer (employment agreement with stipulation of training to be provided in the course of working). Within the framework of an interdepartmental working group at the Ministry of Education and Science, with the participation of key institutions and social partners, a draft Ordinance to regulate the terms and conditions of training has been elaborated and its issuance is forthcoming by the end of June 2015.

Practical training within dual training will be funded by the employer and theoretical training at educational institutions – by funds from the state budget for governmental and municipal institutions. VETA allows for an opportunity for financing also through funds from the European Structural Funds.

In order to create conditions for successful implementation of this new form of vocational training, the Ministry of Labour and Social Policy supports various initiatives for pilot testing and organizing of training through working (dual training). Within the framework of pilot projects there are to be developed curricula for selected professions, to be conducted specialized training of teachers, instructors and mentors who are to conduct practical training at enterprises.

A change in EPA is proposed through which to expand the circle of employers who may apply for grant funds for training their employees. In this respect, it is suggested to abolish the limitation of providing financial support for training of workers and employees at micro- and small enterprises only as well as workers and employees in respect of whom the job position requirements have been amended.

#### Social Partners

The social partners actively participate in the process of developing and implementing the policy in the field of vocational education and training.

The organizations of employers take part in the development, updating and coordination of the List of professions for vocational education and training; take part in the elaboration, coordination and updating of the state educational requirements for acquisition of qualification in certain professions; take part in the organization and conducting of exams FOR acquisition of professional qualification and propose representatives who are to participate in the examination boards; take part through their representatives in the managing board and in the expert commissions of NAVET .

The sectoral trade union organizations protect the interests of the trainees before the employers as regards the issues of employment and social security relations in the conducting the practical training at the enterprises; take part in the organizing and conducting of exams for acquisition of professional qualification and propose representatives to participate in the examination boards; nominate their representatives in the expert commissions as per professional lines of NAVET.

At a national and regional level the social dialogue in the field of vocational training is carried out at a number of councils and authorities. At national level these are the Economic and Social Council, the National Council for Promotion of Employment, the National Consultative Council on Professional Qualification of the Labour Force.

The employment commissions at the regional councils for development provide assistance in determining, organizing and controlling the implementation of the state policy on employment promotion and adult education at regional level.

The councils for cooperation at the Labour Office Directorates of the Employment Agency monitor the implementation of the programme and measures for employment and training



included in NAPE, exercise control over compliance with the provisions for selection, discuss the priority programme and measures for financing.

The social partners are directly engaged in activities for vocational training of unemployed within projects included in NAPE. In 2013 under projects of the social partners 3,419 unemployed persons are included in vocational training and in 2014 – 6,072 individuals. For implementation of the projects of the social partners included in NAPE in 2015 funds for vocational training are provided to 7,345 unemployed persons.

## **Opinion of the European Committee of Social Rights**

### **Re Article 10§1**

The notion of vocational training under Article 10§1 covers: initial training – i.e. general and vocational secondary education – university and non-university higher education, and vocational training organised by other public or private actors, including continuing training – which is dealt with under Article 10§3 of the Charter. University and non-university higher education are considered to be vocational training as far as they provide students with the knowledge and skills necessary to exercise a profession.

The right to vocational training must be guaranteed to everyone. According to the Appendix to the Charter, equal treatment shall be provided to nationals of other States lawfully resident or regularly working on the territory of the State concerned. This implies that no length of residence is required from students and trainees residing in any capacity, or having authority to reside in reason of their ties with persons lawfully residing, on the territory of the State concerned before starting training. This does not apply to students and trainees who, without having the above-mentioned ties, entered the territory with the sole purpose of attending training.

States must provide vocational training by several means:

- ensuring general and vocational secondary education, university and non-university higher education; and other forms of vocational training;
- building bridges between secondary vocational education and university and non-university higher education;
- introducing mechanisms for the recognition/validation of knowledge and experience acquired in the context of training/working activity in order to achieve a qualification or to gain access to general, technical and university higher education;
- taking measures to make general secondary education and general higher education qualifications relevant from the perspective of professional integration in the job market;
- introducing mechanisms for the recognition of qualifications awarded by continuing vocational education and training.

Facilities other than financial assistance to students (which is dealt with under paragraph 4, see below) shall be granted to ease access to technical or university higher education based solely on individual aptitude. This obligation can be achieved by:

- avoiding that registration fees or other educational costs create financial obstacles for some candidates;
- setting up educational structures which facilitate the recognition of knowledge and experience, as well as the possibility of transferring from one type or level of education to another.

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

Training of persons with disabilities is dealt with under Article 15 of the Charter for States having accepted both provisions.

The Committee notes that the Bulgarian Government provides vocational training schemes guaranteed for persons of school age and adults. This training may be provided by schools and other educational establishments, state training agencies, private licensed training centres, and employers through internships and apprenticeships.

The amounts available for training of individuals are set by the National Action Plan for Employment each year. The Committee does not have information on the amount of money spent on vocational training in Bulgaria, however it is clear that there has been significant investment in recent years, in particular with the assistance of the European Social Fund and projects launched with Switzerland and Germany. It notes that high numbers of employed persons have benefitted from training, and that opportunities are provided in numerous manners for the unemployed.

The Committee further notes the initiatives to translate apprenticeships and other training opportunities into jobs through income support for employers and mentors.

In order to reach a firm opinion the Committee would need clarification as to whether the relevant legislation (notably PEA and VETA) guarantees equal treatment to nationals of all other States Parties, including non-EU nationals.

Subject to the above-mentioned clarification concerning the personal scope, the Committee considers that there are no major obstacles to acceptance by Bulgaria of Article 10§1 of the Charter.

## **Re Article 10§2**

According to Article 10§2, young people have the right to access to apprenticeship and other training arrangements. It means any training that combines theoretical and practical training and establishes close ties between training establishments and the working world.

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

The main indicators of compliance are the existence of apprenticeship and other training arrangements for young people, the number of people in, the total spending on these types of training and the availability of places for all those seeking them.

Equal treatment with respect to access to apprenticeship and other training arrangements must be guaranteed to non-nationals in the same conditions as those mentioned under Article 10§1.

The Committee notes that the length of apprenticeship, the remuneration, and the vocational training aspects are regulated by legislation. It notes that the employment organisations and schools cooperate with employers.

The Committee notes the existence of apprenticeship opportunities, and the investment in income support and other initiatives to encourage employers to create 'dual training' and apprenticeship opportunities for adolescents. It has not been provided with information on the number of apprenticeships undertaken through these schemes.

In order to reach a firm opinion the Committee would need clarification as to whether Bulgarian law guarantees equal treatment to nationals of all other States Parties, including non-EU nationals, in respect of all forms of apprenticeship training.

Subject to the above-mentioned clarification concerning the personal scope, the Committee considers that there are no major obstacles to acceptance by Bulgaria of Article 10§1 of the Charter.

### **Re Article 10§3**

The notion of continuing vocational training under Article 10§3 includes adult education. The right to continuing vocational training must be guaranteed to employed and unemployed persons.

The Committee examines under Article 10§3 only those of the activation measures for unemployed people that strictly concern training, while under Article 1§1 it deals with general activation measures for unemployed people. Specific measures for long-term unemployed people are dealt with under Article 10§4.

For both employed and unemployed persons, the main indicators of compliance with this provision are the types of continuing vocational training and education available on the labour market, training measures for certain groups, such as women, the number of persons in training and the gender balance and the total expenditure as a percentage of the GDP.

In addition, the following aspects are taken into account:

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

As regards employed persons, the existence of preventive measures against the deskilling of still active workers at risk of becoming unemployed as a consequence of technological and/or economic progress is also taken into consideration. Self-employed persons are also covered by this provision.

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

Equal treatment with respect to access to continuing vocational training must be guaranteed to non-nationals in the same conditions as those mentioned under Article 10§1.

The Committee notes the availability of training and funding for the continued education of adult workers and the unemployed. More than 236,000 employed and unemployed persons have been successfully trained in exchange for vouchers within the schemes financed under Operational Programme "Human Resources Development" 2007-2013.

The Committee does not have information concerning the gender balance of those trained under the schemes, however it notes that there are specific measures envisaged to provide support for employers of unemployed mothers, and persons over 50. Nor does it have information regarding the budget allocated to training.

The Committee notes that training for employed persons shall take place outside of working time. It notes there are specific budgetary allocations within the Ministry of Labour and Social Policy and Ministry for Education and Science to provide training at the respective levels through numerous departments such as the Employment Agencies.

The Committee notes that financial support, in particular through the voucher scheme, is available for workers in enterprises and the self-employed, to provide continuing skills acquisition.

The Committee notes that pursuant to Section 2 of the Employment Protection Act (EPA) in exercising the rights and obligations under the law, no direct or indirect discrimination is permitted, neither any privileges or restrictions based on nationality, origin, gender, sexual orientation, race, skin color, age, political and religious beliefs, membership in trade unions and other public organizations and movements, family, social and material status, and mental and physical disabilities. However, it also notes that the right to vocational training is granted to foreigners who are permanent or long-term residents, those granted asylum or other humanitarian protection, and the family members of EU Blue card holders. It is also available to residents of EU member states or EEA/Swiss residents. Where Bulgaria has signed an international treaty to provide training this right may be extended to other nationalities. It appears to the Committee that the above rules could entail a restriction on the rights of non-EU/EEA nationals and it would therefore need clarification as to whether equal treatment is effectively accorded to such nationals.

Subject to the above-mentioned clarification concerning the personal scope, the Committee considers that there are no major obstacles to acceptance by Bulgaria of Article 10§3 of the Charter.

#### **Re Article 10§4**

In accordance with Article 10§4, States must fight long-term unemployment through retraining and reintegration measures. For the purpose of this provision a long-term unemployed is a person who has been without work for 12 months or more.

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

Equal treatment with respect to access to training and retraining for long-term unemployed persons must be guaranteed to non-nationals in the same conditions as those mentioned under Article 10§1.

The Committee notes that specific programmes of support exist for the long term unemployed, including opportunities to retrain and reintegrate into the labour market.

The Committee notes that pursuant to Section 2 of EPA in exercising the rights and obligations under the law, no direct or indirect discrimination is permitted, neither any privileges or restrictions based on nationality, origin, gender, sexual orientation, race, skin color, age, political and religious beliefs, membership in trade unions and other public organizations and movements, family, social and material status, and mental and physical disabilities. However, it also notes that the right to vocational training is granted to foreigners who are permanent or long-term residents, those granted asylum or other humanitarian protection, and the family members of EU Blue card holders. It is also available to residents of EU member states or EEA/Swiss residents. Where Bulgaria has signed an international treaty to provide training this right may be extended to other nationalities. It appears to the Committee that the above rules could entail a restriction on the rights of non-EU/EEA nationals and it would therefore need clarification as to whether equal treatment is effectively accorded to such nationals.

Subject to the above-mentioned clarification concerning the personal scope, the Committee considers that there are no major obstacles to acceptance by Bulgaria of Article 10§4 of the Charter.

### **Re Article 10§5**

States must ensure that vocational training, as defined under Article 10§1, is provided free of charge or that fees are reduced. States must provide financial assistance either universally, or subject to a means-test, or awarded on the basis of the merit. In any event, assistance should at least be available for those in need and shall be adequate. It may consist of scholarships or loans at preferential interest rates.

Equal treatment with respect to fees and contributions and financial assistance must be guaranteed to non-nationals in the same conditions as those mentioned under Article 10§1.

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

States must evaluate their vocational training programmes for young workers, including the apprenticeships. In particular, the participation of employers’ and workers’ organisation is required in the supervision process.

The Committee notes that vouchers are provided to pay for vocational education. It notes there is also provision for travel and accommodation expenses to encourage the uptake of vocational education.

The Committee notes the involvement of social partners in the provision of vocational education. In particular, it recognises the employment commissions at the regional councils for development provide assistance in determining, organizing and controlling the implementation of the state policy on employment promotion and adult education at regional level. The councils for cooperation at the Labour Office Directorates of the Employment Agency monitor the implementation of the programme and measures for employment and training included in the NAPE, exercise control over the compliance with the provisions for selection of the respective programme and measures, discuss the priority programme and measures for financing. This indicates conformity with the requirements of the Charter.

In conclusion, the Committee refers to the need for clarification of whether equal treatment is guaranteed for nationals of other States Parties, including non-EU nationals (see opinion in respect of Articles 10§§1-4).

## **Article 12 – Right to social security**

*Paragraph 2 - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security*

*Paragraph 4 - Social security of persons moving between States*

### **Situation in Bulgaria**

Social security in Bulgaria today, based on contributions, is carried out by the National Social Security Institute, the National Health Insurance Fund and the companies for additional social security for pensions, for unemployment and/or professional qualification and additional health insurance.

By ratifying on 14.07.2008 ILO Convention No. 102 on Social Security Bulgaria has included 7 of the nine risks covered by the Convention. The National Social Security Institute administers 5 of the 7 risks included on the part of the Republic of Bulgaria.

The following are the social risks deemed to be insured under Bulgarian legislation, for which cash benefits are provided:

- Benefits for temporary disability;
- Maternity benefits;
- Pensions for years in employment and old age;
- survivors' pensions;
- pensions for disability due to occupational accident or disease, due to general disease; due to civil invalidity and military invalidity;
- social pensions;
- individual pensions;
- the procedure for assessing entitlement to the specified benefits, as well as the proceedings for their granting them are determined by the provisions of:
- the Social Security Code (SSC);
- the Ordinance on the calculation and payment of cash benefits and benefits from the state social insurance;
- the Ordinance on pensions and years in employment;
- the Ordinance on the establishment, investigation, registration and reporting of accidents;
- the Ordinance on medical expert opinions on working ability, etc.

The Social Security Code is the primary legislation that governs social relations associated with pensions of individuals. Under its provisions are provided both non-work-contingent pensions and work-contingent pensions.

### Pension

According to Article 68 para 1 and para 2 of the Social Security Code, the right to pension and pension age is acquired at the age of 60 years and 10 months of age for women and 63 years and 10 months of age for men. It will be increased gradually until it reaches 65 years for both women and men.

Pension is a primary source of income for many citizens. The size of individual pensions is calculated as a function of the wages received by the individual during their working life.

Following the 2008 economic crisis the situation in Bulgaria worsened and reforms have therefore not proceeded with the pace anticipated.

In 2010 the minimum pension for insured persons was BGN 136; In 2012 this rose to BGN 146; and again in 2013 it rose to BGN 150. In 2015 it stood at BGN 157.

Pensions for work have been updated as of 1 April 2013, as envisaged in Section 3 para. 1 of the Transitional and Concluding Provisions of the Law on the Budget of the State Social Security for the year 2013:

1. those granted with initial date before 31 December 2009 – by 9.8%;
2. those granted with initial date from 1 January to 31 December 2010 – by 8.8%;
3. those granted with initial date from 1 January to 31 December 2011 – by 5.7%;
4. those granted with initial date from 1 January to 31 December 2012 – by 2.2%.

The minimum amount of the survivor's pension (given to widowed spouses, to children and to parents of eligible pensioners), which is also a type of pension for work, may not be less than 75% of the minimum pension for years in employment and old age fixed for the respective calendar year.

The minimum social pension for non-insured people is 70 (2010-2012). This saw an increase in 2013 from BGN 100 to 110. In 2015, the minimum is BGN 115.

All other non-insured persons, e.g. those with a disability – get the same increase as social pension, since this increase is calculated in terms of macroeconomic development. Pensions are updated based upon the increase of income and index of prices of the previous year. The figure rose 2.7% in 2014, and 1.9% in 2015.

During the period from 1 April 2009 to 31 March 2013 the maximum amount of the received one or more pensions is BGN 700, Since 1 April 2013 this amount is raised to BGN 770, since 1 July 2014 it is BGN 840, and since 1 July 2015 it will be BGN 910.

Government efforts to increase the amount of pensions and to improve their adequacy continue. The draft law amending the Social Security Code, approved by the Council of Ministers on 20 May 2015 and submitted to the National Assembly included provisions aiming at increasing the amount of both newly and already allocated pensions.

When ratifying ILO Convention 102 the Government was concerned that pension standards weren't high enough. It appeared that pensions were not keeping up with inflation. However, the report of the expert committee of the ILO is still forthcoming.

### Unemployment

By amendment to the Social Security Code, in force as of 1 January 2011, the maximum amount of the unemployment cash benefit has been abolished. Thus the individuals receive the actual amount of the calculated unemployment cash benefit – the daily cash benefit for unemployment is in the amount of 60% of the average daily remuneration or the average daily insurable earnings – on which social security contributions are deposited in or owed to the Unemployment fund for the last 24 calendar months (before 1 January 2012 – the last 18 months), preceding the month of termination of the insurance, and may not be less than the minimum daily amount of the unemployment benefit. The minimum daily amount of the unemployment benefit is determined annually with the Budget of the State Social Insurance Act. For 2015 it is BGN 7.20.

According to Article 54a of the Social Security Code individuals shall have access to unemployment benefits where they have made the due contributions to the fund "Unemployment" for at least nine months from the last 15 months before the termination of the insurance and who

1. have registered as unemployed at the Employment Agency;
2. are not eligible for old-age or early retirement pension in Bulgaria, or old-age pension in another country;
3. are not employed with a job, which is a subject to compulsory insurance under the Social Insurance Code with the exception of persons under Article 114a para. 1 of the Labour Code (having an employment contract for short-term seasonal agricultural work for one day), or the legislation of another country.

Recognised insurance periods include paid and unpaid leave for child-raising; paid and unpaid leave for temporary disability, pregnancy and maternity, as well as paid leave for adoption of a 2-5 year old child; unpaid leave up to 30 working days per calendar year; recognized for insurance experience under the legislation of another state within an international agreement in which Bulgaria is a party.

In 2013 a decrease of the expenses for passive policy on the labour market is observed as a result of the change in the structure of the registered unemployed persons entitled to benefits depending on the received unemployment benefits, as well as a result of the decrease in the total number of unemployed persons entitled to benefit by about 1%. As a result of these changes the disbursed unemployment cash benefits in the year 2013 (BGN 354.1 million) are by BGN 4.5 million less as compared to those disbursed in the 2012 (BGN 358.6 million).

The main reason for this trend is the decrease in the number of unemployed persons registered with entitlement to benefit by about 7% from 116,525 persons in 2013 to 100,806 in 2014. Unfortunately, the Government does not provide information on what changes have been made to entitlement criteria and whether these have brought certain persons outside of the scope of social security benefits. It has also been unable to assess the impact of this decrease in entitlement.

Bulgaria has begun to pursue active labour market policies more rigorously, showing a significant increase of the funds spent from the state budget and the European Social Fund for active policy on the labour market by BGN 62 million as compared to the year 2012, going from BGN 184 million to BGN 246.7 million. Some of this investment has gone towards increasing training opportunities.



On the whole the Government believes that the unemployment benefit is adequate for a dignified life. The government also study the broader measures of social support, housing and transport, which have a supportive effect on monetary assistance.

There is a focus on developing an integrated approach to social security. The government wishes to abolish institutional care, for example, and move to a family/community based approach, which requires different programming.

An action plan to implement goals is being drafted. Included shall be the measures to be taken, and indicators to measure progress. The draft is to be completed in 2015.

After the last report submitted by the Committee the following changes were adopted in the field of pensions and unemployment benefits:

Minimum level of pensions:

From 1 July 2009 to 31 May 2012 the amount of the minimum pension for years in employment and old age is BGN 136.08.

Since 1 June 2012 the pension for years in employment and old age was increased from BGN 136.08 to BGN 145.00 (by 6.6 %).

