



European
Social
Charter

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

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**FOURTH REPORT
ON THE NON-ACCEPTED PROVISIONS OF
THE REVISED EUROPEAN SOCIAL CHARTER
BULGARIA**

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I. SUMMARY

1. Background

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 had "invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the states concerned" (Decision of the Committee of Ministers of 11 December 2002).

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, given that selective acceptance of Charter provisions was meant to be a temporary phenomenon. The aim of the Article 22 procedure is therefore to review the situation after five years and encourage acceptance of more provisions.

Bulgaria ratified the Revised Charter on 7 June 2000, accepting initially 61 of the 98 paragraphs of the Revised Charter. At the time of ratification, Bulgaria did not consider it bound by 37 numbered paragraphs of the Revised Charter. On 16 February 2007 Bulgaria notified the Secretary General of its additional acceptance of Article 2§3.

For the time being, Bulgaria is bound by 62 of the 98 paragraphs of the Revised Charter. It has not accepted 36 numbered paragraphs of the Revised Charter (see the country factsheet in Appendix I), namely Art.2§1, Art.4§1, Art.9, Art.10§§1–5, Art.12§§2 and 4, Art.13§4, Art.15§§1–3, Art.17§1, Art.18§§1–3, Art.19§§1–12, Art.23, Art.27§1, Art.30 and Art.31§§1–3.

Bulgaria has also accepted the collective complaints procedure. However, it has not made a declaration enabling national NGOs to submit collective complaints.

2. Previous Examinations

The procedure provided by Article 22 of the 1961 Charter was applied in respect of Bulgaria for the first time in 2005, and a meeting between members of the European Committee of Social Rights and representatives of various Bulgarian ministries was held in Sofia on 4–5 October 2005. The European Committee of Social Rights delegation at the time concluded that acceptance seemed possible in respect of the following Articles: Art.2§1, Art.2§3, Art.15§1–3, Art.17§1, Art.19§§4(a,b),5,7,9, Art.27§1. The Committee further considered that acceptance was not immediately possible in respect of the following Articles: Art.4§1, Art.12§§2,4, Art.13§4, Art.18§§1–3, Art.19§6,8,10, Art.23, Art.30, Art.31§§1–3. As regards the other non-accepted provisions, the Committee was of the view that the information provided was not sufficient to allow an assessment of Art.9, Art.10§§1–5, Art.19§§1–3,4(c),11,12, Art.26§2, Art.27§1, Art.30, Art.31§§1–3.

Following this meeting, on 16 February 2007 Bulgaria additionally accepted Article 2§3 of the Revised Charter.

For the second time, the examination of non-accepted provisions of the Charter took place in the form of a written procedure in 2010. By a letter dated 9 February 2010 the Committee invited the Bulgarian authorities to provide information on the 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 accept the following provisions of the Charter: Art.2§1, Art.12§2, Art.15§§1–3, Art.17§1, Art.19§§4(a,b),5,7,9 and Art.27§1. In respect of the following provisions the Committee concluded that certain problems of conformity remained: Art.4§1, Art.12§4, Art.13§4, Art.18§§1–3, Art.19§§11,12, Art.23, Art.30 and Art.31§§1–3. As regards Art.9, Art.10§§1–5 and Art.19§§1,2,3,4(c),6,8,10 more information was needed to assess the situation.

With a view to carrying out the procedure for the third time, a meeting between representatives of the European Committee of Social Rights and the Bulgarian authorities was held in Sofia on 18 June 2015. Following this meeting, the Committee considered that there were no major legal obstacles to acceptance by Bulgaria of the following provisions of the Revised Charter: Art.2§1, Art.15§§1–3, Art.17§1, Art.19§§3,4(a,b),5,7,9,10, Art.27§1 and Art.30.

The Committee further considered that the situation in Bulgaria could give rise to problems of conformity in respect of the following provisions of the Revised Charter, pointing out the specific issues: Art.4§1 (the minimum wage was below 50% of the national average), Art.12§4 (absence of bilateral agreements and/or unilateral measures to ensure equal treatment), Art.13§4 (non-nationals had limited rights to emergency assistance), Art.18§§1–3 (non-EU nationals faced difficult procedures to gain visas, with no plans for liberalisation), Art.19§2 (emergency assistance with accommodation and other needs was restricted for migrants), Art.19§6 (spouses did not acquire independent rights to remain within a sufficiently short period), Art.19§7 (interpretation services did not appear to be available in all legal proceedings involving migrants who do not speak the national language), Art.19§8 (expulsion was permitted for grounds unrelated to national security or public order), Art.19§§11 and 12 (non-EU nationals did not enjoy the same rights to language education), Art.23 (the level of pension was insufficient, being below 50% of the median wage), Art.31§1 and §3 (there was insufficient action taken in practice to improve housing standards; municipalities lacked funding to provide adequate social housing). More information was needed to assess the situation with respect to the following provisions: Art.9, Art.10§§1–5, Art.12§2, Art.19§§1,4(c) and Art.31§2.