Since 1 April 2013 the minimum amount of the old age pensions has again been increased from BGN 145 to BGN 150 (by 3.4 %).

Since 1 July 2014 its amount is BGN 154.50.

As provided for in the Law on the Budget of State Social Security for 2015 as of 1 July 2015 the minimum amount of pension for years in employment and old age will be increased from BGN 154.50 to BGN 157.44.

Raising the minimum pensionable age entails also an increase of the minimum amounts of the pensions for years in employment, which are calculated by this amount - the minimum amount of pensions for disability due to a disease of general nature, of pensions for disability due to occupational accident or occupational disease and of the survivors' pensions. Their amount will change as of 1 July 2015 as follows:

The amount of disability pension due to a disease of general nature may not be smaller, depending on the degree of permanently reduced ability to work/type and degree of disability as follows:

1. More than 90% – 115% of the minimum amount of the pension for years in employment and old age, or BGN 177.68 from 01.07.2014 to 30.06.2015, and as of 01.07.2015 – BGN 181.06;
2. From 71 to 90% – 105% of the minimum amount of the pension for years in employment and old age, or BGN 162.23 from 01.07.2014 to 30.06.2015, and as of 01.07.2015 – BGN 165.31;
3. From 50 to 70.99% – 85% of the minimum amount of the pension for years in employment and old age, or BGN 131.33 from 01.07.2014 to 30.06.2015 and as of 01.07.2015 – BGN 133.82.

The amount of disability pension due to occupational injury or disease may not be smaller, depending on the degree of permanently reduced ability to work/type and degree of disability as follows:

1. More than 90% – 125% of the minimum amount of the pension for years in employment and old age, or BGN 193.13 from 01.07.2014 to 30.06.2015, and as of 01.07.2015 – BGN 196.80;

2. From 71 to 90% – 115% of the minimum amount of pension for years in employment and old age, or BGN 177.68 from 01.07.2014 to 30.06.2015, and as of 01.07.2015 – BGN 181.06;
3. From 50 to 70.99% – 100% of the minimum amount of the pension for years in employment and old age, or BGN 154.50 from 01.07.2014 to 30.06.2015, and as of 01.07.2015 – BGN 157.44.

During the period 2010 – 2012 including, the amount of the social pension was not increased. Since 1 April 2013 the amount of the social pension for old age (SPOA) increased from BGN 100.86 to BGN 110, since 1 July 2014 it has been increased to BGN 113, and since 1 July 2015 the amount of social pension for old age is fixed at BGN 115.15.

This will entail an increase also in the amounts of the pensions not related to years in employment, which are determined based on that amount - a social disability pension, pension for military disability pension for civil disability and personal pension as well as certain benefits to the pensions.

During the period 2010 – 2012 the pensions were not updated.

In 2011, the minimum daily amount of the unemployment cash benefit was raised from BGN 6 to BGN 7.20, and the latter amount is valid to date.

### **Information contained in report to the ILO on Convention No. 102**

The following changes to legislation have occurred:

#### **Social Security Code**

##### Acquisition of Entitlement to Pension

Article 68 (Amended, SG No. 100/2010, effective 1.01.2011)

(1) (Amended, SG No. 100/2011, effective 1.01.2012): Entitlement to a contributory-service and retirement-age pension shall be acquired upon attainment of the age of 60 years for women and 63 years for men and 34 years of contributory service for women and 37 years of contributory service for men. As from 31 December 2011, the retirement age shall be increased, from the first day of each successive calendar year, by 4 months for both women and men until reaching the age of 63 years for women and 65 years for men.

(2) As from 31 December 2011, the length of contributory service under Paragraph 1 shall be increased, from the first day of each successive calendar year, by 4 months for both women and men until reaching the sum total of 37 years for women and 40 years for men.

(3) (Amended, SG No. 100/2011, effective 1.01.2012) If a person is not entitled to the pension under Paragraphs 1 and 2, prior to 31 December 2011 the person shall acquire the entitlement to a pension upon attainment of the age of 65 years for both women and men provided that the person has at least 15 years of actual contributory service. As from the 31 December 2011, the retirement age shall be increased, from the first day of each successive calendar year, by 4 months until reaching the age of 67 years.

The right to social protection acquired through payment of contributions in a social system is portable to another such system both in the same country and abroad. This "portability" of social security refers to the ability of each structure to preserve, maintain and transfer benefits between social security systems.

As regards the relations in the field of social security between Bulgaria and other EU Member States (28) as of 01.05.2010 new regulations on coordination of social security systems of the Member States of the European Union apply - Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems and Regulation (EC) No 987/2009, which establishes the procedure for its implementation. Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 shall apply in respect of the EEA countries - Iceland, Norway, Liechtenstein, as well as the Swiss Confederation.

Bilateral treaties have been drawn up with regional partners such as Albania, and others outside the EU. Currently, 12 such agreements exist, including treaties with Russia, Yugoslavia (which remains in force concerning Bosnia and Montenegro), Turkey, Ukraine, Macedonia and Moldova. A new treaty is currently being agreed with Montenegro. The specified agreements (conventions) regulate the exercising of social rights by Bulgarian nationals and third-country nationals who live and work or who lived or worked in the territory of the Republic of Bulgaria and the respective third country.

For the purposes of this Regulation, the rights and obligations for social security of nationals from third countries and members of their families residing legally on the territory of a Member State and exercising their right to free movement within the EU are governed entirely by the rules Regulation (EC) No. 883/2004. Regulations (EU) No. 1231/2010 and (EC) 883/2004 shall apply to such a person, if he/she is a family member of an EU national who has exercised his/her right of free movement and who is in a cross-border situation.

In the field of social protection of third-country nationals, stateless persons and refugees is to apply Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (Directive 2011/95/EU).

The basic obligation of the Member States under the provisions of Article 29 para. 1 of Directive 2011/95/EC is to ensure equal treatment of third country nationals, refugees and stateless persons who have been granted international protection as compared to that of their own nationals in respect of the necessary social services.

## **Opinion of the European Committee of Social Rights**

### **Re Article 12§2**

Article 12§2 obliges states to establish and maintain a social security system which is least equal to that required for ratification of the European Code of Social Security. The European Code of Social Security requires acceptance of six of the nine contingencies although certain branches count for more than one part<sup>2</sup>. Each contingency sets minimum levels of personal coverage and minimum levels of benefits.

Where the State concerned has\_ratified the European Code of Social Security the Committee bases its conclusions on the Committee of Minister's Resolutions under the Code (which are in turn based on the assessment of the ILO Committee of Experts and the Committee of Experts on Standard-setting Instruments in the Social Security Field). Failure to comply with the European Code of Social Security will lead to a conclusion of non-

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<sup>2</sup> Medical care counts as two parts, and old age counts as three.

conformity with Article 12§2, where the state is not in compliance with at least the minimum parts for ratification.

When the State concerned has not ratified the European Code of Social Security, the Committee makes its own assessment of the social security system in order to decide on the conformity with Article 12§2.

Bulgaria has not ratified the European Code of Social Security, therefore the Committee would be required to make its own assessment of the adequacy of the social security system.

The Committee notes the concerted effort made by authorities to increase the adequacy of provision for pensioners and the unemployed.

The Committee notes that Bulgaria has ratified ILO Convention No. 102. It has accepted Parts II, III, V, VI, VII, VIII and X. Notably, this does not include the section regarding unemployment benefits. These parts, however, correspond to the same numbered parts II (medical care), III (sickness benefit), V (old age benefit), VI (work accident and occupational disease benefit), VII (family benefit), VIII (maternity benefit) and X (survivor's benefit) of the European Code of Social Security.

Bulgaria has therefore undertaken the majority of the same requirements as under the European Code of Social Security.

Bulgaria has submitted its first report concerning Convention No. 102 and awaits publication of the opinion of the ILO.

The Committee notes from the comments of the ILO in its request for further information that: *“the Government is asked to provide in its next report statistical information required by the report form under Articles 65 and 66 of the Convention to enable the Committee to assess the level of benefits granted and to ensure that old age, employment injury and survivors’ benefits are reviewed following substantial changes in the cost of living”*. The Committee also requires such information, relative to the level of benefits paid under all of these headings, in order to make its assessment.

In conclusion, while the information at its disposal does not indicate that there would be any particular obstacles to acceptance by Bulgaria of this provision, it would nevertheless need the abovementioned information in order to reach a firm opinion.

#### **Re Article 12§4**

In order to ensure the right to social security of persons moving between States the following principles must be guaranteed:

##### Right to equal treatment (Article 12§4a)

States are required to eliminate from their social security legislation all discrimination against foreigners, nationals of other Parties.

National legislation cannot reserve a social benefit to nationals only, or impose extra or more restrictive conditions on foreigners only, apart from the completion of a period of residence for non-contributory benefits. The Committee ascertains whether the length of residence required is in proportion to the objective pursued.

National legislation may not stipulate eligibility criteria for social security benefits which, although they apply without reference to nationality, are harder for foreigners to comply with and therefore affect them to a greater degree.

#### Right to maintenance of acquired rights (Article 12§4a)

The Committee's supervision consists mainly of verifying that invalidity benefit, old age benefit, survivor's benefit and occupational accident or disease benefit acquired under the legislation of one state according to the eligibility criteria laid down under national legislation are maintained whatever the movements of the beneficiary.

#### Right to retention of accruing rights (Article 12§4b)

There should be no disadvantage for a person who changes their country of employment where they have not completed the period of employment or insurance necessary under national legislation to confer entitlement and determine the amount of certain benefits. Implementing this principle entails, where necessary, the aggregation of employment or insurance periods completed abroad and, in the case of long-term benefits, a pro-rata approach to the conferral of entitlement, the calculation and payment of benefit.

#### *Means of implementation*

The guarantee of equal treatment within the meaning of Article 12§4 requires states to remove any form of discrimination from their social security legislation.

As regards the other principles of co-ordination, states may choose between the following means: multilateral convention, bilateral agreement or any other means such as unilateral, legislative or administrative measures.

Where there is little migratory flow between two states, the adoption of unilateral measures in the form of administrative arrangements or solving each existing and future individual case may be considered sufficient.

Where a large number of nationals are concerned, the implementation of these principles is mostly done through the ratification of an international multilateral or bilateral instrument which sets down the technical and practical aspects. States that have ratified the European Convention on Social Security are presumed to have made sufficient efforts to guarantee the retention of accruing rights.

At the time of the previous report on non-accepted provisions, it was determined that there were not sufficient bilateral treaties for Bulgaria to ratify this provision. The Committee notes the continued progress of Bulgaria in respect to concluding such agreements with third parties within the Council of Europe, and highlights that the fact of not having concluded bilateral agreements with all relevant member states of the Council of Europe does not prevent the ratification of Article 12§4, which would then provide further incentive to conclude such agreements.

The Committee notes that unilateral measures may also be taken by Bulgaria in specific situations, and encourages the authorities to provide further information on the availability of social security to individuals from third countries not covered by agreements.

In view of the case law and the current situation in Bulgaria the Committee considers that Bulgaria would be required to conclude further agreements or adopt unilateral measures to ensure full compliance with the requirements of the Charter.

## **Article 13 – Right to social and medical assistance**

### *Paragraph 4 - emergency assistance for non-residents*

#### **Situation in Bulgaria**

Support for housing, food, and other necessities is stipulated by the law and provided by the state to those in situations of critical need. The State works in cooperation with social partners to reach the populus and provide necessary services.

Recent increases in refugee flows have provided additional reason to consolidate the system. Since 2007, the government has acted to:

- Support refugees, who have no immediate opportunity for participation in the social security system. The state has undertaken the commitment to provide hospital treatment. If they have no other means of support, the government treats them and pays the cost. However, the state framework is somewhat limited by a lack of means.
- Ensure social security benefits are assessed on need and eligibility.

Non-nationals, on the other hand, are not eligible for emergency social assistance. Non-nationals may receive a permit of up to 3 months (EU), and up to 1 year for temporary third country national residents.

Migrants need their own insurance when they arrive. However, urgent medical assistance provided unconditionally. They will be required to pay afterwards. Bilateral agreements might relieve them, eg. EU citizens, who receive may subsidisation through the European Health Card system.

Migrants need sufficient funds in order to get a permit, which limits the number of those unable to pay for emergency assistance. It is a requirement to have medical insurance. In case of long term permits the potential migrant must demonstrate that they have accommodation.

The Government has established national targets for reduction in poverty. It wishes to reduce the number by 200,000. The primary target groups are children, elderly people and the unemployed.

Human Rights development programme. Sectoral policies. Provision of high quality social and health services. Improving development of children.

The Social Assistance Agency is committed to the implementation of the state policy in the field of social protection. It is an executive agency of the Ministry of Labour and Social Policy, a secondary budget administrator.

The Agency is tied to the implementation of the Social Assistance Act, the Family Allowances Act, the Act on Integration of Persons with Disabilities, the Child Protection Act, their implementing regulations and a number of statutory regulations governing public relations connected with the right of nationals of the Republic of Bulgaria on social, family assistance, provision of social services, integration of people with disabilities and child protection, as these expressly state that in the provision of social protection, no direct and indirect discrimination of individuals based on sex, race, nationality, ethnicity, etc. is allowed.

The financial support for the implementation of the abovementioned regulations is carried out with funds from the state budget.

The Social Assistance Act regulates the public relations concerning social assistance to nationals who are not able to meet their basic living needs without the help of an assistant. The Social Assistance Act provides for granting social benefits to supplement or replace one's own income after assessment of income, property, health, family situation and others.

Under the Social Assistance Act entitled to social assistance are: foreign nationals holding permits for permanent residence in the Republic of Bulgaria; foreign nationals who have been granted asylum, refugee status or humanitarian status; foreign nationals who have been granted temporary protection and individuals for whom this is provided for under international treaties to which the Republic of Bulgaria is a party.

An obligatory condition for granting a monthly allowance to unemployed individuals of working age is to have 6 months of registration at the Labour Office Directorate and to fulfill the conditions of Sections 10 and 11 of the Implementing Regulations of the Social Assistance Act (IRSAA), which are: their place of residence is the only home they have; they are not registered as sole proprietors and they are not owners of the capital of any business company; they do not have any receivables, deposit accounts, shares and securities the total value of which for the individual or for each member of the family exceeds BGN 500; they do not possess any movable and immovable property and / or parts thereof, which can be a source of income, with the exception of property used for routine use by the individual or family; they have not transferred any residential, villa, agricultural or forestry property and/or parts thereof in exchange for payment or in the form of donation in the last five years.

### **Opinion of the European Committee of Social Rights**

Pursuant to Article 13§4, foreign nationals who are, either lawfully or not, present in a Party's territory have the right to emergency assistance.

Emergency assistance entails food, accommodation, clothing and emergency medical care.

Persons covered by this provision may be repatriated, however the relevant provisions of the 1953 European Convention on Social and Medical Assistance must be respected.

The Committee notes that foreign nationals will not be refused emergency medical care, however they will be required to reimburse the expense after receiving treatment.

The Committee notes that in respect of other issues such as food and accommodation, foreign nationals do not enjoy the same coverage of rights, unless they have completed certain periods of residence or hold a certain status.

On this basis the Committee considers that the situation in Bulgaria raises a problem of conformity with Article 13§4.

### **Article 15 – Right of persons with disabilities to independence, social integration and participation in the life of the community**

*Paragraph 1 - Vocational training for persons with disabilities;*

*Paragraph 2 - Employment of persons with disabilities;*

*Paragraph 3 - Integration and participation of persons with disabilities in the life of the community*

## Situation in Bulgaria

Bulgaria continues to develop legislation providing legal guarantees of non-discrimination, promoting equal opportunities and integration of people with disabilities in all areas of public life. According to the Constitution the State shall guarantee the life, dignity and rights of the individual and creates conditions for free development as human, and civil society.

State policy to protect the rights and integration of people with disabilities in Bulgaria is part of the policy for the protection and promotion of human rights and fundamental freedoms and is the responsibility of the Council of Ministers, the Minister of Labour and Social Policy, governors and local authorities. It is implemented in cooperation with the national representative organizations of and for people with disabilities, national representative organizations of employers and national representative organizations of employees in accordance with the accepted national strategy for people with disabilities.

In 2012, Bulgaria ratified the UN Convention on the Rights of Persons with Disabilities. The first report was filed in 2014, the Committee on the Rights of Persons with Disabilities has yet to produce its observations.

The Ministry of Labour and Social Policy is leading the way in policy for disabled people. The Minister is chairman of the National Council for Integration of Persons with Disabilities (NCIPD), which is an advisory body to the Council of Ministers and ensures cooperation with representatives of civil society and social partners.

National Policy for Persons with Disabilities is implemented in pursuance of the objectives in the long-term strategy 2008 – 2015, to ensure equal opportunities for people with disabilities in the Republic of Bulgaria ("national long-term strategy"), which was adopted by the Council of Ministers in 2007. The national long-term strategy was adopted prior to the signature and ratification of the Convention on the Rights of Persons with Disabilities (the Convention), in order to implement the recommendations of the Council of Europe and the best practices of European Member States. Immediately after the ratification of the Convention in 2012, the strategy was updated to meet both the Convention and the new European strategy for persons with disabilities. The aim of the strategy is to improve the quality of life of people with disabilities. It contains strategic objectives and outlines the measures that need to be implemented to remove existing barriers (psychological, educational, social, cultural, professional, financial and architectural) to social inclusion and equal integration of people with disabilities. It aims to create incentives and guarantees for the equality of people with disabilities and their full participation in society.

The main priority lines of national long-term strategy are the following:

- Creation of projects adapted to the needs of persons with disabilities;
- Changing the model of care for children with disabilities from placement in specialized institutions to care in a family environment;
- Guaranteed access to quality education for persons with disabilities;
- Provision of comprehensive medical and social rehabilitation. Utilities, facilities and equipment and medical devices;
- Expanding employment opportunities for people with disabilities and their inclusion in various programs to provide suitable jobs;
- Priority development of social services in the community. Development of alternative forms of services;
- Ensuring equal opportunities for sports, recreation, tourism and participation in cultural life;
- Raising the level of public awareness about the problems and opportunities of people with disabilities and change public attitudes towards them.



For the implementation of the strategy, the government develop sand adopts two-year action plans that set out the concrete measures, indicators and deadlines for implementation. The main source of funding to implement the national long-term strategy is the state budget and municipal budgets, and the largest additional source of financing of these policies comes from the structural funds of the European Union through the relevant operational programs. Reports on progress are prepared every year.

The Law on Protection from Discrimination grants protection against all forms of discrimination and provides for its prevention. The law protects all individuals on the territory of the Republic of Bulgaria against discrimination and prohibits any direct or indirect discrimination based on sex, race, nationality, ethnicity, human genome, citizenship, origin, religion or faith, education, beliefs, political affiliation, personal or social status, disability, age, sexual orientation, marital status, property status or any other grounds established by law or international treaty to which Bulgaria is a party.

The Integration of Persons with Disabilities Act aims to create positive conditions and guarantees:

- Equality of people with disabilities;
- Social integration of people with disabilities exercise their rights;
- Supporting people with disabilities and their families;
- The integration of people with disabilities in the work environment.
- In the IPDA it stipulates that the integration of people with disabilities shall be carried out through:
  - Medical and social rehabilitation;
  - Education and vocational training;
  - Employment and professional development;
  - Accessible living and architectural environment;
  - Social services;
  - Socio-economic protection;
  - Accessible information.

#### *Education for Disabled People in Bulgaria (Article 15§1)*

Present legislation creates conditions for equal access to education and training of all children and pupils, including children and pupils with special educational needs and / or chronic illnesses. The right to education is regulated in Article 53 of the Constitution, and schooling up to 16 years of age is mandatory. Primary and secondary education in state and municipal schools is free. In the context of the integration of people with disabilities, the Ministry of Education and Science provides a supportive environment for integrated education of children with special educational needs.

Education Act (PDO) recognizes the right of every citizen to receive education and ensure its implementation without discrimination to the exclusion restrictions or privileges based on race, sex, ethnic or social origin, religion and social status. The same law regulates the integrated education of children with special educational needs and / or chronic diseases in kindergartens and schools. The opportunity for integrated education is guaranteed by creating a supportive environment in kindergartens and schools for children with special educational needs such as sensory, physical disabilities, multiple disabilities, intellectual disability, learning difficulties involving language and speech disorders.

The policy of the Ministry of Education and Science (MES) is aimed at creating conditions for the development and promotion of inclusive education, which is the process of adopting and supporting the individuality of each child or student by integrating resources, aimed at removing barriers to learning. For this purpose, this process is expected to find its legal regulation in the draft new law on education, as well as in a number of regulations.

The project "Inclusive Education", which was implemented from 2012 to 2014, aimed to provide a supportive environment for equal access to education and the opening of the education system with a view to achieving an inclusive education. In the context of the project, the authorities first performed early evaluation of language development of three-year children from all kindergartens and kindergartens in the country, based on which 25 pilot kindergartens have been established to implement preventive measures in relation to children who show indicators for learning difficulties.

The Labour Office also provides continuing education for persons with disabilities who are seeking employment.

### *Employment for People with Disabilities in Bulgaria (Article 15§2)*

In 2011 the Council of Ministers adopted a long term strategy for employment of people with disabilities 2011-2020, the aim of which is to ensure conditions for the effective exercise of the right to free choice of employment of people with disabilities of working age, and improving their quality of life as a condition for free and full involvement in public life. The strategy has three main operational objectives: providing employment to unemployed persons with disabilities of working age in order to overcome their social isolation and their full integration into society; creating preconditions for conducting separate, independent living of persons with disabilities; achieving effective social inclusion of people with disabilities through their implementation of the open labour market. Implementation of the long-term strategy is secured by two-year action plans adopted by the Council of Ministers.

Current regulations that affect matters related to employment of persons with disabilities include the Labour Code, the Social Security Code, the Law on Integration of People with Disabilities, the Law on Protection against Discrimination, the Social Assistance Act, the Employment Promotion Act, Regulation № 4 for the construction of accessible environment in urban areas, regulations of municipal councils and others.

A primary instrument which regulates the public relations related to the integration of people with disabilities is the Integration of Persons with Disabilities Act. It includes the following areas of integration: prevention and rehabilitation of disability, education and training, employment, creating conditions for accessible living and architectural environment, and socio-economic protection.

Employment of people with disabilities is promoted through an integrated work environment and specialised working environments. Disabled people can get “integrated, specialised or protected” employment. They are encouraged to register to get oversight. The Ministry of Labour and Social Policy and Employment Agency develop and implement national programs and specific measures to promote employment of disabled persons. The programs and measures also provide means to encourage employers to employ people with disabilities.

Regarding the employment of people of this vulnerable group, the law allows employers to receive financial stimuli if they provide jobs for disabled persons. They can be reimbursed from the state budget accordingly 30/50% of the contributions, which are paid by the employer to provide financial resources to adapt the workplace, workplace equipment, to ensure healthy and safe working conditions. The law allows people with entrepreneurial spirit to start their own business by providing specific financial resources.

People with disabilities who receive income from work enjoy tax exemptions under the terms and conditions set out in the Law on income tax of individuals. Under the provisions of this Act, the amount of annual tax bases for persons of >50% reduced capacity determined by a final decision of a competent authority shall be reduced by BGN 7,920, including the year of occurrence of the incapacity and year of expiry of the decision; and the monthly tax base is reduced by BGN 660, including the month of occurrence of the incapacity and the month of expiry of the decision issued by the medical expert. In the law on local taxes and fees it is provided that tax on the main residence of a disabled person shall be reduced.

The law also requires certain quotas to be fulfilled by larger businesses. Pursuant to the requirements of the Labour Code, employers with more than 50 employees are required to annually identify jobs suitable for vocational rehabilitation of persons with reduced capacity from 4 to 10% of the total number of employees, depending on the business sector. For these places the employer shall designate no less than half of people with disabilities.

Under Section 9a of the Law on Civil Servants, quotas have been set for determining the positions for people with disabilities - at least 2% of the total number of positions for civil servants in administration with a total staff of more than 50 people or an office for civil relationship in administration with a total headcount of 26 to 50 people must be filled by persons with a disability. The occupation of posts shall be made after a competition involving only people with disabilities in compliance with accessibility requirements.

The Labour Office will register people with disabilities as jobseekers and provides specific information on vacant jobs; programs and measures for the preservation and promotion of employment; mediation information; psychological support; career guidance; inclusion in adult education; inclusion in programs and measures for employment and training; scholarship, transport and accommodation during the training may also be provided.

Vocational guidance centres are located in the central parts of the region centre towns, making them easily accessible to service users. They are architecturally appropriate for providing access to the services for students with physical disabilities.

Employment of persons with different disabilities require a differentiated approach according to the specifics of the injury and acquired education. The Ministry of Labour and Social Policy and the Employment Agency develop and implement national programs and measures to promote employment. People with disabilities can participate without restrictions in all programs and measures for training and employment under the Employment Promotion Act and the National Action Plan on employment and the schemes of the Operational Programme "Development of Human Resources". Under the National Programme for employment and training of people with disabilities, persons with disabilities or reduced performance are included in the training and employment schemes.

The Agency for Persons with Disabilities implements policies to ensure employment of people with disabilities. The equipment and adaptation of jobs for persons with disabilities in regular working environment is assured under Section 25 of the Persons with Disabilities Act, which aims to encourage employers to provide, adaptation and equipment of jobs for persons with disabilities to achieve their effective social inclusion through the free market. The program to provide funding to ensure healthy and safe working conditions as well as the technological renovation of registered specialized enterprises and cooperatives is provided under Article 28 of the Persons with Disabilities Act, which aims to create optimal conditions for realization of labour activity working in specialized enterprises and cooperatives of people with disabilities by improving the working environment and industrial climate.

Programme funding for start-up and development of independent business people with disabilities, is envisaged by Section 31 of the Persons with Disabilities Act, which aims to stimulate the initiation or development of independent economic activity by persons with disabilities and thus ensure their full inclusion in the economic life in the country.

Unemployed persons with disabilities can exercise and home work, to perform telework under the regulations of the Labour Code in accordance with the requirements of the ILO.

Specifically aimed at people with disabilities, the programme for granting financial assistance under 5 HRD OP: "Social entrepreneurship - promoting and supporting social enterprises" – completed its pilot phase. The scheme was completed in 2012 and comprised an innovative form of social service aimed at active social inclusion. It was implemented in two components: Component 1: Support for the development of the activity of existing social enterprises to increase the range and diversity of services; Component 2: Support for the creation of new social enterprises. The aim of the procedure is to support the development of social entrepreneurship as an opportunity to improve the quality of life of persons from risk groups overcome their social isolation.

*Promoting social integration and participation in community life (Article 15§3)*

The updated National Reform Programme of the Republic of Bulgaria and the National Programme for Development of the Republic of Bulgaria: Bulgaria 2020, includes "Priority 2: Reducing poverty and promote social inclusion."

In connection with this, the Government developed and adopted a National Strategy for long-term care, which aims to create conditions for independent and dignified life for the elderly and people with disabilities by improving access to social services and their quality, expanding the network of these services through country institutionalization and encouraging interaction between health and social services, as well as providing comprehensive support to families who care for people with disabilities and the elderly.

As defined in the Social Assistance Act, social services are activities that support and expand the capabilities of persons to lead an independent lifestyle and offering both in institutions and in the community.

Social services are based on social work, are aimed at supporting the assisted persons to carry out their daily activities and are provided according to the wish and personal choice of the recipient. Social services provided in the community are diverse, to reflect the different needs of individuals. Social services in specialized institutions are provided after the running out of opportunities to provide services in the community. There is a legal requirement of social service providers to develop an individual plan after assessing the needs of each user and formulating objectives to be achieved.

Under the integration of people with disabilities, people with disabilities are entitled to a monthly allowance for social integration according to their individual needs according to the degree of reduced capacity or the type and degree of disability. The allowance is differentiated and represents cash to supplement their income. It is intended to cover additional costs such as: transportation services; IT and telecommunications services; training; medical treatment and rehabilitation services; accessible information; rent municipal housing; diet and medicines.

Persons with disabilities are entitled to a disability pension when they have been determined to have >50% permanently reduced working capacity. The determination of the starting date, duration, eligibility and the amount of the pension is governed by specific rules that define and comply with the disability, which in varying degrees hinders the normal work capacity of the person. Disability pensioners who have not reached the age of retirement apply to receive such benefits.

Support for vulnerable children and families is effected through the Integration of Persons with Disabilities, under the regulations of the Social Assistance Act, the Family Allowances Act, child protection laws and regulations for their implementation.

The Ministry of Transport, Information Technology and Communications (MTITC) by the Executive Agency "Automobile Administration" operates by providing accessible public road transport for people with disabilities and people with reduced mobility. Measures also include a mobility card and designated parking places.

The Ministry of Culture contributes to integrating the spiritual life of creative projects for cultural integration of people with disabilities and annually supports partial financial implementation of various projects and initiatives that contribute to more efficient use of creative, artistic and intellectual potential of people with disabilities and promote their full participation in the cultural life of the country.

In parallel with the process of ratification of the UN Convention on the Rights of Persons with Disabilities, Ministry of Labour and Social Policy developed a two-year Action Plan for implementation of the Convention, containing measures to bring its provisions in Bulgarian legislation and policies in this area (the Plan Action for the implementation of the Convention). The plan was prepared with the participation of all stakeholders, including representatives of organizations of and for people with disabilities and the social partners. It was reviewed and approved by the National Council for Integration of Persons with Disabilities, which is a consultative body aimed at implementing cooperation with civil society in this area.

The Ministry of Labour and Social Policy implemented the project "A right is not what someone gives you, and what no one can take away from you", under the EU PROGRESS Programme. The project was implemented in the period from 06.01.2014 - 05.31.2015, and is linked to the implementation of the Convention on the Rights of Persons with Disabilities. The Ministry set out and adopted an action plan containing measures to bring the legislation and policies Bulgaria concerning people with disabilities into conformity in accordance with the provisions of the Convention on the Rights of Persons with Disabilities.

## **Opinion of the European Committee of Social Rights**

### **Re Article 15§1**

According to Article 15§1, all persons with disabilities have a right to education and training: general education, basic compulsory education and further education as well as vocational training in the traditional sense.

Persons with disabilities must be integrated into mainstream facilities; education and training must be made available within the framework of ordinary schemes and, only where this is not possible, through special facilities.

Education in special schools or adapted education in mainstream schools must be of an adequate quality.

Legislation should prohibit discrimination on the basis of disability in the field of education. Such legislation should, as a minimum, require compelling justification for special or segregated educational systems and confer an effective remedy on those who have been unlawfully excluded, segregated or otherwise denied an effective right to education.

States must take measures (such as the support of teachers and the accessibility of premises) in order to enable integration and must demonstrate that tangible progress is being made.

### **Re Article 15§2**

Article 15§2 requires states to promote access to employment on the open labour market for persons with disabilities, *inter alia*, by adjusting working conditions to the needs of persons with disabilities.

To this aim, legislation must prohibit discrimination on the basis of disability in employment as well as the dismissal on the basis of disability.

States enjoy a margin of appreciation concerning the other measures they take in order to promote access to employment of persons with disability (e.g. the introduction of quotas).

Sheltered employment facilities must be reserved for those persons with disabilities who, due to their disability, cannot be integrated into the open labour market. They should aim to assist their beneficiaries to migrate to the open labour market. Persons working in sheltered employment facilities where production is the main activity are entitled to the basic provisions of labour law and in particular the right to fair remuneration and trade union rights.

### **Re Article 15§3**

This provision requires states to adopt a coherent policy in the disability context: positive action measures to achieve the goals of social integration and full participation of persons with disabilities. Such measures should have a clear legal basis and be coordinated. People with disabilities should have a voice in their design, implementation and review. Furthermore, legislation should prohibit on the ground of discrimination disability in all areas mentioned in this paragraph as well as effective remedies for those who have been unlawfully treated.

The right of persons with disabilities to social integration provided for by Article 15§3 implies that barriers to communication and mobility be removed in order to enable access to transport (land, rail sea and air), housing (public, social and private), cultural activities and leisure.

In addition, sign language must have an official status, telecommunications and new information technology must be accessible.

All new public transport vehicles, all newly constructed or renovated public buildings, facilities and buildings open to the public should be physically accessible.

The needs of persons with disabilities must be taken into account in housing policies; including the construction of an adequate supply of suitable housing including social housing.

Further assistance should be provided for the adaptation of existing housing.

### **Conclusion 15§§1-3**

In conclusion, in view of the current situation in law and in practice, the Committee considers that there are no legal obstacles to the acceptance of all three provisions of Article 15.

The Committee notes that Bulgaria has already accepted greater obligations by ratifying other international agreements, in particular the UN Convention on the Rights of Persons with Disabilities. It considers therefore that there are no legal obstacles to ratification of Article 15 of the Social Charter.

The Committee recognises the continuing progress made through national strategies, long term and short term plans. As laid out above, these plans cover the areas contained within Articles 15§1, 15§2 and 15§3.

It therefore recommends that Bulgaria accept these provisions as a matter of priority, given the importance of monitoring and protecting the rights of disabled persons.

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

### *Paragraph 1 - Assistance, education and training*

#### **Situation in Bulgaria**

With the broad participation of public institutions related to the different sectoral policies relating to the protection of children, as well as representatives of NGOs and the National Association of Municipalities, Bulgaria prepared a draft law amending the Law on Protection of the Child (Child Protection Act, CPA). This law was adopted on 6 February 2009 by the National Assembly and remains in force. The main changes are related to:

- defining the responsibilities of all organs for child protection authorities;
- development of a coordination mechanism for the interaction of protection;
- clarification of judicial review in placement;
- introducing more stringent monitoring of compliance with established criteria and standards for quality of social services for children;
- extended range of offences and increased penalties for failure to fulfill obligations under the law;
- extending the powers of the State Agency for Child Protection; strengthening the role of municipalities and others.

In 2009, in accordance with changes in the CPA, statutory quality standards adopted by the Council of Ministers in 2003 Ordinance on criteria and standards for social services for children were modified. The amendments refine standards for social services, which are aimed primarily at providing quality care and ensuring the security and safety of children using the different types of services, including in institutions.

Under the Law on Child Protection, children at risk of dropping out of school or having dropped out of school are subject to the system of child protection. In addition to the family support element, the prevention of early dropout from the education system and non-enrolment in school is pursued. Support for raising children in a family environment is intended to encourage regular attendance in preparatory classes for pre-school children and regular school attendance of students to complete secondary education. This is achieved through the integration of family benefits with other measures to support the family, including the prevention of violations of children's rights of access to education and health care. The Law on Family Allowances and its implementing rules impose with effect from 01.09.2013 the condition of providing monthly allowance for children under Section 7 of the Act. This condition is binding subject to the regular school attendance of children of school age, and with regular attendance of preparatory groups in kindergartens or schools for compulsory pre-school children from the age of 5 years, unless it is impossible due to their health condition.

An essential element of support to vulnerable children and their families are policies and programs for early childhood development. Bulgaria's efforts to develop and implement integrated policies for early childhood development are supported by the Social Inclusion Project. The Social Inclusion Project is funded by a loan from the International Bank for Reconstruction and Development. Among the main objectives of the Social Inclusion Project are preventing social exclusion and reducing child poverty by investing in early childhood development. Some of the project activities include improving the readiness of children for inclusion in the educational system and support for the formation of parenting skills among vulnerable parents.



A guiding principle of the Law on child protection is avoidance of restrictions on all grounds, including ethnicity and origin. In this sense, children from minority and ethnic groups have equal access to all fundamental rights guaranteed by the UN Convention on the Rights of the Child. There is commitment of all organs for child protection at national and local level to make appropriate action in accordance with its powers to safeguard and ensure the rights and interests, including minorities and children from different ethnic groups.

A high percentage of the residents in institutions are children in minorities, when compared to other identifiable groups of children. According to the State Agency for Child Protection accommodated at December 31, 2013, 54% of institutionalised children are of Roma ethno-cultural origin, 27% are Bulgarian, 7% are Turkish, and other categories make up the remaining 12%. According to the specifics of the case, the authorities take appropriate protective measures, including prevention and reintegration.

The Ordinance on criteria and standards for social services for children regulates procedures for exercising control over the observance of the standards of social services for children. The State Agency for Child Protection is the body empowered to exercise control over the rights of the child and observance of standards for social services for children.

"Social Assistance" is a specialized body of child protection at the local level in the Republic of Bulgaria, in which the department operates "Child Protection" (CPD). CPD social workers take protective measures with regard to children at risk. It should be borne in mind that the control over their activity shall be exercised by the regional directorates for social assistance, which are territorial bodies of the Agency for Social Assistance (ASA) and the Inspectorate to the Executive Director of ASA.

The policy on protection of child victims is part of an overall policy for child protection. As a particularly vulnerable group of children at risk, these children may be taken for protection under the Law on Child Protection. Under the Act, any child who is a victim of abuse, violence, exploitation or any other inhuman or degrading treatment or punishment inside or outside his family is deemed a child at risk.

The protection measures include:

- providing pedagogical, psychological and legal assistance to parents or persons entrusted with parental functions on issues related to parenting education;
- referral to appropriate services in the community; assistance to those who care for children in the preparation and performance of their functions;
- emergency accommodation outside the family after exhausting all possibilities for protection in a family environment, except where identified serious risk to the life and health of the child.

Some of the measures implemented in social services are particularly suitable for rendering psychological support and rehabilitation, for example crisis centers (where settles child victim and apply crisis intervention) units, "Mother and Baby" community support centers, centers for social rehabilitation and integration. It should be noted that child victims of violence have a priority to be placed in foster care, as a specific vulnerable group. The Crisis Center is a complex of social services for victims of violence, trafficking or other forms of exploitation that are provided for up to six months and are aimed at providing individualized support, meeting everyday needs and advising on providers of psychological help when there is need for immediate attention, including mobile crisis intervention teams.

Complex efforts of all organs for child protection within the framework of their competences can react to prevent the effects of the experience and to promote timely support. Such action is essential to ensure the protection of child victims of the forms of abuse. It is in this connection that the Law on Child Protection and its Implementing Rules stipulate the responsibilities of all organs for child protection, which must ensure protection and care promptly and take all necessary legislative and administrative measures.

To ensure an effective and accessible reporting system for children at risk and to provide prevention services and support functions, the crisis intervention teams coordinate with other bodies for the protection of children. Monitoring and results of its application show that it is essential that good inter-institutional interaction between the bodies of child protection at the local level. The coordination mechanisms are supported by the team discussion of cases, identifying specific activities, implementation expertise, decision making and follow-up cases, according to the competence of each participant.

There are also freezing procedures for better identification, referral, protection and support of child victims and the implementation of a multidisciplinary approach from 2010. The coordination mechanism for referral and care of cases of unaccompanied children and child-victims of trafficking returning from abroad operates on the basis of an inter-institutional agreement signed between the institutions involved. The system for inter-institutional referral of exact cases ensures the complex, rapid and effective tracing of each case, after receiving a signal from abroad or from the country for an unaccompanied child or a child-victim of trafficking.