The Committee also encouraged the Bulgarian 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.

3. Current Examination

The current, fourth examination of non-accepted provisions of the Revised Charter in 2020 is again based on a written procedure.

Based on the report submitted by Bulgarian authorities the situation in respect of the following non-accepted provisions of the Revised Charter is assessed:

- The right to just working conditions – reasonable limits on working hours (Art.2§1)
- The right to fair remuneration – decent standard of living (Art.4§1)
- The right to vocational guidance (Art.9)
- The right to vocational training (Art.10§§1–5)
- The right to social security – satisfactory level of the social security system (Art.12§2)
- The right to social security – coordination of social security systems (Art.12§4)
- The right to social and medical assistance – equal application of the right to nationals of other Parties lawfully residing in their territories (Art.13§4)

- The right of persons with disabilities to independence, social integration and participation in the life of the community (Art.15§§1–3)
- The right of children and young persons to social, legal and economic protection – growing up in an environment encouraging full development of personality and capacities (Art.17§1)
- The right to engage in a gainful occupation in the territory of other Parties (Art.18§§1–3)
- The right of migrant workers and their families to protection and assistance (Art.19§§1–12)
- The right of elderly persons to social protection (Art.23)
- The right of workers with family responsibilities to equal opportunities and equal treatment (Art.27§1)
- The right to protection against poverty and social exclusion (Art.30)
- The right to housing (Art.31§§1–3)

Having examined the information provided in the report, the Committee welcomes the readiness expressed by the Bulgarian authorities to accept several provisions of the Revised Charter, namely Art.9, Art.10§2, Art.10§3(a), Art.12§2, Art.12§4, Art.17§1 and Art.27§1(a) and (b).

The Committee also reiterates its earlier finding that from the point of view of the situation in law and in practice there are no major obstacles to the acceptance by Bulgaria of Art.2§1, Art.10§4, Art.19§§5 and 9, and Art.27§3. Bulgaria is encouraged to accept also Art.19§6, while some additional information on the situation in practice is needed.

As regards the concern expressed by the Bulgarian authorities that if they were to accept Article 10§§1, 3(b), 4 and 5, and Article 15§§1–3, collective complaints alleging unsatisfactory application could be submitted against Bulgaria, the Committee stresses that a fear of collective complaints shall not overshadow the commitment to pursue by all appropriate means the attainment of conditions in which the respective rights could be effectively realized by everyone.

The Bulgarian report does not provide any or some substantive information to assess the situation as regards Article 19§§1–4, 7, 9 and 10, and Article 31§3. Further updated information on the situation in practice is also needed for a proper assessment of Art.13§4, Art.15§§1–3 and Art.18§§1–3 and Art.19§§11 and 12.

As regards Art.4§1, Art.10§1, Art.19§8, Art.23, Art.27§1(c), Art.30 and Art. 31§§1 and 2, the current situation may pose problems of conformity with the requirements of the Revised Charter. The Government is encouraged to take efforts towards ensuring the respective rights in law and in practice.

The European Committee of Social Rights remains at the disposal of the authorities of Bulgaria and encourages them to take the necessary steps towards acceptance of additional provisions of the Revised Charter.

The factsheet on the provisions of the Revised Charter accepted by Bulgaria appears in Appendix I.

The next examination of the provisions not yet accepted by Bulgaria will take place in 2025.

II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS

The Bulgarian authorities submitted a written report on the situation in respect of the non-accepted provisions of the Revised Charter on 25 August 2020. The report presents the situation in Bulgaria concerning the non-accepted provisions of the Revised Charter, indicating also the current position of the Bulgarian authorities as regards possible acceptance of concerned provisions.

Article 2§1 (*Right to just working conditions – reasonable limits on working hours*)

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:

➤ to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit.

Situation in Bulgaria

In Bulgaria, the duration of working hours, including daily and weekly working time, is regulated by the Labour Code and the Ordinance on Working Time, Rest Periods and Leaves. Additionally, there are special ordinances for some categories of activities.

According to Article 136, pp. 1 and 3 of the Labour Code, the working week includes 5 working days, the normal duration of the weekly working time up to 40 hours, and the normal duration of the working hours during the working day is up to 8 hours. The normal duration of working hours is in accordance with the EU Working Time Directive 2003/88/EC. In accordance with the Ordinance on Working Time, Rest Periods and Leaves, in certain cases and following the established procedure, the working time may be extended. Extension of the working time is considered a form of flexible work organization.

The authorities note that more favourable conditions and a shorter duration of working time can be negotiated in collective agreements.

The Bulgarian authorities express their concern about the requirement of Art.2§1 to provide for the progressive reduction of weekly working hours, to the extent permitted by productivity increases and other relevant factors (such as the nature of the work and the safety and health risks to which workers are exposed). The Bulgarian authorities note that in their view, regulating the gradual reduction of the working week's duration by law would restrict the freedom of collective agreements, and the freedom of employers to assess which production factors permit or prevent the reduction of working hours. They also note a need for an in-depth economic analysis to be carried out to assess the potential impact of the reduction of the working week's duration on labour productivity. On these grounds they consider that Art.2§1 should not be accepted at this stage.

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.

Flexibility measures regarding working time are not as such in breach of the Charter, but shall comply with some overarching criteria:

- (i) the maximum daily and weekly hours referred to above must not be exceeded;
- (ii) there shall be a legal framework providing for adequate guarantees;
- (iii) reasonable reference periods, not exceeding 6 months (extended to 1 year in exceptional circumstances) shall be provided for the calculation of average working time.

In its previous, third report on non-accepted provisions in 2015, the Committee took note of the regulations and practice as regards possible extensions of working time. The Committee also acknowledged 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 reiterates its previous finding that there are no effective obstacles to acceptance by Bulgaria of Article 2§1.

Article 4§1 (*Right to fair remuneration – decent standard of living*)

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

➤ to recognise the right of workers to remuneration such as will give them and their families a decent standard of living.

Situation in Bulgaria

In Bulgaria, the right to a minimum labour remuneration is a basic right of workers and employees in the Constitution, Article 48, para 5. The setting of the minimum labour salary is regulated by Article 244 of the Labour Code. Determination of the minimum labour salary is based on consultations with representative organisations of employees and of employers at the National Council for Tripartite Consultations. The amount of the minimum labour salary is established by a Decree of the Council of Ministers. The minimum labour salary applies on the national scale for all persons employed under employment relationship and refers to a full working month with an 8-hour working day and a 40-hour working week.

On 24 January 2018, Bulgaria ratified the ILO Convention No. 131 on the minimum wage fixing. The first report on the implementation of the Convention was presented in 2020.

As of 1 January 2020, the gross minimum wage in Bulgaria is BGN 610, whereas the net minimum wage is BGN 473. Both amounts increased by 8.9% as compared to the previous year. At the same time, the national poverty line was BGN 363.

The report provides data on the evolution of the average gross and net monthly wages in different sectors of economic activities over the period 2015–2019. In 2019, the net average wage monthly salary across all sectors of the economic activities in Bulgaria was BGN 988, while the net minimum wage was BGN 435. The ratio of the net minimum wage to net average wage was 44%.

The Bulgarian authorities consider that a legal framework for fair wage formation has been established and there has been a positive trend in the evolution of the minimum wage over the recent year. Nonetheless, they consider that accepting Art.4§1 of the Revised Charter is still a major challenge and is not planned at this stage.

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 net wages (after deduction of any taxes and social security contributions) paid to full-time workers in the labour market, whether it is a statutory minimum wage or wages fixed by other means, notably collective agreements.

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. However, in circumstances where the lowest wage is less than half the average wage the situation is held to be in breach of Charter independently of such evidence.

The Committee takes note that as the net minimum labour salary in Bulgaria falls below 50% of the net average wage, the situation does not comply with requirements of Art.4§1 of the Revised Charter. The Bulgarian authorities are encouraged to take necessary measures to bring the situation in law and in practice in conformity with the requirements of Art.4§1, thus allowing its acceptance.

Article 9 (Right to vocational guidance)

With a view to ensuring the effective exercise of the right to vocational guidance, the Parties undertake:

➤ to provide or promote, as necessary, a service which will assist all persons, including the handicapped, to solve problems related to occupational choice and progress, with due regard to the individual's characteristics and their relation to occupational opportunity: this assistance should be available free of charge, both to young persons, including schoolchildren, and to adults.

Situation in Bulgaria

The Preschool and School Education Act (PSEA) and the Vocational Education and Training Act (VETA) provide equal terms for all persons regarding the provision of career consultation and career orientation. Career consultation, including support for pupils with special learning needs, is carried out by personality development support centres. Such support and assistance is provided free of charge. Vocational orientation includes the provision of information, consulting, and counselling to students and to other persons regarding the choice of profession and carrier development in the framework of vocational education and training.

The Ministry of Education and Science has organized the National Career Guidance Portal to provide public information and methodological resources on career orientation.