The coordination mechanism is provided for in the implementation of the National Strategy for Children 2008-2018, whose principles are integrated into the annual National programs for child protection and the national program for preventing and combating human trafficking and protecting victims. The mechanism was developed in accordance with recent changes in national legislation on child protection legislation to combat human trafficking and international acts ratified by the Republic of Bulgaria, both legally binding and those with the status of political recommendations. Its aim is to ensure effective coordination in the implementation of specific obligations for cooperation between relevant actors.

In cases of child-victims of trafficking, the "Child Protection" departments (CPD) in the directorates "Social Assistance" actively monitor it in order to provide the necessary support and prevent new involvement of children in trafficking. At the discretion of the social worker, the observation period may be extended, depending on the specifics of the case.

Sensitization and public awareness of the problems of children at risk or victims of violence is another very important focus of policy. An important role in this regard is played by the specialized website [www.stopech.sacp.government.bg](http://www.stopech.sacp.government.bg), the State Agency for Child Protection and the National Child Hotline / NTL / 116 111 - a form of advisory service to assist in providing adequate and quality support to children and families, and to support the early identification of children at risk and take measures for their protection.

Deinstitutionalization of child care is an irreversible process that has been realised from the moment of adoption of the Law on Child Protection in 2000. The actual process of reform started in 2010 with the adoption of the National Strategy "Vision for deinstitutionalization of children in Bulgaria". It provides not simply for the closing of classical-type specialised institutions for children, but also qualitative change of policies in support of the family, which lead to the prevention of risks, including risk of abandonment. This will be the main focus of any future actions.

The main focus will be placed on the provision of measures and activities to support families in order to prevent abandonment. In preparation of the updated plan representatives of the state, municipalities and non-governmental sector will be included as an expression of the principle of transparency and shared responsibility. Expectations are for the new plan to spell out in detail all the measures for sustainable continuation of the process of removing the children from institutions, and to refer to the analysis of current achievements.

As a result of the implementation of concrete measures and activities within the process of deinstitutionalization, there is a very strong trend towards reducing the number of children placed in institutions, due to the newly established social services in the community day care centers for children with disabilities, the centers for social rehabilitation and integration for children, centers for public support, centers working with street children, and the current system of child protection. There is a constant increase in the number of social services in the community for children: in 2010 the number of social services for children was 241. In December 2013 their number had already risen to 369, and at the end of March 2015 their number was 421.

Through the measures and activities on prevention, reintegration, placement with relatives, foster families and adoption, the strategy ensures conditions for raising children in a family environment. In March 2015 the total number of cases dealt with by Prevention was 4,663, and as of that time, 363 cases were closed and 4,300 continued to be followed. The total number of cases of reintegration, in March 2015 was 2,158, and as of that time, the 162 cases were closed and 1,996 were ongoing. The number of children adopted fully between January and March was 140. The total number of children in families of relatives is 6,716. The number placed in foster families was 2,304, including 129 children in volunteer foster families and 2,175 children in foster care. The total number of approved foster families is 2,362 (87 voluntary and 2,275 professional foster families).

The reintegration of children placed in institutions is crucial for the implementation of reforms related to the transition from institutional care to community support. In this regard, it should be noted that work on reintegration is long and consistent process, which is implemented in close interaction and cooperation between child protection and children's parents.

The President of the State Agency for Child Protection, under the Law on Child Protection, monitors and controls specialized institutions for raising children in compliance with the rights of the child, organizes checks for compliance with standards for social services for children, and can issue binding instructions for the removal of infringements. In addition, the Inspectorate reports directly to the Executive Director of the Social Assistance Agency, which carries out specialized control over the observance of criteria and standards for providing social services.

With changes in the Ombudsman Act, in force as of 11 May 2012, specific commitments and functions of the Ombudsman as a National Preventive Mechanism (NPM) are reinforced. Section 19 para. 2 of the Act states that the Ombudsman shall act as the National Preventive Mechanism under and in accordance with the Optional Protocol to the Convention of the United Nations against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In the social sphere NPM has specific responsibilities for monitoring institutions and social services, the results of which shall be notified to the Ministry of Labour and Social Policy with a report containing any recommendations. The Ministry of Labour and Social Policy requested information from the competent authorities to monitor their implementation and inform the NPM for the activities carried out to improve the care and living conditions in social services.

Regarding health care for children in institutions under the Health Act, in order to provide medical care in specialized institutions for provision of social services created health offices. They perform numerous activities: first aid and medical care until the arrival of a specialized team of emergency medical assistance; health promotion and malady prevention; organisation and conducting of activities to prevent the occurrence and limit the spread of infectious and parasitic diseases; organising and conducting health education programs, etc.

### **Opinion of the European Committee of Social Rights**

Article 17§1 integrates into the Charter rights which are guaranteed by the United Nations Convention on the Rights of the Child.

#### Status of the child

Right to equal status independent of the conditions of birth. Article 17 requires that there is no discrimination between children born within marriage and outside marriage, for example in matters relating to inheritance rights and maintenance obligations.

Right to an identity. There must be procedures for establishing parentage, adoption must be adequately regulated and further, in principle, there must be a right for an adopted child to know his or her origins.

#### Criminal liability and criminal law in respect of children

The age of criminal responsibility must not be too low. Further the criminal procedure relating to children and young persons must be adapted to their age. Minors should only exceptionally be remanded in custody and only for serious offences and should in such cases be separated from adults.

Prison sentences should only exceptionally be imposed on young offenders. They should only be for a short duration and the length of sentence must be laid down by a court. Likewise, pretrial detention should not be of an excessive duration. Young offenders should not serve their sentence together with adult prisoners.

#### Special protection

##### i) Prohibition of violence

Article 17 requires states to prohibit all forms of violence against children. The prohibition must have a legislative basis and must cover all forms of violence regardless of where it occurs (whether at school, in institutions in the home etc.) or the identity of the alleged perpetrator. It therefore includes corporal punishment. Furthermore the sanctions available must be adequate i.e. dissuasive and proportionate.

Even if violence against the person is prohibited under the general criminal law and provides for increased penalties where the victim is a child, this will not constitute a sufficient prohibition in law to comply with Article 17 of the Charter, unless a state can demonstrate that such legislation is interpreted as prohibiting corporal punishment and effectively applied as so doing.

##### ii) Protection of children in public care

Any restrictions or limitations of parents custodial rights should be based on criteria laid down in legislation, and should not go beyond what is necessary for the protection and best interest of the child and the rehabilitation of the family. The long term care of children outside their home should take place primarily in foster families suitable for their upbringing and only if necessary in institutions. Institutional care should be organized in small units and should be as close to a family setting as possible.

Fundamental rights and freedoms such as the right to integrity, privacy, property and to meet with persons close to the child must be adequately guaranteed for children living in institutions.

National legislation must provide a possibility to lodge an appeal against a decision to restrict parental rights, to take a child into public care or to restrict the right of access of the child's closest family. Further a procedure must exist for complaining about the care and treatment in institutions. There must be adequate supervision of the child welfare system, and in particular of the institutions involved.

The Committee notes that corporal punishment is prohibited in Bulgaria. Section 11(2) of the Child Protection Act 2000 stipulates: "Every child has a right to protection against all methods of upbringing that undermine his or her dignity; against physical, psychical or other types of violence; against all forms of influence, which go against his or her interests." The Regulation on the Implementation of the Child Protection Act (2003) defines violence against children as "any act of physical, mental or sexual violence, neglect, commercial or other exploitation, resulting in actual or potential damage to the child's health, life, development or dignity that may be performed in a family, school or social environment" (art. 1); physical violence includes "the infliction of bodily injury, including pain or suffering, without damage being caused to health".

The prohibition is confirmed in the Family Code 2009, Article 125(2): "The parent shall raise the child, form his/her views and provide for his/her education in reference to his/her possibilities and in reference to the child's needs and aptitudes and in view to his/her growing up as an independent and responsible personality. The parent shall not use force, as well as methods of education, which lower the child's dignity."

The Committee takes note of the regulation of the interception of child support services, the practice of institutions, and the move towards family and community oriented care for children, which complies with the aims of the Charter.

In view of the current case law and the current legal situation and practice the Committee considers that there are no obstacles to acceptance of this provision by Bulgaria.

## **Article 18 – Right to engage in a gainful occupation in the territory of other Parties**

*Paragraph 1 - Applying existing regulations in a spirit of liberality;*

*Paragraph 2 - Simplifying existing formalities and reducing dues and taxes;*

*Paragraph 3 - Liberalising regulations;*

### **Situation in Bulgaria**

Bulgaria is a member state of EU and thus has adopted the *acquis*; free movement is accordingly granted for EU citizens. Citizens of third countries, including signatory states of the Social Charter, enjoy fewer rights and may find it more difficult to receive a work permit.

The Law on Foreigners in the Republic of Bulgaria defines the terms and conditions under which foreigners can enter, stay and leave the country, and their rights and obligations.

In terms of residence, procedures are entirely organized according to the requirements of EU legislation on legal migration and in this sense the introduction of additional conditions is undesirable.

Aliens have all rights and obligations according to the applicable Bulgarian laws and the ratified international treaties to which Bulgaria is a party, except those for which Bulgarian citizenship is required.

There are no available government statistics on the number of permits granted and denials of applications.

The single EU permit has been introduced, which reduces the administrative burden of the application process. The speed of completion of cases is therefore increased. Other processes may take considerably longer.

In 2008, Bulgaria adopted a National Strategy for Immigration and Integration 2008-2015. The Strategy determines the hierarchy of economic migration and clearly defines the groups given priority by the policy: labor from other EU member states, EEA, and Switzerland; foreigners of Bulgarian origin; students who have a Bulgarian degree, research workers and highly skilled specialists.

The Government subsequently adopted the National Strategy for Migration, Asylum and Integration 2011 – 2020, which has an increased focus on tackling illegal migration.

A new draft law for labour migration and mobility has been proposed for 2015, which will codify the regulations. There are also forthcoming changes envisaged in order to transpose certain EU directives.

Liberalisation of access is limited by opportunities, the unemployment rate remains high in Bulgaria, which has been affected by the global recession. It is therefore not envisaged to liberalise access to the market for third country nationals in the short term.

According to the Government, no bilateral agreements exist with third countries to regulate and promote movement of labour. Programs of work exchange, and the grant of visas, are focussed on providing national capacity – via exchange of workforce, etc. There is a dedicated chapter in the Labour Code for Bulgarians working abroad, which details their rights and responsibilities.

Article 11 of the Labour Code allows for the recognition of labor rights acquired abroad. By recognition of labor rights is meant that they may be brought before the competent state authority for protection. These are rights such as recognition of the insurable years in employment, benefits under employment relation, etc., which are of great significance for the worker or employee. The condition, introduced by Article 11 of the Labour Code for recognition of these rights is for the latter to be provided for under a law, instrument issued by the Council of Ministers or under international agreement to which Bulgaria is a party. The relevant instrument must have been in force maintained and must have acknowledged those rights as at the time of their arising.

### **Opinion of the European Committee of Social Rights**

Article 18 applies to employees and the self-employed who are nationals of Parties to the Charter. It also covers members of their family allowed into the country for the purposes of family reunion.

Article 18 covers not only workers already on the territory of the Party concerned, but also those in their country of origin.

This article also covers foreign workers who have obtained employment but subsequently lose it.

### 18.1

The Committee's assessment of the degree of liberality used in applying existing regulations is based on figures showing the refusal rates for work permits. To this end, the figures supplied must be broken down by country and must also distinguish between first-time applications and renewal applications.

### 18.2

Formalities and dues and other charges are one of the aspects of regulations governing the employment of workers covered by paragraph 3 but are dealt with specifically under this provision.

With regard to the formalities to be completed, conformity with Article 18§2 presupposes the possibility of completing such formalities in the country of destination as well as in the country of origin and obtaining the residence and work permits at the same time and through a single application. It also implies that the documents required (residence/work permits) will be delivered within a reasonable time.

Chancery dues and other charges for the permits in question must not be excessive and, in any event, must not exceed the administrative cost incurred in issuing them.

### 18.3

Under Article 18§3, States are required to liberalise periodically the regulations governing the employment of foreign workers in the following areas:

- Access to the national labour market: The conditions laid down for access by foreign workers to the national labour market must not be excessively restrictive, in particular with regard to the geographical area in which the occupation can be carried out and the requirements to be met.
- Right to engage in an occupation: A person who has been legally resident for a given length of time on the territory of another Party should be able to enjoy the same rights as nationals of that country. The restrictions initially imposed with regard to access to employment (which can be accepted only if they are not excessive) must therefore be gradually lifted.
- Rights in the event of loss of employment: Loss of employment must not lead to the cancellation of the residence permit, thereby obliging the worker to leave the country as soon as possible. In such cases, Article 18 requires extension of the validity of the residence permit to provide sufficient time for a new job to be found.

In view of the case law and the current legal situation and practice Bulgaria does not appear to comply fully with the requirements of these provisions. In particular, while requirements have been relaxed for EU citizens following Bulgaria's accession to the European Union, they appear to have become more restrictive in practice for migrant workers from third countries wishing to find employment in Bulgaria. Reform of the law and practice would seem to be required to bring the situation into full compliance with the provisions of Article 18 of the Charter.

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

*Paragraph 1 - Assistance and information on migration*

*Paragraph 2 - Departure, journey and reception*

*Paragraph 3 - Co-operation between social services of emigration and immigration states*

### **Situation in Bulgaria**

The Government informed about the adoption of a national strategy on migration for the period 2015-2020.

Information was also provided on the National Council of Integration and Migration which is a body responsible for implementing immigration policy.

From another source (<http://www.iss-bg.org/en/>), the Committee notes that the "International Social Service Bulgaria" was established in November 2002 in Veliko Tarnovo, Bulgaria as an independent legal entity with non-profit goals on the initiative of International Social Service-Switzerland.

ISS-Bulgaria is part of the global network of the non-governmental organization International Social Service with headquarters in Geneva, Switzerland and as such works on individual cases of Bulgarian citizens who because of problems, related to migration processes of different nature, are located in a second country and need help and support.

### **Opinion of the European Committee of Social Rights**

#### **Re Article 19§1**

In order for prospective migrants to make a well-founded decision on whether or not to migrate, they have the right to access to reliable information on formalities to be completed as well as on conditions of life and work in the country of destination. Article 19§1 requires States to undertake the following obligations:

#### *Adequate and free services*

States are required to provide information and assistance services to migrants wishing to emigrate and to migrants of other Parties who wish to immigrate, including reliable and objective information on necessary formalities and on living and working conditions in the country of destination. In this regard, mention can be made of vocational guidance and training, social security, trade union membership, housing, social services, education and health, or information on websites of e.g. the Ministry of Foreign Affairs. The services provided should be free of charge and, if possible in a language understandable to migrants.

#### *Protection against misleading propaganda*

States are required to take measures against misleading propaganda relating to immigration and emigration. Such measures should prevent the communication and dissemination of misleading information to migrants leaving the country and act against false information targeted at migrants seeking to enter. To be effective, action against misleading propaganda should include legal and practical measures to tackle racism and xenophobia as well as women trafficking. Such measures, which should be aimed at the whole population, are necessary inter alia to counter the spread of stereotyped assumptions that migrants are inclined to crime, violence, drug abuse or disease. States are required to take specific measures to raise awareness and combat misleading propaganda, in particular targeted at female migrants, who are fulfilling jobs which make them more vulnerable, such as jobs as domestic staff, or in the catering industry or home-work. Many recruited for jobs as hostesses or maids, end up in the sex industry.



States are required to take measures to raise awareness amongst law enforcement officials, such as awareness training of officials who are in first contact with migrants, in order to combat xenophobia.

The information at its disposal is not sufficient for the Committee to assess the situation in Bulgaria properly.

### **Re Article 19§2**

Under Article 19§2, migrants have the right to the facilitation of their departure and journey to and reception in the receiving State. They have the right to the issuance of travel documents, health care during their journey, reception including assistance with placement and integration in the workplace as well as assistance in helping workers and their families to overcome certain problems, such as short-term accommodation, illness, shortage of money and adequate health measures.

The provision applies in particular to migrant and their families who travel either collectively or under arrangements aimed at collective recruitment; it does not apply to migrant and their families making their own travel arrangements.

The information at its disposal is not sufficient for the Committee to assess the situation in Bulgaria properly.

### **Re Article 19§3**

Article 19§3 requires States to establish contacts and information exchanges between public and/or private social services in emigration and immigration countries. If there is little migratory movement, practical co-operation on a needs basis may suffice. Co-operation is useful for example where the migrant, needs to be contacted for family reasons or where s/he has returned to his or her country but needs to claim unpaid wages or benefits.

Despite the paucity of the information at its disposal the Committee notes that there are indication an infrastructure that would enable international cooperation between the relevant authorities and as such it sees no major obstacles to acceptance by Bulgaria of Article 19§3.

#### *Paragraph 4 - Equality regarding employment, right to organise and accommodation*

### **Situation in Bulgaria**

The Government previously (2005 report on non-accepted provisions) indicated that rules governing non-discrimination in employment and rights related to are laid down *inter alia* in the Protection against Discrimination Act (2003).

### **Opinion of the European Committee of Social Rights**

Under Article 19§4 migrant workers, lawfully within their territories, have the right to equal treatment concerning remuneration and other employment and working conditions, including in-service training, promotion and vocational training. Any length of residence requirement is contrary to the Charter, since a migrant lawfully within the territory is entitled to equal treatment.

Migrant workers have the right not to be discriminated in law or practice concerning trade union membership and enjoyment of the benefits of collective bargaining, including access

to administrative and managerial posts in trade unions. Any length of residence requirement is contrary to the Charter since a migrant lawfully within the territory is entitled to equal treatment.

Migrant workers, lawfully within their territories, have the right to non-discrimination concerning access to public and private housing. All conditions of access to housing must be the same for nationals as well as for migrant workers. There must be no legal or de facto restrictions on home-buying, access to subsidised housing, low cost housing, or housing aids, such as loans or other allowances, bearing in mind that accommodation was a matter of prime importance for the situation of a migrant worker and his/her family.

Any length of residence requirement is contrary to the Charter, since a migrant lawfully within the territory is entitled to equal treatment.

While noting the existence of non-discrimination rules in the field of employment the Committee needs up-dated and more exhaustive information on the situation in law and practice in order to assess the situation. It also needs information on equal treatment as regards access to accommodation.

#### *Paragraph 5 - Equality regarding taxes and contributions*

##### **Situation in Bulgaria**

The Government previously (2005 report on non-accepted provisions) stated that Bulgarian law secures for workers lawfully in Bulgaria treatment not less favourable than that of nationals with regard to employment taxes, dues or contributions.

##### **Opinion of the European Committee of Social Rights**

Under Article 19§5, migrant workers, lawfully within their territories, have the right to be treated equally in law and in practice regarding the payment of employment taxes, dues or contributions. Treatment not less favourable than that of nationals should be accorded in such matters as tax deduction, rate of taxation on income, tax refunds, etc.

On the basis of the information previously provided by the Government, the Committee reiterates its opinion that there are no legal or practical obstacles to the acceptance of this provision.

#### *Paragraph 6 - Family reunion*

##### **Situation in Bulgaria**

Rules governing family reunion and expulsion are laid down in the Law on Foreigners in the Republic of Bulgaria SG No. 153/1998 as amended up to 2005 (SG 11/2005).

The Government states that national laws ensure that the right to family life is respected. In terms of residence, procedures are entirely organized according to the requirements of EU legislation on legal migration and in this sense, the introduction of additional conditions is undesirable.