According to Article 17(1) of the Employment Promotion Act, career guidance services are offered to job seekers (unemployed persons, employed persons, or students wishing to work during off-study time) registered with the Labour Bureau Directorates. Intermediary employment services, including vocational orientation, are organised and provided free of charge by the Employment Agency and its territorial units. Such services are provided on equal grounds to Bulgarian nationals, nationals of other EU Member States, nationals of EEA countries and Swiss Confederation, foreigners holding a long-term or permanent residence permit, persons granted refugee status or the right to asylum or other humanitarian protection as well as to third-country nationals, if they are family members of Bulgarian citizens or of nationals of a EU Member State or an EEA country, or of the Swiss Confederation, and family members of foreigners who have been granted a long-term residence permit, EU Blue Card holders who have remained jobless for 3 months or wish to change their employer.

The Bulgarian authorities conclude that there are no obstacles to accept Article 9.

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.

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 the Employment Promotion Act regulates the provision of employment services, including vocational guidance for jobseekers, who may receive counselling free of charge, whereas the rights under the Employment Promotion Act can be exercised without discrimination based on nationality. Nonetheless, the list of persons eligible to equal treatment under the Employment Protection Act does not seem to cover all nationals of other Contracting Parties of the Revised Charter lawfully resident or working regularly in Bulgaria. The Committee also seeks assurance whether the Public Education Act and the Vocational Education and Training Act guarantees equal treatment to nationals of all other States Parties to the Charter, including non-EU nationals.

The Committee welcomes the readiness indicated by the Bulgarian authorities to accept Article 9 of the Revised Charter and encourages them to proceed towards acceptance with no further delay.

Article 10 (Right to vocational training)

With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake:

Article 10§1

➤ to provide or promote, as necessary, the technical and vocational training of all persons, including the handicapped, in consultation with employers' and workers' organisations, and to grant facilities for access to higher technical and university education, based solely on individual aptitude;

Situation in Bulgaria

According to Article 19 (2) p.1 of the Employment Promotion Act, all unemployed persons registered at the Employment Agency may be included in adult training. Adult training includes literacy training, training for acquisition of key competences, as well as training for attainment of professional qualification for professions and specialities included in the List of Professions for Vocational Education and Training under Article 6 (1) of the Vocational Education and Training Act (VETA). Pursuant to Article 54 (2) of the Regulations for implementation of the VETA, vocational training for adults is based on the principles of freedom of choice of profession, type and form of training, free and equal access to training, as well as compliance of training with the labour force needs of employers, the state of the labour market and the capacities of individuals.

The Council of Ministers shall adopt annually a National Action Plan for Employment (NAPE), which *inter alia* specifies the employment and training programmes and measures, as well as the amount of the financial resources allocated to them.

The tripartite National Employment Promotion Council shall discuss and give opinions on the development and implementation of the employment policy and of the NAPE, propose to the Ministry of Labour and Social Policy the elaboration of draft statutory instruments, measures and programmes for employment promotion, discuss and give opinions on draft statutory instruments associated with the labour market, discuss a list of professions for which a vocational training of unemployed without a job to be carried out, etc.

The report expresses the concern of the Bulgarian authorities that if they were to accept Art.10§1, collective complaints alleging unsatisfactory application of the provision could be submitted against Bulgaria.

The Bulgarian authorities indicate that they do not currently plan to accept Article 10§1.

Opinion of the European Committee of Social Rights

Under Article 10§1 the right to vocational training must be guaranteed to everyone. In order to provide for vocational training States must:

- ensure general and vocational secondary education, university and non-university higher education; and other forms of vocational training;
- build bridges between secondary vocational education and university and non-university higher education;
- introduce 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;
- take measures to make general secondary education and general higher education qualifications relevant from the perspective of professional integration in the job market;
- introduce mechanisms for the recognition of qualifications awarded by continuing vocational education and training.

In their report, the Bulgarian authorities express a concern as regards the broad personal scope of Article 10§1, whereby the obligation to provide technical and vocational training extends to all persons.

The Bulgarian report does not provide an answer to the request for clarification by the Committee in the 2016 report as to whether the relevant Bulgarian legislation on vocational training guarantees equal treatment to nationals of all other States Parties, including non-EU nationals.

The Committee invites Bulgaria to continue their efforts with a view to securing the effective right to vocational training, and acceptance of Article 10§1.

Article 10§2

➤ to provide or promote a system of apprenticeship and other systematic arrangements for training young boys and girls in their various employments.

Situation in Bulgaria

According to the Employment Promotion Act (EPA) (Articles 17(2) and 41) incentives for internship and/or apprenticeship are given to employers. For each job created for internship, which is filled by an unemployed person under 29 years of age (young age) hired upon referral by the divisions of the Employment Agency, the employer is granted sums intended for labour remunerations and benefits payable by the employer, for the period of training and/or internship of any such job holder up to 9 months. To be eligible to fill a job created for internship, a person must have attained, during the last preceding 24 months, the relevant qualification and shall not have prior employment service in this occupation. Art. 46 of EPA encourages employers to appoint persons over 29 years of age who meet the same criteria to internship positions.

During the apprenticeship, the employer shall be obligated to ensure training of the person hired in the specific workplace by a mentor. The mentor shall be a person of the same enterprise who, in the process of work, shall train the person hired in the relevant occupation or trade and who possesses at least 5 years of professional experience in the same occupation or trade, or qualification certified by a document and at least 3 years professional experience in the same occupation or trade.

The employer shall also be provided with sums for the mentor for the period of mentoring up to 24 months. Any employer who sustains the employment of any unemployed person hired for apprenticeship for an additional period of a length equal to the period of subsidization, shall be provided with sums for the mentor for the additional period as well. Art. 55d of EPA encourages employers to employ persons over 29 years of age for apprenticeships under the same conditions.

Art. 46a of EPA provides an opportunity for learning-by-doing forms of instruction (dual system of instruction). For each job created for learning-by-doing forms of instruction under the Vocational Education and Training Act (VETA) and filled by an unemployed person who is hired upon referral by a division of the Employment Agency, the employer shall be provided with sums according to EPA Art. 30a (2) (salaries, benefits, mentor's remuneration payable by the employer) for the period of learning up to 36 months. For each unemployed person, who is hired for learning-by-doing forms of instruction (dual system of instruction), sums according to EPA Art. 30a (2) (sums for adult training) shall be provided to the affiliated training institution for the training period.

The labour legislation regulates specific employment contracts for in-service training and internship, enabling young people to master a profession and/or acquire practical skills in an acquired profession or speciality in the course of carrying out their work duties.

An employment contract with a condition for internship (Labour Code, Article 233a–233b) may be concluded with a person up to the age of 29 years who has completed their secondary or higher education and without work experience or professional experience in the profession or speciality acquired by them. The internship is the performance of work under the mentorship of the employer or a mentor designated by the employer in order to acquire practical skills in an acquired profession or speciality. Such a contract with the same person may be concluded only once. The duration of the contract may not be less than 6 and more than 12 months, and the position must correspond to the qualification acquired by the person.

Through the employment contract with a condition for in-service training (Labour Code Art. 230–233), the employer undertakes to train the employee in the course of work in a particular profession or speciality, and the employee undertakes to learn it. Such an employment contract is also concluded with pupils included in a dual training system organized under the conditions and in accordance with the VETA. The duration of the training is generally up to 6 months, except in certain cases when the duration of the dual training is determined in accordance with the relevant curricula. In the contract, the parties also determine the period during which the employee is obliged to work with the employer after the successful completion of the training and the employer, to provide them with a job according to the acquired qualification. Such a period shall not be more than 3 years. During the training, the employee receives a salary according to the work performed, but not less than 90% of the minimum wage established for the country. The pupils in the dual training system shall receive a remuneration amounting to: for the XI grade – not less than twice, and for the XII grade – not less than three times the maximum amount of the monthly grant determined in accordance with Art. 171, para. 3 of the Pre-school and School Education Act.

The legal framework for the dual training system is contained in VETA, Ordinance No. 1/2015 on the terms and conditions for conducting work-based learning (dual training system).

Work-based learning is defined in the VETA as a specific form of vocational training organised on the basis of a partnership, including a contract, between an institution in the vocational education and training system or a secondary school, a vocational secondary school or a seminary school, when providing vocational training, and one or more employers. When the employment contract under Art. 230 of the Labour Code is concluded with pupils for training within the dual training system, the organization and the conducting of the training shall be carried out in accordance with Art. 9, Art. 10, Art. 11, Art. 14, Art. 15, para. 1, Art. 16 – 22 of Section II of Ordinance No. 1/2015.

Another option for acquiring a profession, a skilled craft, is the training regulated by the Skilled Crafts Act. According to the legal definition contained in Art. 3, para. 1 of the Skilled Crafts Act, the 'skilled craft' is an activity for the manufacturing of products and/or the provision of services in a craftsmanship manner. A person at the age of 16 years who does not receive education in a day form school of the pre-school and school education system or in a full-time form in a higher education institution may be accepted as an apprentice. This condition shall not apply to the training of persons with disabilities in a skilled crafts training system developed specifically for them, where there is a contractual relationship between the school and the Regional Chamber of Skilled Crafts and a training programme approved by the National Chamber of Skilled Crafts and endorsed by the Ministry of

Education and Science. The Labour Code shall apply to the employment relationship between the apprentice and the master.

The Bulgarian authorities conclude that they do not observe any obstacles to accept Article 10§2.

Opinion of the European Committee of Social Rights

According to Article 10§2, young people have the right to access to apprenticeship and other training arrangements. Apprenticeship can mean training based on a contract of employment between the employer and the apprentice and leading to vocational education; whereas other training arrangements may consist of school-based vocational training. They both must combine theoretical and practical training and close ties must be maintained 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; termination of the apprenticeship contract. The main indicators of compliance with Art.10§2 are:

- the existence of apprenticeships or other training arrangements for young people;
- the quality of these trainings i.e. the number of people enrolled, the total spending, both public and private, on these types of training and the availability of places for all those seeking them.