Family reunification is considered a necessary way to make family life possible. It helps to create sociocultural stability facilitating the integration of third-country nationals in the Member State, which also serves to promote economic and social cohesion, a fundamental objective of the Community.

Rules on family reunification (Act on Foreigners) are entirely consistent with the requirements of Directive 2003/86 / EC of 22 September 2003 concerning the right of family reunification.

Section 25 of the Act on Foreigners allows spouses of migrants to gain permanent residence after both partners have been in the country for at least 5 years. Under Section 40 of the Act on Foreigners, it is possible for a spouse to be expelled if the marriage is dissolved within 5 years of its having been contracted.

Finally, the migration legislation ensures the provision of the rights of migrant workers and their family members residing in the territory of Bulgaria.

### **Opinion of the European Committee of Social Rights**

Migrant workers, permitted to establish themselves in the territory, have the right be (re)joined by their family as stated in Article 19§6 of the Charter. For the purpose of this provision the term '*family of a foreign worker*' is understood to mean: at least the worker's spouse and unmarried children, as long as the latter are considered to be minors by the receiving State and are dependent on the migrant worker'

#### *Worker's spouse*

Instead of covering the migrant worker's wife, the Revised Charter covers the spouse (person's partner in marriage) of the migrant worker, whether a husband or a wife .

#### *Children, dependent, unmarried, minor*

Children of the migrant worker are allowed to enter the territory for the purposes of family reunion. They should be dependent, meaning have no independent existence outside the family group, particularly for economic or health reasons, or because they are pursuing unpaid studies, and are unmarried. The children should be minors according to the relevant laws of the receiving states.

#### *Other family members*

The words at least indicate that States may decide to extend the notion of the family of the migrant worker beyond those mentioned above, e.g. to disabled children.

#### *Refusal of the right to family reunion on health grounds*

A State may not deny entry to its territory for the purpose of family reunion to a family member of a migrant worker for health reasons. Refusal may only be admitted for specific illnesses which are so serious as to endanger public health. These are the diseases requiring quarantine stipulated in the World Health Organisation's International Health Regulations and concern cholera, plague and yellow fever. These are also other serious contagious or infectious diseases such as tuberculosis or syphilis.

Very serious drug addiction or mental illness may justify refusal of family reunion, but only where the authorities establish on a case-by-case basis that the illness or condition constitutes a threat to public order or security.

#### *Conditions*

States may require that certain conditions be fulfilled before allowing the family to be reunited with the migrant worker, such as a certain length of residence of migrant workers, the obtaining of sufficient or suitable accommodation, and/or sufficient means of subsistence. It must be stressed that these conditions must not be so restrictive as to prevent any family reunion.

Length of residence: States may require that migrant workers reside in the country before their family can join them. Such a length of residence requirement is reasonable if it is up to one year.

Housing condition: States may require that migrant workers have sufficient or suitable accommodation to house the family or certain family members, but such a condition should not be applied in a blanket manner and should not be so restrictive as to prevent any family reunion.

Means requirement: States may require that migrant workers have a level of means required to bring in the family or certain family members.

Language/integration tests: such tests are contrary to the Charter where they have the effect of denying entry or the right to remain of family members or where they otherwise deprive the right to family reunion of its substance.

#### *Migrant workers family members*

States are prohibited from expelling the migrant worker's family members, spouse, minor or major children, as a consequence of his or her own expulsion. Being restrictive in its wording Article 19§6 must be interpreted in a restrictive manner i.e. it does not allow for the expulsion of the family members, including the minor children, of the migrant worker as a consequence of his/her expulsion. These family members - even in the case they have entered the country on the basis of the right to family reunion - have an independent right to stay.

In the Committee's understanding, under Section 40 of the Law on Foreigners, it is possible for a spouse to be expelled if the marriage is dissolved within 5 years of its having been contracted. The Committee has in the past considered such measures to be excessively strict. Accordingly, the situation may pose a problem of conformity with this provision of the Charter.

#### *Paragraph 7 - Equality regarding legal proceedings*

### **Situation in Bulgaria**

Section 3 (1) of the Law on Foreigners states that "foreigners in the Republic of Bulgaria shall have all rights and obligations according to the Bulgarian laws and the ratified international agreements to which the Republic of Bulgaria is a party except these for which Bulgarian citizenship is required."

Legal aid was established in Bulgaria by the Legal Aid Act 2005 (SG 79/04.10.2005), and came into force in January 2006. It includes legal aid for civil and administrative cases, and free legal representation in criminal, civil and administrative cases.

Section 23 provides for legal aid in cases where the law requires representation for which the party cannot pay. It makes no distinction upon nationality.

Chapter 8 contains provisions for civil disputes of an international character. In such cases, EU citizens can benefit under certain circumstances.

Following legislative amendments in 2013, both asylum seekers and detained migrants have the right to legal aid.

There does not appear to be provision for interpretation services to be included in legal aid payments, except in certain cases of asylum application.

## **Opinion of the European Committee of Social Rights**

Under Article 19§7, migrant workers, lawfully within their territories, have the right to equal treatment with nationals in respect of legal proceedings relating to matters referred to in Article 19, or to violation of these rights. Access to legal proceedings includes equal access to courts, assistance of lawyers and entitlement to free legal aid. Those forms of legal assistance available to nationals should be available to migrants. Any length of residence requirement is contrary to the Charter, since a migrant lawfully within the territory is entitled to equal treatment.

While foreign citizens enjoy many of the same rights as Bulgarians, they may be disadvantaged by their lack of knowledge of the language in legal proceedings, and should not bear the cost of interpretation. Accordingly, the Committee considers that the unclear provision for interpretation services could present an obstacle to compliance with this provision, and may require clarification or reform if Bulgaria were to accept Article 19§7.

### *Paragraph 8 - Guarantees concerning deportation*

#### **Situation in Bulgaria**

At the national level the provisions of the Law on Foreigners is explicitly described that before the imposition of the expulsion of a foreigner who has received a residence permit, account for the duration of the alien's residence in Bulgaria, age, health, marital status, social integration of existing connections in the country or the absence of links with the country of origin. It is envisaged in the provisions of Directive 2003/109 / EC that the expulsion cannot be based on economic considerations.

Section 10 of the abovementioned law allows for the refusal of a visa on health grounds, which are not limited to the WHO List of Infectious Diseases. This can also be a ground for expulsion under Section 40.

The Law on Foreigners also provides that foreigners imposed compulsory an administrative measure of expulsion cannot be expelled to a country where their life and freedom are endangered and they would be subjected to persecution, torture or inhuman or degrading treatment. When these circumstances are established by a court decision, the foreigner is granted an order by the authority issuing the expulsion order, explicitly stating the prohibition of expulsion and the country to which the foreigner should not be expelled. The order cannot be appealed. If after one year from the issue of the expulsion order, expulsion to a safe third country is not achieved, the foreigner is allowed temporary access to the labour market in Bulgaria.

Section 46 of the Law on Foreigners provides for the appeal of expulsion orders to the Supreme Administrative Court, whose decision is final.

## **Opinion of the European Committee of Social Rights**

Under Article 19§8, States are prohibited by law to expel migrant workers lawfully residing within their territories unless they endanger national security or offend against public interest or morality.

Expulsion (or deportation) is to remove or drive out with force, in this case, the migrant worker from the territory of the State Party, to the territory of that Party of which s/he is a

national. It is distinct from the notion of leaving the country oneself in case e.g. the resident permit has expired, or in case of non-extended of an employment contract. As stated above, one of the limitative grounds under which a migrant worker may be expelled, is if s/he endangers national security.

A migrant worker may be expelled if s/he offends against public interest or morality. However, expulsion in such cases can only be in conformity with the Charter if it constitutes a penalty for a criminal act, imposed by a court, or under judicial authority. Furthermore, it should be based not solely on the existence of a criminal conviction but on all aspects of the non-nationals' behaviour, as well as the circumstances and the length of time of his/her presence in the country concerned.

Risks to public health are not in themselves risks to public order and cannot be the basis for expulsion, unless the person refuses to undergo suitable treatment. Seeking social assistance is also not against public order and cannot be the basis for expulsion.

Migrants have the right to appeal to a court or other independent body against the expulsion decision, even in cases where national security, public order or morality are at stake.

Bulgaria has implemented Directive 2003/109/EC and thus individual circumstances are taken into account in dealing with expulsions.

The Committee notes that expulsion may only take place by law to a safe third country.

Section 43(2) of the Law on Foreigners envisages the expulsion of a foreigner for corporate debt of over BGN 5000. The Committee has previously considered that only criminal liability, or threat to national security, public order or morals, may be a legitimate ground for expulsion.

The Committee is also of the view that the potential health grounds for expulsion could be defined too broadly, but it would need further information to reach a firm opinion on this point.

Given the abovementioned concerns and based on the information at its disposal, the Committee considers that the situation in Bulgaria gives rise to certain problems of conformity with Article 19§8.

#### *Paragraph 9 - Transfer of earnings and savings*

##### **Situation in Bulgaria**

During the meeting the representatives of the Government stated that Bulgarian law does not restrict the right of migrants to transfer their savings and earnings.

##### **Opinion of the European Committee of Social Rights**

The transfer from the receiving state to the country of origin of earnings and savings (or remittances) is closely connected to such issues as financial support for the family remaining in the country of origin, family reunion and/or length of stay of the migrant worker in the receiving state.

Under Article 19§9, migrants have the right, within legal limits, to transfer such parts of their earnings and savings as they may desire. The intended scope of the words within legal limits, should not be understood as permitting a State to place any obstacles in the way of

transferring a reasonable amount of earnings and savings, having regard to the situation of the migrant worker and his/her family.

Amongst permissible restrictions, besides restrictions as to amounts which can be transferred, mention can be made of measures to prevent tax avoidance, such as measures to facilitate a check on the authenticity of declared income, or limiting transfer of earnings net of any taxes payable.

Restricting the transfers of money to the country of origin (and thus not to third countries) should not restrict the payment of maintenance obligations, payments to dependants and other similar expenses to which a migrant worker is liable.

This right should be granted also once the migrant worker has left the territory and returned to his/her country of origin (so-called final departure).

In view of the Government's statement that Bulgarian law does not restrict the right of migrants to transfer their savings and earnings, and having no further information at its disposal, the Committee is of the opinion that there are no obstacles to acceptance by Bulgaria of Article 19§9.

#### *Paragraph 10 - Equal treatment for the self-employed*

#### **Situation in Bulgaria**

The Government previously (2005 report on non-accepted provisions) stated that rules governing the self-employed migrants are laid down *inter alia* in:

- the Law on Foreigners in the Republic of Bulgaria (No. SG 153/1998, as amended up to 2005)
- the Decree No. 77 of 2002 adopting the Order establishing the conditions and procedures for the issuance, refusal and cancellation of work permits for foreigners in Bulgaria SG No. 39/2002 as amended up to 2004,
- the Ordinance No. 2 of 10 September 2002 of the Ministry of Labour and Social affairs on the conditions and procedures to issue permits to foreigners for the performance of free-lance activities (SG No. 90/2002)

#### **Opinion of the European Committee of Social Rights**

The protection under the Charter and under Article 19 applies to all categories of workers, be they wage-earners or self-employed.

Article 19§10 requires of States to extend the protection and assistance to self-employed migrants, mentioning explicitly insofar as such measures apply. This means that where the context so requires, the term worker, may have to be considered as restricted to employed persons, e.g. in case of the right of a worker to earn his/her living in an occupation freely entered into States must ensure that the protection and assistance provided for in paragraphs 1 to 9 and 11 and 12 of Article 19 are extended to self-employed migrant workers and their families. There should be no discrimination, in law or in practice between, on the one hand wage-earning migrant workers and self-employed migrants and, on the other, self-employed migrants and self-employed nationals.

This provision only applies to the rights contained within the other provisions of Article 19. On the basis of the information at its disposal, there is nothing to indicate that self-employed migrant workers in Bulgaria do not enjoy equal treatment. However, in so far as possible

problems of conformity have been identified under the other provisions of Article this could have an impact on compliance with Article 19§10.

*Paragraph 11 - Teaching language of host state*

*Paragraph 12 - Teaching mother tongue of migrant*

### **Situation in Bulgaria**

No new information was provided during the meeting, but the Committee has previously (2012 report on non-accepted provisions) expressed the view that in order to be in conformity with Article 19§§11 and 12, Bulgaria should extend the benefit of the measures taken to nationals of all States Parties to the Charter (and not only to nationals of Member States of the European Union and the European Economic Area).

### **Opinion of the European Committee of Social Rights**

#### **Re Article 19§11**

Learning the language of the host country has been considered important for the protection of migrant workers' health and safety at work and for the guarantee of their other employment rights 20. Furthermore, it is considered important for them as well as their families for the integration into society at large.

Under Article 19§11, States are required to promote and facilitate the teaching of (one of) the national language(s) of the receiving state to migrant workers, their children of school age, and other family members not of school age.

In order not to worsen the already difficult position of migrant workers on the labour market, the services should be free. The teachings should be encouraged within enterprises and voluntary associations, or in public institutions such as universities.

Although, the language of the host country is automatically taught to primary and secondary school students throughout the school curriculum, that is not enough to satisfy the obligations laid down by Article 19§11. Therefore, in order for migrant workers' children not to lag behind their classmates, support activities alongside schooling should be introduced.

The Committee recalls that in order to comply with the requirements of the provision, Bulgaria must extend the same rights to language teaching to nationals of other States Parties not members of EU

#### **Re Article 19§12**

Learning the mother tongue is important for children of migrant workers in order for them to maintain their cultural and linguistic heritage *inter alia* for a possible reintegration if and when the migrant worker returns to his/her home country.

Under Article 19§12, mother tongue teaching should be promoted and facilitated, as far as practicable, to the children of the migrant workers. The notion as far as practicable entails that the obligation under 19§12 be carried out e.g. where there are a significant number of children warranting lessons in their mother tongue to be organised.

The Committee has noted no particular obstacles to acceptance by Bulgaria of this provision, but also here it recalls that in order to comply with the requirements of the provision, Bulgaria must extend the same rights to language teaching to nationals of other States Parties not members of EU



## **Article 23 – Right of elderly persons to social protection**

### **Situation in Bulgaria**

In 2012 the services available for the elderly were increased. The government wish to mount a consistent policy for the elderly, and to prevent their 'falling out' from social service care.

Day care is available for elderly persons needing assistance. There is a capacity of around 20,000 to whom services and personal assistants are provided.

In 2013 a long term care strategy adopted. In the context of the long term strategy, an integrated health and social services programme is being prepared. Planned changes envisage a home environment, and a better guarantee of the rights of the consumer. A special bill for social services is being drafted; and the administration intend to improve planning and efficiency.

Furthermore, pensions are being increased (see above under Article 12).

In relation to housing, support to fund heating for the elderly is planned to be introduced. The elderly are also one of the target groups for the provision of public municipal housing.

The efforts of the Government are aimed at providing quality and effective support for elderly people as a specific vulnerable group through:

- Deinstitutionalization of care;
- Development of affordable and quality services in the community and at home to play a preventive role against institutionalization in respect of these persons;
- Development of integrated cross-sectoral services for social inclusion;
- Ensuring sustainable financing of long-term care services, etc.
- 

Ensuring social protection and promoting social inclusion of vulnerable groups, including elderly people, occupies a significant place in a number of programme and strategic documents at national level, such as the National Development Programme: Bulgaria 2020, Priority 2 "Reducing poverty and promoting social inclusion "; the National Reform Programme of the Republic of Bulgaria (update 2015) - National target 5 "Reducing the number of people living in poverty by 260 thousand persons by 2020," the National strategy to reduce poverty and promote social inclusion and the 2020 National Strategy for long-term care.

Within the new programming period 2014-2020 under the Operational programme a strong emphasis is put also on the implementation of schemes aiming at addressing the growing need to provide quality care in a home environment as well as the testing and implementation of new approaches in the cares for the most vulnerable. In this regard, on a priority basis is to be ensured the provision of services for social inclusion and health for persons with disabilities over the age of 18 years and for persons over the age of 65 who are unable to care for themselves without assistance. Possibilities are embedded for development of services at home and in the community for persons with disabilities and persons dependent on care, measures for deinstitutionalization of children and the elderly. Innovative and cross-sector services will be provided as well as by encouraging the interaction between social and health services.

Social services are a key factor for the effective social protection and social inclusion of vulnerable groups. Characteristic feature of social services is that they are based on social

work and are aimed at supporting the assisted persons in carrying out their daily activities. They are provided according to the wish and personal choice of those who need them. As an expression of the principles and priorities for social inclusion and community life a statutory limitation is established for provision of social services in specialized institutions only after exhausting all the possibilities of providing services in the community.

The legislation regulates the obligation of providers of social services to present to the potential users a draft contract for provision of social services and written information on: the description of social services being provided; the provider's expertise in the provision of social services and training of the staff; terms and conditions for using the services, and the procedure for filing complaints.

In recent years, policy in the sphere of social services aims at developing services in the community and at home to replace the institutional care model. Social services provided in the community are diverse to reflect the different needs of individuals.

As at the month of April 2015 the following services are provided for the elderly and for persons with disabilities: 72 day care centres for elderly people with disabilities, 48 day care centres for elderly people, 76 centres for social rehabilitation and integration. Social services within residential type community include: 127 protected homes, 23 monitored homes, 11 transitional homes, 71 centres for family-type accommodation for the elderly, 5 crisis centres for individuals, 13 centres for temporary accommodation, 2 shelters facilities.

As a highly successful forms of social services to help elderly people and people with disabilities and their families have proven the services in home environment - "personal assistant", "social assistant" and "domestic assistant". The state provides the rendering of the service "personal assistant" under the National Programme "Assistants for people with disabilities." On the one hand, it has a preventive role as regards the institutionalization of these individuals and on the other, it helps reduce the number of inmates in institutions for the elderly by placing them in a family environment and improves their living conditions. Beyond the programme, a key role in the provision of services in home environment has the Operational Programme "Human Resources Development ". There are currently two approved upgrading operations - "New Alternatives" and "Independent Living", under which there will be tested integrated health and social services.

Practice accumulated over the years has shown that the social services sector is extremely dynamic and regulations should be adapted and comply with the ever-increasing need for effective services targeted to the individual needs. In this regard, through changes in the Implementing Regulations of the Social Assistance Act a differentiated approach is adopted in the provision of social services, so as to provide more targeted and focused support for the target groups. In addition, steps are taken towards the introduction of integrated service delivery. It is noteworthy that the Council of Ministers has submitted to the National Assembly a law amending and supplementing the Medical Institutions Act, whereby changes to the Health Act are proposed as well, and a new section is created for integrated health and social services. The proposals mainly concern the regulation of integrated health and social services activities through which medical professionals and specialists in the field of social services provide healthcare and medical supervision and carry out social work, including domestic support to children, pregnant women, persons with disabilities and chronic diseases and elderly persons who need assistance in performing daily activities. In addition, proposals have been developed for legislative changes in the Social Assistance Act in the direction of a more complete guaranteeing of the rights of users and their participation in the process of targeting and provision of social services, for improving control in the field of services and improving the regime for registration and licensing of social services. Beyond the measures taken to improve the existing legislation and given the identified serious

challenges in the sector a special law on social services is in the process of developing in order to improve planning, accessibility, quality, funding mechanisms and effectiveness of the services.

In implementing the National Strategy for long-term care an action plan will be elaborated, which will be adopted by the Council of Ministers and which will include concrete measures, projects and activities, as well as the responsible institutions for their implementation, timing and amount and sources of funding including from European funds. For this purpose, it is forthcoming by the end of the year to be prepared an analysis of the specialized institutions, which will support the reform in the field of de-institutionalization of care for persons with disabilities and the elderly.