Equal treatment with respect to access to apprenticeship and other training arrangements must be guaranteed to nationals of other Parties lawfully resident or regularly working on the territory of the Party concerned, while no length of residence may be required.

The Committee welcomes the readiness of the Bulgarian authorities to accept Article 10§2, which concurs with the earlier finding of the Committee in that Article 10§2 could be immediately accepted by Bulgaria.

Article 10§3

- to provide or promote, as necessary:
 - a. adequate and readily available training facilities for adult workers;
 - b. special facilities for the re-training of adult workers needed as a result of technological development or new trends in employment.

Situation in Bulgaria

Pursuant to EPA Art. 63 and in accordance with EPA Application Regulation Art. 63, the Employment Agency shall finance training of unemployed and employed persons up to the established maximum amount of funds for training of one person defined in the NAPE for the relevant year. The employer has the right to designate a training institution meeting EPA requirements or to request the EA directorate to organise training for the acquisition of professional qualifications or key competences of unemployed and employed persons, in order to provide and maintain employment. The employer is committed to provide or maintain employment for all successful graduates for a period of not less than 6 months after completion of the training. In the case of vocational training, the employer shall provide or maintain employment for the specific job for which the person has been involved in training.

The applications submitted by employers are assessed and selected by the Cooperation Councils of respective units of the Employment Agency in accordance with the priorities of municipal development plans and labour needs. The relationship between the approved

employer and the EA division are governed by a contract. Funding and training of persons in enterprises under EPA Art. 63 (1), item 3 is carried out with equal participation of the EA and the employer.

More than 1,000 training institutions, including adult vocational training centres at enterprises, vocational high schools, colleges and higher schools are licensed by the National Agency for Vocational Education and Training. Training of employees is also provided by the Bulgarian-German Vocational Training Centre State Enterprise (DBBZ). One of the main public missions of the Enterprise, in addition to supporting the integration of unemployed persons from disadvantaged groups on the labour market through training leading to the acquisition of vocational qualification and key competences, is improving adult trainers' competences, as well as training mentors, external experts and adult trainers in specific professions (EPA Art. 60a).

Chapter 11 'Professional Qualification' (Article 228a–228b) of the Labour Code regulates an obligation for the employers to maintain and improve the professional qualification of workers and employees to effectively perform their obligations under the employment relationship in accordance with the requirements of the work performed and their future professional development. In the event of the employee's prolonged absence from work, the employer is obliged to provide them with the conditions for familiarizing themselves with the developments in the work that occurred during their absence and for achieving the necessary qualification level for the effective performance of their duties. On the other hand, the workers and the employees are also obliged to maintain and to further enhance their professional qualification by participating in the forms of training organised or funded by the employer to maintain and enhance their professional qualification, to improve their professional skills, and to make efforts to raise their level of qualification according to the nature of the work performed.

Articles 234 and 235 of the Labour Code regulate a contract for higher qualification training and re-training (acquisition of another profession or speciality) of workers and employees. An existing employment relationship is required for the conclusion of such a contract, which shall determine the profession and the speciality in which the employee is to be trained; the place, the form and the time of the training, as well as the financial, the living and the other conditions for the duration of the training. A contract for higher qualification training and re-training may also be concluded between an employer and a person preparing for work with the employer upon completion of the training.

When changing the activity, the economic situation and the organization of labour of the company, as well as in case of a change of the employer, and in cases of mass dismissal, the Labour Code regulates an obligation for the employers to inform and consult trade unions and workers' and employees' representatives (Articles 7 and 7a). The trade unions and the workers' and employees' representatives are obliged to acquaint the workers and the employees with the information received from the employer, as well as to take their opinion into account when conducting the consultations. The workers and the employees are entitled to timely, reliable and understandable information on the economic and financial situation of the employer that is relevant to their employment rights and obligations.

In case of mass dismissals, the set of necessary measures drafted by teams consisting of a representative of the employer, representatives of the factory and office workers' organisations at the enterprise concerned, a representative of the competent division of EA, and a representative of the municipal administration, shall include measures aimed at organising adult training for retraining and labour reintegration.

The Bulgarian authorities note in the report that for them the meaning of 'special facilities' in Article 10§3(b) remains unclear. In this regard they express a concern that if they were

to accept Art.10§3(b), collective complaints alleging unsatisfactory application of the provision could be submitted against Bulgaria.

The Bulgarian authorities conclude that they do not observe any obstacles to accept Article 10§3(a). On the other hand, they indicate that they do not currently plan to accept Article 10§3(b).