According to Article 2, para 2, items 1 and 2 of the Social Assistance Act (Amended – SG No. 32/2012, in force as of 24 April 2012) The social assistance shall be implemented through:

1. provision benefits in cash and/or in kind to meet the basic living needs of citizens, where possible by their work and their possessions;
2. provision of social services.

Part of the coverage of the "Old Age" risk is performed by the Agency for Social Assistance and is subject to the granting of social benefits, as one of the conditions for granting them is the reaching of a certain age.

Specific regulations and the nature of individual payments: Social Assistance Act (SAA), Rules for the Implementation of the Social Assistance Act and Ordinance № RD 07/5 of 16 May 2008 regulate the granting of the following social benefits to different categories of persons according to their age: monthly, single and targeted social benefits - for heating and rent for municipal housing.

Allocation of targeted assistance for rent for municipal housing to part of individuals is an introduced condition for reaching a certain age. In determining access to assistance with the above benefits, as well as in determining the amount of monthly social assistance, the condition to reach a certain age is essential. In this regard, the provision of such benefits falls within the scope of Article 26, item 1 of Convention № 102 in relation to Article 27b of the same.

The number of cases in which targeted assistance was allocated for rent of municipal housing under Article 14 of the Rules for Implementation of the Social Assistance Act, as well as the amount of money paid to all categories of eligible persons, including people who turned 70 years of age:

2010 - BGN 81,843 have been allocated for 201 cases;  
2011 – BGN 77,038 have been allocated for 187 cases;  
Until August 2012 – BGN 59,302 have been allocated for 197 cases.

As of 31 December 2011, the number of pensioners in Bulgaria was 2,198,857 and the number of pensions paid – 2,676,233.

The number of pensioners who receive more than one pension is 477,376 as 450,162 of them receive an additional social disability pension at the rate of 25%.

The number of pensions equivalent to the minimum amount for the type ais 478,270 retirement-age pensions, and the number of pensions limited to the maximum amount of BGN 700.00 is 49,917.

Since 1 September 2011, the amount of the allowance under Article 84 of the Social Security Code has been increased from 20 to 26.5% of the pension or the sum of the pensions of the deceased spouse. The number of widows' allowances at the end of 2011 was 705,678.

Pensioners with non-work-contingent pensions, which are paid by the state budget, have received an average of BGN 139.15 per month.

Minimum levels of pensions as of 31 December 2011 are as follows:

Type of pension / Minimum size / BGN (Bulgarian levs)

1. Contributory-service and retirement-age pension - Article 68 of the Social Security Code;
  - under Article 68, para 1 (minimum contributory-service and retirement-age pension) BGN 136.08
  - under Article 68, para 3 (85% of the minimum contributory-service and retirement-age pension) BGN 115.67
2. Invalidity due to employment injury and occupational disease - Article 79 of the Social Security Code in terms of reduced working capacity:
  - over 90% (125% of the minimum contributory-service and retirement-age pension) BGN 170.10
  - from 71 to 90% (115% of the minimum contributory-service and retirement-age pension) BGN 156.49
  - from 50 to 70.99% (100% of the minimum contributory-service and retirement-age pension) BGN 136.08
3. Invalidity due to general sickness - Article 74 of the Social Security Code in terms of reduced working capacity
  - over 90% (115% of the minimum contributory-service and retirement-age pension) BGN 156.49
  - from 71 to 90% (105% of the minimum contributory-service and retirement-age pension) BGN 142.88
  - from 50 to 70.99% (85% of the minimum contributory-service and retirement-age pension) BGN 115.67

Article 68. (Amended, SG No. 100/2010, effective 1.01.2011) (1) (Amended, SG No. 100/2011, effective 1.01.2012) Entitlement to a contributory-service and retirement-age pension shall be acquired upon attainment of the age of 60 years for women and 63 years for men and 34 years of contributory service for women and 37 years of contributory service for men. As from 31 December 2011, the retirement age shall be increased, from the first day of each successive calendar year, by 4 months for both women and men until reaching the age of 63 years for women and 65 years for men.

(2) As from 31 December 2011, the length of contributory service under Paragraph 1 shall be increased, from the first day of each successive calendar year, by 4 months for both women and men until reaching the sum total of 37 years for women and 40 years for men.

(3) (Amended, SG No. 100/2011, effective 1.01.2012) If a person is not entitled to the pension under Paragraphs 1 and 2, prior to 31 December 2011 the person shall acquire the entitlement to a pension upon attainment of the age of 65 years for both women and men provided that the person has at least 15 years of actual contributory service. As from the 31 December 2011, the retirement age shall be increased, from the first day of each successive calendar year, by 4 months until reaching the age of 67 years.

If persons are not entitled to a pension under the conditions of 68 1 or 2, until 31 December 2011 they become entitled to a pension at the age of 65 for women and men and no less than 15 years of actual contributory service. From 31 December 2011, that age has increased, as shown in the table.

The minimum retirement age in 2014 was elevated to 66 years for men. In 2015 it was raised to 66 years and 4 months. By 2017 it is envisaged to increase the retirement age to 67 years.

### **Opinion of the European Committee of Social Rights**

The main objective of the first paragraph of Article 23 is to enable elderly persons to remain full members of society. It provides two means by which this can be achieved: goal-adequate resources and information on services and facilities. According to the explanatory report, the expression “full members” means that elderly persons must suffer no ostracism on account of their age, since the right to take part in society’s various fields of activity is not granted or refused depending on whether an elderly person has retired or is still vocationally active or whether such a person is still full of legal capacity or is still subject to some restrictions in this respect (*diminutio capitis*).

The primary focus of the right to adequate resources is on pensions. Pensions and other state benefits must be sufficient in order to allow elderly persons to lead a ‘decent life’ and play an active part in public, social and cultural life. The Committee compares pensions with the average wage levels and the overall cost of living. Pensions must be index-linked.

The Committee also takes into consideration the cost of transport as well as the cost of medical care and medicine, as well as the existence of a carer’s allowance for family members looking after an elderly relative.

Although Article 23 (1b) only refers to information about services and facilities, the Committee considers that this provision presupposes the existence of services and facilities and that elderly persons have the right to certain services and facilities. Therefore, the Committee examines not only information relating to the provision of information about these services and facilities but also these services and facilities themselves. In particular, information is sought on the existence, extent and cost of home help services, community based services, specialised day care provision for persons with dementia and related illnesses and services such as information, training and respite care for families caring for elderly persons, in particular, highly dependent persons, as well as cultural leisure and educational facilities available to elderly persons.

The needs of elderly persons must be taken into account in national or local housing policies. The supply of adequate of appropriate housing for elderly person must be sufficient. Housing law and policy must take account of the special needs of this group. National policies should help elderly persons to remain in their own homes for as long as possible through the provision of sheltered/supported housing and assistance for the adaptation of homes.

In the context of a right to adequate health care for elderly persons Article 23 requires that health care programmes and services (in particular primary health care services including domiciliary nursing/health care services) specifically aimed at the elderly must exist together with guidelines on healthcare for elderly persons. In addition, there should be mental health programmes for persons with dementia and related illnesses and adequate palliative care services.

Article 23 deals with the rights of elderly persons living in institutions. In this context, it provides that the following rights must be guaranteed; the right to appropriate care and adequate services, the right to privacy, the right to personal dignity, the right to participate in decisions concerning the living conditions in the institution, the protection of property, the right to maintain personal contact with persons close to the elderly person and the right to complain about treatment and care in institutions.

There should be a sufficient supply of institutional facilities for elderly persons (public or private), care in such institutions should be affordable and assistance must be available to cover the cost. All institutions must be licensed or approved and an independent inspection mechanism must exist to examine, in particular, the quality of care delivered.

Issues such as the requirements of staff qualifications, staff training and the wage levels of staff, compulsory placement, social and cultural amenities and the use of physical restraints are also examined under this provision.

The Committee notes that the National Development Programme: Bulgaria 2020, Priority 2 "Reducing poverty and promoting social inclusion" includes focussed objectives for elderly persons.

Entitlement to a contributory-service and retirement-age pension shall be acquired upon attainment of the age of 60 years for women and 63 years for men and 34 years of contributory service for women and 37 years of contributory service for men. As from 31 December 2011, the retirement age shall be increased, from the first day of each successive calendar year, by 4 months for both women and men until reaching the age of 63 years for women and 65 years for men.

Under Article 68 para. 1 of the Social Security Code the minimum contributory-service and retirement-age pension is BGN 136.08. For 2009, the minimum pension for insurance practice and age after the increase of July 1, 2009 amounted to BGN 136.95, representing 57% of the minimum wage. The benchmark for assessing the adequacy of a pension under the Charter is 50% of the median equivalised income, which in July 2015 corresponded to 868 BGN. In this regard, it would appear therefore that Bulgaria is not at present not in a position to comply with the Charter.

The Committee notes that the current care agenda aims to provide quality care in a home environment as well as the testing and implementation of new approaches in the cares for the most vulnerable, and supporting the assisted persons in carrying out their daily activities.

Certain elderly persons are also entitled to allocation of targeted assistance for rent for municipal housing, which is introduced after reaching a certain age.

In recent years, policy in the sphere of social services has aimed at developing services in the community and at home to replace the institutional care model. The Committee considers that the current policies demonstrate progress towards greater community inclusion and personalised care of elderly persons in accordance with the requirements of Article 23.

Finally, the Committee notes that the Government is drafting legal provisions to synthesise and improve relations between social care providers and healthcare providers. It notes that new regulations now cover the social care aspect of institutional care for the elderly.

While noting that several aspects of the situation in Bulgaria appear to be in conformity with Article 23, the Committee considers that there are certain issues, notably the question of adequate resources for elderly, which may pose a problem of conformity.

## **Article 27 – Right of workers with family responsibilities to equal participation in professional life**

### *Paragraph 1 – Participation in working life*

#### **Situation in Bulgaria**

Bulgarian labour legislation contains several provisions that provide for reconciling professional and family obligations. Such opportunities are provided by way of:

- the types of maternity and paternity leaves to which working individuals are entitled;
- the regulations on the rights of persons returning to work after leaves;
- restrictions on overtime and night working and seconding;
- forms of working time flexibility;
- the employer's obligations to maintain and improve professional qualification.

#### Maternity leave:

Every woman has the right under the Labour Code to a leave due to pregnancy and childbirth and for raising a child until the age of two. This right applies to an adoptive mother as well as of the date of adoption of the child until s/he reaches the age of two. Other types of leaves are leaves for breastfeeding and feeding a young child, for cares for a sick child and others. For the duration of these leaves they receive cash benefit following the procedure provided under the Social Security Code (SSC).

Since the beginning of last year the Labour Code regulates a new type of leave – upon adoption of a child from 2 to 5 years old. The adoptive mother is entitled to a leave for a period of 365 days from the date of delivery of the child for adoption. With her consent, the leave may be used by the adoptive father as well. Entitled to such leave has a worker or employee who has adopted a child alone. During the use of adoption leave, cash benefit is disbursed under SSC.

During the term of effect of the employment relation, care is taken of pregnant women and nursing mothers. They are entitled to vocational rehabilitation by the health authorities, which is reflected in adjusting of their workplace or failing that, moving to another suitable job. For the duration of vocational rehabilitation they receive cash benefit under SSC. Pregnant workers and employees as well as workers in advanced stage of in-vitro treatment are entitled to a leave during the working day to attend medical examinations. Their leave is paid by the employer

#### Paternity leave:

Characteristic of paternity leave is that it is a subjective right of the worker or employee. The leaves are used based on submitted application in writing. The employer is obliged to ensure the use of the leave as of the day specified in the application.

When the mother and father are married or living in a common household, the father is entitled to 15 day leave at childbirth from the date of discharge of the child from the hospital. During this leave, the father receives cash benefit.

With the consent of the mother (adoptive mother) after the age of 6 months of the child, the father (the adoptive father) may use instead of her the remaining leave of 410 days. In addition, with the consent of the mother, the father may also use and leave for raising a child until s/he reaches 2 years of age.

### Parental leave:

Each of the parents, if they work under employment relation, and if the child is not placed in an institution fully subsidized by the state, upon request, is entitled to use unpaid leave of six months for raising a child until s/he completes 8 years of age. In addition to "their" six months of unpaid leave, each of the child's parents may use up to 5 months of unpaid leave instead of the other parent. The leave may be used only after the periods of the leaves for raising a child below the age of 2 have expired. The leave may be used in parts or in full.

Right to such leave is granted to other persons – a parent who cares for raising a child on his/her own, the adoptive parents of a child, the guardian. When the child's parents are deceased, the leave shall be used by the grandmother or grandfather of the child on a maternal or paternal line.

### Rights of individuals returning to work after leaves:

When the mother who uses leave for maternity or parental leave or father or grandparent of the child with the right to leave under the Labour Code, return to work due to expiry of the leave or by interrupting its use, s/he is entitled to occupy the same position or another equivalent one, and to benefit from any improvement in working conditions to which s/he would have been entitled if not on leave.

Labour law regulates opportunities for amending the employment relationship by mutual consent upon returning to work after leave.

Employees who return to work after the expiration or interruption of a leave due to pregnancy, childbirth and adoption leave, childbirth leave for children up to 2 years of age, parental leave for a child placed with relatives or in foster care, leave for breastfeeding and feeding a small child, leave for death or serious illness of a parent and unpaid leave to care for a child up to 8 years of age, have the right to propose to the employer amendments in the employment relation, which are to facilitate their return to work.

An employee who returns to work due to the expiry of any of the types of leaves or by interrupting its use is entitled to:

- propose to the employer a change in the duration and distribution of working hours for a certain period;
- other changes in the employment relation to facilitate his/her return to work.

The change of working time is an amendment that leads to reduction of its duration. For example, if under an employment relationship full time work is agreed between the parties, the worker or employee may offer the employer to be transferred to a part-time job (e.g., from 8 to 4 hours). It is possible that the worker or employee to have previously worked part-time, and to offer the employer after his/her return from the respective type of leave to continue to work upon reducing of this duration (e.g., from 4 to 2 hours).

The worker or employee may offer the employer a change in the start of the working time, and thus his/her working day may start earlier or later than the scheduled start of the working day for all other workers or employees (i.e., to come earlier or later to work and hence to leave earlier or later than his/her colleagues).

The employee may offer the employer a change in the fixed part of working time, setting another time for the so-called compulsory attendance.

The employer may have established the obligation for duties (daytime and nighttime) and availability. The worker or employee may offer the employer to be exempted from the "work on duty" or "being available."



In some cases it is possible to propose an amendment, which leads to both change in the duration of working time and its distribution.

Other amendments to the employment relation:

- If work is organized in shifts, possible proposal by the worker or employee is to work only in the first or only in the second shift;
- A worker or employee may offer the employer to be reassigned to another vacant job position;
- The transfer to working at home telework (teleworking) is a form of change of employment, which could be offered by the worker or employee.

The employer is obliged to take into account the proposal of the worker or employee when such an opportunity exists in the enterprise. Whenever there is an opportunity in the enterprise, the employer will be obliged to accept the proposal of the employee.

Restrictions on overtime and night working and seconding:

Overtime and night working by pregnant women or nursing mothers as well as workers and employees in an advanced stage of in-vitro treatment, is prohibited.

The overtime and night working of mothers with children up to 6 years of age and mothers who care for children with disabilities regardless of their age is not permitted, except with their consent in writing. Written consent is required for work in extended working hours introduced unilaterally by the employer.

Seconding a pregnant woman, a female employee at an advanced stage of in vitro treatment and mother of a child up to 3 years is possible only when she has submitted her consent in writing to the employer.

Forms of working time flexibility:

The Labour Code allows parents, regardless of the age of the child to work part-time, i.e. during a part of the statutorily established working time in order to be able to devote the rest of the day to their children.

Changes in labor legislation in 2011 and 2012, through which new forms of flexible employment were introduced - home work, telework and working through an enterprise providing temporary employment – constitute employment opportunity through which to combine flexible professional and family responsibilities.

Every mother-worker or employee may work at home until her child is 6 years old. In homeworking employees themselves determine the beginning and end of working time within its statutorily established duration. They also determine on their own their rest periods during the working day, as well as daily and weekly rest periods.

In teleworking the worker or employee arrange independently their working hours so as to be available and to work within the time in which the employer and its trading partners are in communication.

Employment through an enterprise providing temporary employment is carried out for the time necessary to complete a specific job or replace a worker or employee who is absent from work. This enables workers and employees with family responsibilities to work under suitable conditions

Employer's obligations to maintain and improve professional qualification:

The Labour Code envisages that the employer is obliged to ensure conditions for maintaining and enhancing the professional qualifications of workers and employees to perform their obligations under the employment relationship in accordance with the requirements of the work being performed and their future careers.

In the event of prolonged absence of the worker or employee from work, the employer is obliged to provide conditions for his/her familiarization with any new developments in the work that have taken place during his/her absence, and for achievement of the required qualification level for effective performance of his/her duties.

**Opinion of the European Committee of Social Rights**

Under Article 27§1a of the Charter States should provide people with family responsibilities with equal opportunities in respect of entering, remaining and re-entering employment. It underlines that persons with family responsibilities may face difficulties on the labour market due to their family responsibilities. Therefore, measures need to be taken by States to ensure that workers with family responsibilities are not discriminated against due to these responsibilities and to assist them to remain, enter and re-enter the labour market, in particular in the field of vocational guidance, training and re-training. Actions must be taken to promote training aimed at facilitating the remaining and the reintegration of workers with family responsibilities in the employment market. Particular attention should be devoted to part-time workers' unemployment.

The aim of Article 27§1b is to take into account the needs of workers with family responsibilities in terms of conditions of employment and social security. Measures need to be taken to implement this provision, especially measures concerning the length and organisation of working time. Furthermore, workers with family responsibilities should be allowed to work part-time or to return to full-time employment. It should be borne in mind that worker's needs cannot be left to the mere employer's goodwill but must be provided in some binding legal instrument. Periods of unemployment due to family responsibilities should be taken into account in the calculation of pension schemes.

The aim of Article 27§1c is to develop or promote services, in particular child day care services and other childcare arrangements, available and accessible to workers with family responsibilities. Where a State has accepted Article 16, childcare arrangements are dealt with under that provision. In any event, under Article 27§1 parents should be allowed to reduce or cease work because of the serious illness of a child.

The Committee notes that flexible working arrangements are envisaged by new legislation upon return to work. Employers are bound to allow the parents, and in particular the mother, to take such time off work. The parents are also entitled to advancement (payrise, promotion) if they would have been given a rise or promotion were it not for their parenthood responsibilities.

It also notes that retraining is to be provided where there have been technical changes and that it is prohibited to make a parent caring for a disabled child work during nights without their consent.

In view of the case law, and in light of the current situation in law and in practice, the Committee considers there are no obstacles to this provision being accepted by Bulgaria.

## **Article 30 – Right to protection against poverty and social exclusion**

### **Situation in Bulgaria**

Bulgaria is among the countries where the risk of poverty for the population is above the EU average. According to data from the study "Survey on Income and Living Conditions" (EU-SILC) in 2013 the poverty rate in Bulgaria was 21% or were about 1.528 million persons were poor. By age groups, the risk of poverty is the highest for children under 18 years of age - 28.4% and the population of working age - 27.9%. The main risk of poverty for the majority of households in Bulgaria is determined by their economic activity and participation in the labor market. In 2013, the proportion of poor is the highest among the unemployed - 47.6% and pensioners - 25.9%. According to the survey in 2012, 43% of Bulgarians live in material deprivation. Social transfers play an important role in reducing poverty. Indicative in this respect are the following data - the share of the poor before social transfers was 41.8%, and if pensions are included and other social transfers are excluded, it reaches 26.7%.

Reducing poverty and promoting social inclusion of vulnerable groups occupies a significant place in a number of programme and strategic documents at national level - National Development Programme: Bulgaria 2020, Priority 2 "Reducing poverty and promoting social inclusion"; National Reform Programme of the Republic of Bulgaria (update 2015) in the field of social inclusion; the National strategy to reduce poverty and promote social inclusion 2020; the National strategy for long-term care; the National Social Report of the Republic of Bulgaria for 2013-2014.

In keeping with policies at European level to reduce poverty and social exclusion in achieving the goals of strategy "Europe 2020", in 2010 Bulgaria has set a national target for the reduction of people living at risk of poverty (by 260 000 to 2020). To this objective, four sub-targets are set, by which the policies for the children, the elderly, the unemployed and the working poor are placed in the main focus for the Government.

In view of the challenges of poverty and social exclusion, in early 2013 National Strategy for reducing poverty and promoting social inclusion 2020 was adopted. The strategy is based on a national target to reduce the number of people living in poverty by 260 thousand persons by 2020 and outlines the vision, priority areas and actions for the development of policy in the field of poverty and social exclusion in Bulgaria by 2020. In pursuance of the National Strategy for reducing poverty and promoting social inclusion by 2020, an Action Plan is in the process of elaboration, which will set forth concrete measures and activities, indicators for their implementation, responsible institutions, amounts and sources of financing, timelines, etc. The strategy includes 9 priorities, which include key measures for their implementation:

- Providing employment opportunities and raising wages through active involvement in the labor market;
- Ensuring equal access to quality pre-school and school education;
- Ensuring equal and effective access to quality health care;
- Elimination of the institutional model of care and development of inter-sector services for social inclusion;
- Ensuring the sustainability and adequacy of social payments;
- Improving the capacity and interaction in education, health, employment and social services in the realization of common objectives for social inclusion;
- Providing accessible environment - physical, institutional and informational, as well as accessible transportation;
- Improving the living conditions of vulnerable groups and support to the homeless;

- Working in partnership to tackle poverty and social exclusion and their consequences.

In the process of elaboration is also an action plan for implementing the National Strategy that will contain concrete measures and activities for their implementation indicators, responsible institutions, amounts and sources of financing, timelines and others. For its elaboration an interdepartmental working group has been formed, consisting of representatives of all stakeholders - governmental institutions, social partners, NGOs and representatives of the academic circles.

According to data of the Employment Agency, the number of unemployed persons registered at labor offices and the unemployment rate in the country in April 2015 decrease. In the labour offices in the month of April 2015 there were 350,318 registered unemployed. As compared to March, they have decreased by 11,193 persons. On an annual basis, as compared to April 2014, the unemployed are significantly less - by 36 307 persons, which is the largest decrease since the year 2008.

The main principles and priorities for the development of a policy on the promotion of employment are underlying the national Updated Employment Strategy 2013-2020. It is a key strategic document defining the tasks and directing the efforts of all stakeholders in the labor market to improvement of its functioning, increasing the investment in human resources, supporting sustainable macroeconomic development in order to create more and better jobs.

In the medium term, in the period from 2013 to the end of 2015, the main target in the development of employment policy is to increase employment in order to compensate for its decrease during the crisis and to confine unemployment by encouraging the creation of new jobs, improving employment services and activating and training the unemployed so as to provide the latter with the knowledge and skills being sought by employers. In the long term in the period 2015-2020, the objective is a significant improvement of investment in human capital, providing significantly higher performance and sustainable employment and integration into the labor market of employable persons, including from disadvantaged groups at risk of social exclusion.

A legal framework is established (Employment Promotion Act) stimulating the promoting and maintaining employment, which is constantly being improved. The Employment Promotion Act (EPA) regulates the promotion of employment of unemployed individuals who are disadvantaged in the labor market; the vocational guidance and training for adults; the mediation in the delivery of information and employment in the Republic of Bulgaria and in other countries of the Bulgarian citizens, nationals of other Member States of the European Union; the regulation of the access to the labor market to foreigners – nationals of third countries.

In 2014, new measures were introduced in EPA *for the purpose of promoting youth employment*. The provision of opportunities for integration into the labor market of unskilled young persons is a new incentive measure. The implementation of the measure encourages the recruitment of young people up to the age of 29 years with primary or lower education and without qualification to be trained in the skills for specific job under the guidance of a mentor. It is envisaged to subsidize the employment of workers and employees for a period of up to 12 months as well as the salary of the mentor.

Active policy covers other groups as well. Employment and training in various programmes, schemes under OP HRD and measures under the Employment Promotion Act are also provided to target groups: unemployed individuals entitled to social assistance; start-up

entrepreneurs, unemployed persons - single parents (adoptive parents) and/or mothers (adopters) with children below the age of 3 and unemployed mothers (adopters) with children from 3 to 5 years of age; persons who have served prison sentences, workers and employees in need of appropriate training; persons who have been granted international protection; inactive persons who wish to work.

In 2015, with funds from the state budget for active policy on the labor market in the amount of BGN 73 million employment will be provided to 26,415 persons and training will be provided to 12,161 persons.

The Government states that during the period 2000-2011, the active policy on the labour market has contributed to increasing employment by an average of 2.4% and to reducing the unemployment rate by 0.6 percentage points.

### **Opinion of the European Committee of Social Rights**

By introducing into the Charter a new Article 30, the Council of Europe member states considered that living in a situation of poverty and social exclusion violates the dignity of human beings. With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion Article 30 requires States Parties to adopt an overall and coordinated approach, which shall consist of an analytical framework, a set of priorities and corresponding measures to prevent and remove obstacles to access to social rights as well as monitoring mechanisms involving all relevant actors, including civil society and persons affected by poverty and exclusion. It must link and integrate policies in a consistent way moving beyond a purely sectoral or target group approach.

The measures taken in pursuance of the approach must promote access to social rights, in particular employment, housing, training, education, culture and social and medical assistance. It should be noted that this is not an exhaustive listing of the areas in which measures must be taken to address the multidimensional poverty and exclusion phenomena. The measures should strengthen entitlement to social rights, their monitoring and enforcement, improve the procedures and management of benefits and services, improve information about social rights and related benefits and services, combat psychological and socio-cultural obstacles to accessing rights and where necessary specifically target the most vulnerable groups and regions. As long as poverty and social exclusion persist they should also represent an increase in the resources deployed to realise social rights.

Finally, the measures should be adequate in their quality and quantity to the nature and extent of poverty and social exclusion in the country concerned. In this respect the definitions and measuring methodologies applied at the national level and the main data made available are systematically reviewed.

The Committee notes the extensive policy measures undertaken, in particular in collaboration with the European Union, to alleviate poverty and stimulate employment. Employment is an area of particular sensitivity, since the highest proportion of those in poverty are in the unemployed category. The Committee notes that the figure of unemployment has been reduced in the last years.

The integrated measures focus on improving the standard of living while simultaneously budgeting for economic growth. It notes that the strategies from 2004 have successfully run their course, and the current strategy is in place until 2020.

In view of the current case law and on the basis of the information at its disposal, the Committee considers that there are no obstacles to this provision being accepted by Bulgaria.

### **Article 31 – Right to housing**

*Paragraph 1: Applying existing regulations in a spirit of liberality;*

*Paragraph 2: Simplifying existing formalities and reducing dues and taxes;*

*Paragraph 3: Liberalising regulations;*

### **Situation in Bulgaria**

In terms of housing standards, the Committee notes statistics gathered by Eurostat in July 2014, which found that in Bulgaria 51.4% of the at-risk-of-poverty population were found to be lacking indoor flushing toilet and 38.4% of the at-risk-of-poverty population were found to be lacking a bath or shower.<sup>3</sup> It also found that 41.1% of the population lived in houses which were not comfortably warm in winter.

The Committee is aware of data made public by the Minister of Labour and Social Policy in 2013, declaring 1,370 people in Bulgaria to be homeless. It was also stated that Bulgaria had 13 temporary accommodation centres with a total capacity of 625 beds, of which 442 were occupied as of September 2013; 6 shelters with a total capacity of 130 beds, of which 81 occupied, and 13 centers for homeless children with a total capacity of 231, of which 212 spaces were occupied.<sup>4</sup> Also in Sofia there was a center to accommodate those at risk over winter, which had capacity for 71 homeless persons.

Social services are available to those people, and a large number have used them,<sup>5</sup> but there remain obstacles to access for some homeless people.<sup>6</sup>

The Government indicated that the procedure "Support for providing modern social housing for vulnerable, minority and socially disadvantaged groups and other disadvantaged groups" within the Operational Program "Regional Development" 2007-2013 gave the opportunity to certain municipalities to apply European Union funds and invest resources in the development and provision of housing for specific social functions.

Within the Operational Programme "Human Resources Development 2007-2013", these municipalities were given additional financial resources to implement and achieve an integrated approach to tackle the target groups.

Developing mechanisms for the implementation of effective and efficient integrated approach that includes comprehensive measures for social intervention, in combination with an adequate regulatory environment and clear strategic vision for overcoming the problem of accommodation of representatives of the most vulnerable groups, will allow municipalities to respond fully to these problems.

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<sup>3</sup> [http://ec.europa.eu/eurostat/statistics-explained/index.php/Housing\\_conditions](http://ec.europa.eu/eurostat/statistics-explained/index.php/Housing_conditions)

<sup>4</sup> <http://www.novinite.com/articles/155792/Bulgaria's+Social+Policy+Minister+Reports+1370+Homeless+by+Sept+2013#sthash.qQAAZumQ.dpuf>

<sup>5</sup> <http://www.novinite.com/articles/155792/Bulgaria's+Social+Policy+Minister+Reports+1370+Homeless+by+Sept+2013#sthash.qQAAZumQ.dpuf>

<sup>6</sup> <http://eprints.nbu.bg/2423/1/homeless%20in%20bulgaria.pdf>

## **Opinion of the European Committee of Social Rights**

### **Re Article 31§1**

Under this provision States must guarantee the right to adequate housing.

The notion of adequate housing must be defined in law. Adequate housing means a dwelling which is structurally secure, safe from a sanitary and health point of view and not overcrowded, with secure tenure supported by the law.

The criteria for adequate housing are:

- a dwelling is safe from a sanitary and health point of view if it possesses all basic amenities, such as water, heating, waste disposal, sanitation facilities, electricity, etc and if specific dangers such as the presence of lead or asbestos are under control.
- over-crowding means that the size of the dwelling is not suitable in light of the number of persons and the composition of the household in residence.
- security of tenure means protection from forced eviction and other threats (dealt with under paragraph 2 of Article 31).

The standards of adequate housing shall be applied not only to new constructions, but also gradually, in the case of renovation, to the existing housing stock. They shall also be applied to housing available for rent as well as to housing occupied by their owners. The situation in practice is also assessed.

It is incumbent on the public authorities to ensure that housing is adequate through different measures such as, in particular, an inventory of the housing stock, injunctions against owners who disregard obligations, urban development rules and maintenance obligations for landlords. Public authorities must also guard against the interruption of essential services such as water, electricity and telephone.

The effectiveness of the right to adequate housing implies its legal protection. Adequate procedural safeguards are requested. Tenants or occupiers must be given access to affordable and impartial judicial remedies.

Equal treatment with respect to housing (Article E) must be guaranteed, in particular, to the different groups of vulnerable persons, particularly low-income persons, the unemployed, single parent households, young persons, persons with disabilities including those with mental health problems.

The Committee notes that statistics available from Eurostat demonstrate a low level of sanitary standards and heating provision in a large proportion of homes. Accordingly, while certain strategies have been envisaged to improve housing stock, as evidenced in previous reports, there may remain problems of conformity as regards the situation in practice.

## **Re Article 31§2**

With regard to the reduction of homelessness, reactive and preventive measures must be taken.

Homeless are those individuals who legally do not have at their disposal a dwelling or other form of adequate shelter.

States must gradually reduce homelessness, towards its elimination. Reducing homelessness implies the introduction of emergency and longer-term measures, such as the provision of immediate shelter and care for the homeless as well as measures to help such people overcome their difficulties and to prevent them from returning to a situation of homelessness. The temporary supply of shelter, however adequate, cannot be considered satisfactory. Individuals living in conditions of homelessness should be provided with adequate housing within a reasonable period.

States must also take action to prevent categories of vulnerable people from becoming homeless. To this purpose they must implement a housing policy for all disadvantaged groups of people to ensure access to social housing (access to social housing is primarily examined under Article 31§3).

States must set up procedures to limit the risk of evictions and to ensure that when these do take place, they are carried out under conditions which respect the dignity of the persons concerned.

Forced eviction can be defined as the deprivation of housing which a person occupied due to insolvency or wrongful occupation. Legal protection for persons threatened by eviction must include, in particular, an obligation to consult the parties effected in order to find alternative solutions to eviction and the obligation to fix a reasonable notice period before eviction. The law must also prohibit evictions carried out at night or during the winter period, provide legal remedies and offer legal aid to those who are in need of seeking redress from the courts. Procedural safeguards are of great importance. Compensation for illegal evictions must also be provided. When an eviction is justified by the public interest, authorities must adopt measures to re-house or financially assist the persons concerned.

Equal treatment with respect to housing must be guaranteed, in particular, to the different groups of vulnerable persons, particularly low-income persons, the unemployed, single parent households, young persons, persons with disabilities including those with mental health problems.

While it has noted the significant provision of homeless shelters (in terms of demand), the Committee lacks information on programmes for rehousing and rehabilitating homeless persons. It would also need information on eviction legislation and procedures. On this basis, the Committee considers that more information is needed in order to properly assess the situation.

## **Re Article 31§3**

An adequate supply of affordable housing must be ensured.

Housing is affordable if the household can afford to pay initial costs (deposit, advance rent), current rent and/or other costs (utility, maintenance and management charges) on a long-



term basis while still being able to maintain a minimum standard of living, according to the standards defined by the society in which the household is located.

It is incumbent on States to:

- adopt appropriate measures for the construction of housing, in particular social housing;
- ensure access to social housing for all disadvantaged groups of people. Measures to reduce waiting times which are very long must be adopted. Legal remedies must be available in the event of excessive waiting times.
- introduce housing benefits for low-income and disadvantaged sections of the population. Housing allowance is an individual right: all qualifying households must receive it in practice; legal remedies must be available in case of refusal.

Equal treatment with respect to housing (Article E) must be guaranteed, in particular, to the different groups of vulnerable persons, particularly low-income persons, the unemployed, single parent households, young persons, persons with disabilities including those with mental health problems.

The Committee notes that certain programmes have been undertaken in the context of strategic plans to invest in the infrastructure and administration of public and social housing. However, these are operational in only a small percentage of municipalities due to budgetary constraints.

The National Housing Strategy of the Republic of Bulgaria was adopted in May 2004 and the National Programme for Housing Renovation in Bulgaria in January 2005. It is not clear whether reviews or evaluations have been undertaken concerning these stratagems.

On the basis of the information provided in the previous reports and during the meeting, the Committee considers that there are no particular legal obstacles to Bulgaria accepting Article 31§3. In practice, however, the situation is less clear. The municipalities require sufficient financial support to regenerate and increase their housing stock, and it is evident that only certain administrations benefit from European funding in this regard, while the role of the State seems to be diminished. The Committee would need clarification of the situation in practice in order to reach a firm opinion.

## APPENDIX I - Situation of Bulgaria with respect to the European Social Charter

### – Bulgaria and the European Social Charter –

<b>Signatures, ratifications and accepted provisions</b>												
Bulgaria ratified the Revised European Social Charter on 07/06/2000, accepting 62 of its 98 paragraphs, as well as the system of collective complaints.												
Declaration enabling national NGOs to submit collective complaints: not made yet.												
<b>The Charter in domestic law</b>												
Automatic incorporation based on the Constitution, Article 5(4): "Any international instruments which have been ratified by the constitutionally established procedure, promulgated, and come into force with respect to the Republic of Bulgaria, shall be considered part of the domestic legislation of the country. They shall supersede any domestic legislation stipulating otherwise."												
<b>Table of accepted provisions</b>												
1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1	
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3	
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1	
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2	
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1	
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3	
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22	
23	24	25	26.1	26.2	27.1	27.2	27.3	28	29	30	31.1	
31.2	31.3							Grey = Accepted provisions				
<b>Reports on non-accepted provisions</b>												
The European Committee of Social Rights ("the Committee") examines the situation of non-accepted provisions of the Revised Charter every 5 years after the ratification. It adopted <a href="#">reports concerning Bulgaria</a> in 2005, 2012 and 2015. The Committee considers that there are no major legal obstacles to acceptance by Bulgaria of the following provisions: Article 2§1, Article 15§§1-3, Article 17§1, Article 19§§3, 4 a) and b), 5, 7, 9, 10, Article 27§1 and Article 30.												
Further information on the reports on non-accepted provisions is available on the <a href="#">relevant webpage</a> .												

## Monitoring the implementation of the European Social Charter <sup>7</sup>

### I. Collective complaints procedure <sup>8</sup>

#### **Collective complaints (under examination)**

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#### **Collective complaints (proceedings completed)**

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

*International Helsinki Federation for Human Rights (IHF) v. Bulgaria (Complaint No. 44/2007)*

On 5 March 2008, as a result of the insolvency proceedings of the complainant organisation which lacks the capacity to take part in further proceedings in respect of this complaint, the European Committee of Social Rights decided to strike out the case from the list of complaints.

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

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

*European Roma Rights Centre v. Bulgaria (Complaint No. 48/2008)*

- Violation of 13§1 (right to social and medical assistance) alone or in conjunction with Article E (non-discrimination) of the Revised European Social Charter

[Decision on the merits of 31 March 2009.](#)

Follow up:

- [Resolution CM/ResChS\(2010\) 2 on 31 March 2010](#) of the Committee of Ministers.
- Assessment of the follow-up 4 December 2015

*European Roma Rights Centre v. Bulgaria (Complaint No. 46/2007)*

- Violation of Article 11 (right to health)
- Violation of Article 13 (right to social and medical assistance) alone or in conjunction with Article E (non-discrimination) of the Revised European Social Charter

[Decision of the merits of 3 December 2008.](#)

Follow up:

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<sup>7</sup> The Committee monitors compliance with the Charter under two procedures, the reporting system and the collective complaints procedure, according to Rule 2 of the Committee's rules: « 1. The Committee rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure ».

Further information on the [procedures](#) may be found on the [HUDOC database](#) and in the [Digest of the case law of the Committee](#).

<sup>8</sup> Detailed information on the Collective Complaints Procedure is available on the [relevant webpage](#).