Opinion of the European Committee of Social Rights

Under Article 10§3 the right to continuing vocational training must be guaranteed to employed and unemployed persons, including young unemployed people. For both employed and unemployed persons, the main indicators of compliance with this provision are the types of continuing vocational training and education available on the labour market, training measures for certain groups, such as women, the overall participation rate of persons in training and the gender balance, the percentage of employees participating in continuing vocational training, and the total expenditure.

As regards employed persons, States are obliged to provide facilities for training and retraining of adult workers to help fight against the deskilling of still active workers at risk of becoming unemployed as a consequence of technological and/or economic development. As regards unemployed people, vocational training must be available. To assess the impact of activation policies, the activation rate – the ratio between the annual average number of previously unemployed participants in active measures divided by the number of registered unemployed persons and participants in active measures – is used.

The Committee also taken into account whether there is a legislation on individual leave for training and its characteristics (in particular the length, the remuneration, and the initiative to take it), and how the burden of the cost of vocational training is shared among public bodies, unemployment insurance systems, enterprises, and households.

The Committee welcomes the readiness of the Bulgarian authorities to accept Article 10§3(a) of the Revised Charter, which concurs with the earlier finding of the Committee that Article 10§3(a) could be immediately accepted by Bulgaria. The Committee also encourages the Bulgarian authorities to continue their efforts towards acceptance of Article 10§3(b).

Article 10§4

➤ to provide or promote, as necessary, special measures for the retraining and reintegration of the long-term unemployed.

Situation in Bulgaria

Providing the long-term unemployed with employment opportunities is regarded as one of the main priorities of the active labour market policy in Bulgaria. Various measures are applied to implement the EU Council Recommendation of 15 February 2016 on the integration of long-term unemployed persons into the labour market. Actions are aimed at addressing the identified problems causing the situation of long-term unemployment and accelerating the transition from unemployment to employment.

Depending on specific needs, long-term unemployed persons registered at the Employment Agency are provided a range of employment mediation services, such as: motivating and enabling the use of integrated services; providing access to different types of training; promoting employment, including via subsidised jobs; targeting group and

individual forms of career guidance or improving skills, including through participation in a Job Seeking Studio; psychological support; holding job exchanges, etc.

Individuals may also be directed to seek services outside the Employment Agency, including case manager services such as literacy programmes of the Ministry of Education and Science, career development centres, social services and integration NGOs, specialised consultancy/intermediary companies, validation of informally acquired knowledge, skills and competences, etc.

Since 2018, a Labour Market Integration Agreement shall be concluded with any long-term unemployed person between the 12th and 18th month of registration as an unemployed person. This Agreement includes offers to use employment mediation services and suggestions for referral to services provided by other institutions.

In January 2019, a National Framework Agreement was signed between the Ministry of Labour and Social Policy, the Ministry of Education and Science, the Ministry of Health and the National Association of Municipalities in the Republic of Bulgaria, in support of the reintegration into employment of the long-term unemployed. By signing the Agreement, the institutions committed themselves to support the provision of comprehensive services in order to address the problems hampering the employment of the long-term unemployed. 73 Centres for Employment and Social Assistance have been established which provide employment and social assistance services to long-term unemployed persons and conclude employment integration agreements.

Long-term unemployed persons are included as a priority group in many employment and training programmes, funded by the state budget (such as regional employment programmes and social partner projects) under which unemployed people undergo training in key competences, acquire professional qualifications and are then engaged in employment. They are also a target group under the operations of the Human Resources Development Operational Programme (OP HRD) 2014-2020 funded by the European Social Fund, such as Work, Training and Employment, Training and Employment of Young People, etc. There are also other specific initiatives aimed at the long-term unemployed, such as the National Programme for Training and Employment for the Long-term Unemployed, financed by state budget funds and EPA promotional measures. According to EPA Art. 55c, any employer hiring long-term unemployed persons is granted financial resources intended for labour remunerations and the related social and health insurance contributions. Similarly, under EPA Art. 36a, for each job created and filled by an unemployed person under 29 years of age, whose has been registered as unemployed without interruption for at least 12 months, and who is hired for part-time work, the employer is granted financial resources intended for labour remunerations and the related social and health insurance contributions.

As a result of the Employment Agency's intermediation to work in the primary labour market (outside measures and programmes), 26,117 people were hired in 2018. In 2019 the number of long-term unemployed persons hired amounted to 19,508. In 2018 and 2019, a total of 15,702 long-term unemployed were newly included in programmes and measures financed by the state budget and OP HRD.

As regards possible acceptance of Article 10§4, the Bulgarian authorities express a concern that despite the accomplished results, if they were to accept this provision, collective complaints alleging unsatisfactory application of the provision could be submitted against Bulgaria. Therefore they do not currently plan to accept Article 10§4.