- [Resolution CM/ResChS\(2010\) 2 on 31 March 2010](#) of the Committee of Ministers.
- Assessment of the follow-up 4 December 2015
- Assessment of the follow-up 4 December 2015

*Mental Disability Advocacy Centre (MDAC) v. Bulgaria (Complaint No. 41/2007)*

- Violation of Article 17§2 (right of children and young persons to social, legal and economic protection) taken alone and in conjunction with Article E (non-discrimination),

[Decision on the merits of 3 June 2008.](#)

Follow up:

- [Resolution CM/ResChS\(2010\)7 on 20 September 2010](#) of the Committee of Ministers.
- Assessment of the follow-up 4 December 2015

*Confederation of Independent Trade Unions in Bulgaria (CITUB) / Confederation of Labour "Podkrepa"/ European Trade Union Confederation (ETUC) v. Bulgaria (Complaint No. 32/2005)*

- Violation of Article 6§4 (right to collective action)

[Decision on the merits of 16 October 2006.](#)

Follow up:

- [Resolution Res ChS \(2012\)4 of 10 October 2012](#) of the Committee of Ministers.
- Assessment of the follow-up 4 December 2015

*European Roma Rights Center (ERRC) v. Bulgaria (Complaint No. 31/2005)*

- Violation of Article 16 of the Revised Charter taken together with Article E (right of family to social, legal and economic protection)

[Decision on the merits of 18 October 2006.](#)

Follow up:

- [Resolution ResChS\(2007\) 2 on 5 September 2007](#) of the Committee of Ministers.
- Assessment of the follow-up 4 December 2015

## II. Reporting system<sup>9</sup>

### Reports submitted by Bulgaria

Between 2002 and 2015, Bulgaria submitted 14 reports on the application of the Revised Charter.

The [14th report](#), which was submitted by 07/01/2016, concerns the accepted provisions relating to Thematic Group 1 “Employment, training and equal opportunities”, namely:

- the right to work (Article 1),
- the right to vocational guidance (Article 9),
- the right to vocational training (Article 10),
- the right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15),
- the right to engage in a gainful occupation in the territory of other States Parties (Article 18),
- the right of men and women to equal opportunities (Article 20),
- the right to protection in cases of termination of employment (Article 24),
- the right to workers to the protection of claims in the event of insolvency of the employer (Article 25).

In addition, the provides the information required by the Committee in the framework of Conclusions 2014 relating to Thematic Group 3 “Labour rights” (Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29 of the Revised Charter), in the event of non-conformity for lack of information.

Conclusions with respect to these provisions will be published in January 2017.

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<sup>9</sup> Following a [decision taken by the Committee of Ministers in 2006](#), the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years. Following a [decision taken by the Committee of Ministers in April 2014](#), States having accepted the collective complaints procedure are required, in alternation with the abovementioned report, to provide a simplified report on the measures taken to implement the decisions of the Committee adopted in collective complaints concerning their country. The alternation of reports is rotated periodically to ensure coverage of the four thematic groups. Detailed information on the Reporting System is available on the [relevant webpage](#). The reports submitted by States Parties may be consulted in the [relevant section](#).

## Situations of non-conformity <sup>10</sup>

### Thematic Group 1 “Employment, training and equal opportunities” - Conclusions 2012

► *Article 1§1 - Right to work - Policy of full employment*

It has not been established that employment policy efforts have been adequate in combating unemployment and promoting job creation.

► *Article 1§2- Right to work - Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)*

- Swiss nationals and nationals of States Parties to the European Social Charter which are not members of the European Union or of the European Economic Area may not be employed in public service posts, which constitutes discrimination on grounds of nationality;
- The upper limit on the amount of compensation that may be awarded in discrimination cases may preclude damages from making good the loss suffered and from being sufficiently dissuasive.

► *Article 1§4 – Right to work - Vocational guidance, training and rehabilitation*

Nationals of other States Parties lawfully resident or working regularly in Bulgaria are subject to an excessive length of residence requirement for entitlement to vocational guidance, training or rehabilitation.

► *Article 20 - Right to equal opportunities and equal treatment in employment and occupation without sex discrimination*

There is a predetermined upper limit on compensation for employees who are dismissed as a result of sex discrimination which may preclude damages from making good the loss suffered and from being sufficiently dissuasive.

► *Article 24 – Right to protection in case of dismissal*

- Employees undergoing a probationary period of 6 months are not protected against dismissal;
- The termination of employment at the initiative of the employer for some categories of employees, on the sole ground that they have the pensionable age, which is permitted by law, is not justified.
- The maximum amount of compensation for unlawful dismissal is not adequate.

### Thematic Group 2 “Health, social security and social protection” - Conclusions 2013

► *Article 3§3 – Right to safe and healthy working conditions - Enforcement of safety and health regulations*

Measures to reduce the excessive rate of fatal accidents are inadequate.

► *Article 11§3 – Right to protection of health - Prevention of diseases and accidents*

It has not been established that there are adequate measures in force for the prevention of road and domestic accidents.

► *Article 12§1 – Right to social security - Existence of a social security system*

- The minimum level of pension benefit is manifestly inadequate;
- The minimum level of unemployment benefit is inadequate.

► *Article 13§1 – Right to social and medical assistance - Adequate assistance for every person in need*

- People registered with the Employment Office Directorates are not entitled to social assistance before a minimum period of six months;
- The level of social assistance is manifestly inadequate.

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<sup>10</sup> Further information on the situations of non-conformity is available on the [HUDOC database](#).

### **Thematic Group 3 “Labour rights” - Conclusions 2014**

► *Article 4§3 – Right to a fair remuneration - Non-discrimination between women and men with respect to remuneration*

There is a predetermined upper limit on compensation for employees who are dismissed as a result of gender discrimination which may preclude damages from making good the loss suffered and from being sufficiently deterrent.

► *Article 4§4 – Right to a fair remuneration - Reasonable notice of termination of employment*

- The period of notice is not reasonable in the following cases:
  - dismissal with the application of the legal period of notice, beyond three years of service;
  - dismissal in some cases of redundancy, beyond five years of service;
  - dismissal on grounds of long-term illness or incapacity for health reasons, beyond seven years of service;
  - retirement, between seven and ten years of service;
  - dismissal in respect of additional jobs, beyond six months of service;
- No notice period is provided for in the following cases:
  - termination of employment for enforcement of a prison sentence; disqualification from the category or academic diploma required by the employment contract; being struck off the list of a professional association; existing incompatibilities of functions identified under Article 107(a), paragraph 1 of the Labour Code; proven conflict of interest within the meaning of the Conflict of Interest Act;
  - under specific circumstances, termination in the probationary period.

► *Article 4§5 – Right to a fair remuneration – Limits to wage deductions*

After all authorised deductions, the wages of workers with the lowest pay do not enable them to provide for themselves or their dependants.

► *Article 5 – Right to organise*

- Legislation does not provide for adequate compensation proportionate to the harm suffered by the victims of discriminatory dismissal based on involvement in trade union activities;
- Foreign workers’ right to form or to participate in the formation of trade unions is subject to prior authorisation.

► *Article 6§1 – Right to bargain collectively – Joint consultation*

It has not been established that joint consultative bodies exist in the public service.

► *Article 6§2 – Right to bargain collectively – Negotiation procedures*

Machinery for voluntary negotiations is not sufficiently promoted.

► *Article 6§3 – Right to bargain collectively - Conciliation and arbitration*

There is no conciliation or arbitration procedure in the public service.

► *Article 6§4 – Right to bargain collectively – Collective action*

- Civilian personnel of the Ministry of Defense and any establishments responsible to the Ministry are denied the right to strike;
- The restriction on the right to strike in the railway sector pursuant to Section 51 of the Railway Transport Act does not comply with the conditions established by Article G;
- Civil servants are only permitted to engage in symbolic action and are prohibited from strike (Section 47 of the Civil Service Act);
- The requirement to notify the duration of strikes to the employer or his representatives prior to strike action does not comply with the conditions established by Article G of the Charter.

► *Article 22 – Right of workers to take part in the determination and improvement of working conditions and working environment*

It has not been established that the right of workers to take part in the determination and improvement of the working conditions, work organisation and working environment is ensured.

► *Article 28 – Right of workers' representatives to protection in the undertaking and facilities to be accorded to them*

Legislation does not provide for adequate protection in the event of an unlawful dismissal based on trade union membership or activities.

#### **Thematic Group 4 “Children, families, migrants” - Conclusions 2011**

► *Article 7§5 – Right of children and young persons to protection - Fair pay*

The right of young workers and apprentices to a fair wage and other appropriate allowances is not guaranteed due to non-effective enforcement of the legislation.

► *Article 7§9 – Right of children and young persons to protection - Regular medical examination*

The right of young workers to regular medical examination is not guaranteed due to non-effective enforcement of the legislation.

► *Article 7§10 – Right of children and young persons to protection - Special protection against physical and moral dangers*

It has not been established that all children under 18 are effectively protected from all forms of child pornography and child prostitution.

► *Article 8§2 – Right of employed women to protection - Prohibition of dismissal during maternity leave.*

Dismissal of pregnant employees (who are not on maternity leave) is not prohibited.

► *Article 8§5 – Right of employed women to protection - Prohibition of dangerous, unhealthy or arduous work.*

Women having recently given birth, who are not breastfeeding, do not benefit from the possibility of adjustments of their working conditions or temporary reassignment to an adequate post.

► *Article 16 – Right of the family to social, legal and economic protection*

- It cannot be assessed whether Roma families receive adequate protection with regard to housing.
- It cannot be assessed whether Roma families are guaranteed equal access to family benefits.

► *Article 17§2 – Right of children and young persons to social, legal and economic protection - Free primary and secondary education – regular attendance at school*

- It has not been established that measures taken to increase enrolment rates in secondary education are sufficient.
- Children with disabilities are not guaranteed an effective right to education.

► *Article 27§3 – Right of workers with family responsibilities to equal opportunity and treatment – Illegality of dismissal on the ground of family responsibilities*

Legislation does not sufficiently protect workers with family responsibilities against dismissal.



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

**Thematic Group 1 “Employment, training and equal opportunities”**

- ▶ Article 25 - Conclusions 2012

**Thematic Group 2 “Health, social security and social protection”**

- ▶ Article 3§4 - Conclusions 2013
- ▶ Article 11§1 - Conclusions 2013

**Thematic Group 3 “Labour rights”**

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**Thematic Group 4 “Children, families, migrants”**

- ▶ Article 7§3 - Conclusions 2011
- ▶ Article 7§4 - Conclusions 2011
- ▶ Article 7§6 - Conclusions 2011
- ▶ Article 7§7 - Conclusions 2011
- ▶ Article 7§8 - Conclusions 2011
- ▶ Article 8§1 - Conclusions 2011
- ▶ Article 8§3 - Conclusions 2011

### **III. Examples of progress achieved in the implementation of rights under the Charter**

*(update in progress)*

#### **Non-discrimination (sex)**

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

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

#### **Non-discrimination (disability)**

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

#### **Employment**

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

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

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

#### **Social protection**

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

▶ Criminalisation of domestic violence and possibility to adopt restraining orders against their perpetrators (Act of 29 March 2005 on protection against domestic violence, SG No. 27/2005).

## **APPENDIX II - Meeting on the Non-Accepted Provisions of the European Social Charter**



European  
Social  
Charter

Charte  
sociale  
européenne



### **PROGRAMME**

## **MEETING ON THE NON-ACCEPTED PROVISIONS OF THE EUROPEAN SOCIAL CHARTER**

**organised by**

**Department of the European Social Charter, DG I  
Council of Europe**

**and**

**Directorate for European Affairs and International Cooperation  
Ministry of Labour and Social Policy of Bulgaria**

**Sofia, 18 June 2015**

Venue: Ministry of Labour and Social Policy  
2, Triaditza Street  
Sofia 1051 – Bulgaria  
5th floor, Conference room 5

Working languages: Bulgarian and English

The meeting is organised in the framework of the procedure provided for by Article 22 of the 1961 Charter on “non-accepted provisions”. It will consist of an exchange of views and information on the provisions not accepted by Bulgaria.

The overall objective is to ensure the effectiveness of fundamental social rights in Bulgaria.

9.30 Exchange of views on the provisions of the European Social Charter not yet accepted by Bulgaria: opening of the meeting

Ms Ivanka HRISTOVA, Director for European Affairs and International Cooperation, Ministry of Labour and Social Policy

Mr Henrik KRISTENSEN, Deputy Executive Secretary of the European Committee of Social Rights, Council of Europe

**9.40 Articles 9, 10, 18 and 27§1**

Introduction to the morning session

Article 9 (vocational guidance), Article 10 (vocational training), Article 18 (gainful occupation in the territory of other States Parties), Article 27§1 (equal opportunities and equal treatment of workers with family responsibilities) – presentation by Ms Karin LUKAS, member of the European Committee of Social Rights

The situation in law and in practice in Bulgaria – presentations by Mr Galab DONEV, Deputy Minister of Labour and Social Policy and representatives of the Bulgarian authorities

Discussion

**11.00 Coffee break**

**11.15 Articles 12, 13§4 and 30**

Article 12§2 and 12§4 (social security), Article 13§4 (social and medical assistance for foreigners), Article 30 (protection against poverty and social exclusion) – presentation by Ms Krassimira SREDKOVA, member of the European Committee of Social Rights

The situation in law and in practice in Bulgaria – presentations by representatives of the Bulgarian authorities

Discussion

**12.15 Articles 2§1 and 4§1**

Article 2§1 (working time), Article 4§1 (fair remuneration) – presentation by Mr Henrik KRISTENSEN, Deputy Executive Secretary of the European Committee of Social Rights, Council of Europe

The situation in law and in practice in Bulgaria – presentations by representatives of the Bulgarian authorities

Discussion

**13.00 Lunch break**

**14.15 Articles 15, 19, 23 and 31**

Introduction to the afternoon session

Article 19 (right of migrant workers and their families to protection and assistance) – presentation by Mr Kevin BROWN, Assistant Lawyer, Council of Europe

The situation in law and in practice in Bulgaria – presentations by Mr Lazar LAZAROV, Deputy Minister of Labour and Social Policy, and representatives of the Bulgarian authorities

Article 15 (rights of persons with disabilities), Article 23 (rights of the elderly), Article 31 (right to housing) – presentation by Mr Giuseppe PALMISANO, President of the European Committee of Social Rights

The situation in law and in practice in Bulgaria – presentations by representatives of the Bulgarian authorities

Discussion

**16.00 Exchange of views between Ms Zornitsa ROUSINOVA, Deputy Minister of Labour and Social Policy and Mr Giuseppe PALMISANO, President of the European Committee of Social Rights on:**

- a) Prospects for accepting additional provisions;
- b) The Turin Process and the Charter as part of Bulgaria's upcoming chairmanship of the Committee of Ministers;
- c) Collective complaints: possibility of accepting complaints from national NGOs.
- d) Other issues (if any)

**17.00 Concluding remarks**  
Ms Ivanka HRISTOVA and Mr. Henrik KRISTENSEN

**Closing of the meeting**

### APPENDIX III - List of participants

<b>Organization</b>	<b>Name</b>	<b>Position</b>
Ministry of Labour and Social Policy (MLSP)	Zornitsa Roussinova	Deputy Minister
MLSP	Galab Donev	Deputy Minister
MLSP	Lazar Lazarov	Deputy Minister
MLSP Directorate for Labour Law, Social Security and Labour Conditions	Petia Malakova  Larisa Todorova  Mihail Iliev	State Expert, Labour Law and Social Security Unit  State Expert, Labour Law and Social Security Unit  Senior Expert, Labour Law and Social Security Unit
MLSP Directorate for Labour Market Policy and Labour Mobility	Hristo Simeonov  Atanas Kolchakov  Iskren Angelov  Stefka Limanska	Head of Unit, Free Movement of Workers, Migration and Integration  State Expert, Free Movement of Workers, Migration and Integration Unit  Head of Unit, Labour Market Policy  Head of Unit, Professional Qualification
MLSP Directorate for People with Disabilities Policy, Equal Opportunities and Social Aids	Lyudmil Dimitrov  Nadejda Harizanova	State Expert, Equal Opportunities, Non-discrimination and Social Aids Unit State Expert, Integration of people with disabilities Unit
MLSP Directorate for Social Inclusion	Asia Ilieva	Chief Expert, Policies for Social Inclusion, Children and Family Unit
MLSP Directorate for Strategic Planning and Demographic Policy	Temenujka Zlatanova	Head of Unit, Standard of Living, Labour Incomes and Social Economics
MLSP Directorate for European Affairs and International Cooperation	Ivanka Hristova  Alexander Evtimov  Dobrinka Boneva –Ilkova  Agnes Nikolova  Rossina Chirkova	Acting Director  Head of Unit, International Organisations and International Cooperation  Chief Expert, International Organisations and International Cooperation Unit  Senior Expert, International Organisations and International Cooperation Unit

		Senior Expert, International Organisations and International Cooperation Unit
Ministry of Foreign Affairs	Jordanka Parparova	Diplomatic Servant II <sup>nd</sup> rank, Directorate for Human Rights
Ministry of Defense	Colonel Dochko Oleynikov  Alexandra Markova	Head of Unit, Incomes Policy  Chief Expert, Legal Affairs Directorate
Ministry of Agriculture and Food	Lubomira Dukova-Deliiska	State Expert, Directorate for Human Resources
Ministry of Health		
Ministry of Regional Development and Public Works		
Ministry of Education an Science	Yana Yordanova -Kopcheva	Senior Expert, Legal Affairs Directorate
Ministry of Youth and Sports	Maya Slavova	Expert, Directorate for Youth Policies
General Labour Inspectorate Executive Agency	Nikolay Kotov	Senior Legal Adviser, Methodology of the Administrative Penalties and the Inspection Activity Unit
National Employment Agency	Petar Vasilev	Senior Legal Adviser, Legal Affairs Directorate
Social Assistance Agency		
National Social Security Institute	Elena Vladimirova	Senior Expert, Methodology of the application of the European Regulations and Agreements Unit
National Health Insurance Fund	Teodor Ivanov	Expert, Directorate for European Affairs and Coordination of Social Security Systems
The Confederation of the Independent Trade Unions in Bulgaria (CITUB)	Chavdar Hristov  Asia Goneva  Velichka Mikova  Ekaterina Ribarova	Vice President of CITUB, Legal Protection of Labour and Collective Bargaining Executive Secretary of CITUB, Social Protection, Safety and Health at Work  Head of Unit, Social Protection, Protection of Labour and Collective Bargaining  Research Secretary of the Institute for Social and Trade Union Research



Bulgarian Industrial Association (BIA)	Dimitar Brankov Snejana Slavcheva Maria Mincheva	Vice President of BIA Director of the Programme Quality of Labour Legal Adviser
Bulgarian Chamber of Commerce and Industry	Valentina Zartova	Legal Adviser
Confederation of Employers and Industrialists in Bulgaria	Roumyana Georgieva	Parliamentary Secretary and Head of Sector Industrial Relations
<b>Interpreters:</b>		
„Lozanova 48“ Ltd.	Ina Lozanova	
„Lozanova 48“ Ltd.	Kaloyan Kirilov	

## **APPENDIX IV - Declaration of the Committee of Ministers on the 50th anniversary of the European Social Charter**

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

The Committee of Ministers of the Council of Europe,

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

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

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

Emphasising that human rights must be enjoyed without discrimination;

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

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

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

1. Solemnly reaffirms the paramount role of the Charter in guaranteeing and promoting social rights on our continent;
2. Welcomes the great number of ratifications since the Second Summit of Heads of States and Governments where it was decided to promote and make full use of the Charter, and calls on all those member states that have not yet ratified the Revised European Social Charter to consider doing so;
3. Recognises the contribution of the collective complaints mechanism in furthering the implementation of social rights, and calls on those members states not having done so to consider accepting the system of collective complaints;
4. Expresses its resolve to secure the effectiveness of the Social Charter through an appropriate and efficient reporting system and, where applicable, the collective complaints procedure;
5. Welcomes the numerous examples of measures taken by States Parties to implement and respect the Charter, and calls on governments to take account, in an appropriate manner, of all the various observations made in the conclusions of the European Committee of Social Rights and in the reports of the Governmental Committee;
6. Affirms its determination to support States Parties in bringing their domestic situation into conformity with the Charter and to ensure the expertise and independence of the European Committee of Social Rights;

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