Opinion of the European Committee of Social Rights

In accordance with Article 10§4, States must fight long-term unemployment through retraining and reintegration measures. A person who has been without work for 12 months or more is long-term unemployed. The main indicators of compliance with this provision are the types of training and retraining measures available on the labour market, the number of persons in this type of training, the special attention given to young long-term unemployed, and the impact of the measures on reducing long-term unemployment. Equal treatment with respect to access to training and retraining for long-term unemployed persons must be guaranteed to non-nationals on the basis of the conditions mentioned under Article 10§1.

The Committee reiterates its earlier finding that there are no major obstacles to acceptance by Bulgaria of Article 10§4.

Article 10§5

➤ to encourage the full utilisation of the facilities provided by appropriate measures such as:

- a. reducing or abolishing any fees or charges;
- b. granting financial assistance in appropriate cases;
- c. including in the normal working hours time spent on supplementary training taken by the worker, at the request of his employer, during employment;
- d. ensuring, through adequate supervision, in consultation with the employers' and workers' organisations, the efficiency of apprenticeship and other training arrangements for young workers, and the adequate protection of young workers generally (Art. 10§5)

Situation in Bulgaria

As regards Article 10§5(a), the report explains that unemployed persons participating in training under the Employment Promotion Act (EPA) programmes and measures, are paid a study grant and travel and accommodation allowances for the training period (EPA Art. 66(3)). Training costs for the unemployed are financed by the state budget. These services are provided without charging any fees or other payments from the persons (EPA Art. 27 (3) and Art. 28 (7)). Funding possibilities for financing the training costs of employees are regulated under EPA at the rate set out in the NAPE for the relevant year. Nonetheless, considering that the scope of Article 10§5(a) is not limited to specific vulnerable group(s) on the labour market, but concerns all persons, the Bulgarian authorities indicate that they do not currently plan to accept this provision.

As regards Article 10§5(b), the Bulgarian authorities are also concerned that the scope of the provision is quite broad, referring to the phrase "granting financial assistance in appropriate cases". In particular, they note that the notion of 'appropriate cases' is not clarified, leaving various interpretations possible. For this reason, as there is no definition of the scope of 'appropriate cases', they are concerned that if they were to accept this provision, collective complaints alleging unsatisfactory application of the provision could be submitted against Bulgaria.

As regards Article 10§5(c), Chapter 11 on Professional Qualification (Article 228a–228b) of the Labour Code regulates an obligation for the employers to maintain and improve the professional qualification of workers and employees to effectively perform their obligations under the employment relationship in accordance with the requirements of the work performed and their future professional development. This obligation of the employers is in line with the obligation established by the Labour Code for the workers and the employees to maintain and to enhance their professional qualification by participating in the forms of training organized or funded by the employer to maintain and enhance their professional qualifications, to improve their professional skills, and to make efforts to raise their

qualification level in accordance with the nature of the work performed. The fulfilment of these obligations by the parties to the employment relationship should take place within the normal working hours, unlike in the cases where a contract for higher qualification training and re-training is concluded in which, according to LC Art. 234, para. 2, the place, the form and the time of the training, as well as the financial, the living and the other conditions for the duration of the training are regulated.

Regarding the employment of minors, according to the Labour Code Article 305, para. 1 and 3, the employer shall take special care when employing persons under the age of 18 by providing them with lighter working conditions and conditions for acquiring professional qualification, as well as the further improvement of this qualification. Daily and weekly working hours shall also include the time for acquiring and enhancing the professional qualifications when these are carried out in the course of work.

As regards Article 10§5(d), the report refers to the EPA employment and training measures, which include internship, apprenticeships and learning-by-doing forms of instruction (see also above under Article 10§2).

Regulations governing the arrangements for organising and conducting vocational training, including dual system of training and traineeship, have been adopted in consultation with employers' and employees' representative organisations at national level.

Learning-by-doing forms of instruction (dual system of training) is organised on the basis of a partnership, which includes a contract between one or more employers and an institution in the vocational education and training system. The trainee in dual system of training shall conclude a contract with the employer in accordance with the provisions of the Labour Code. The contracts shall set the rights and obligations of the parties related to the organisation and conduct of learning-by-doing forms of instruction, the number of trainees, the duration of the training, the provision of the physical and technical basis for acquiring the skills defined in the state educational standard for obtaining qualifications by profession and the educational documentation, as well as the trainers.

The Ordinance № E-RD-04-4 of 8.11.2019 of the Minister of Economy regulates the terms and conditions for the creation and maintenance of an information database of employers who meet the requirements of the VETA in terms of participation in partnerships for the implementation of learning-by-doing forms of instruction of pupils and trainees aged 16 and over.

The labour of minors is regulated by respective provisions of the Labour Code, the Ordinance No. 6/2006 on the terms and conditions for granting work permits to persons under 18 years of age and the Ordinance on the work of persons under 15 years of age (in the field of arts).

The Labour Code provides that a person up to the age of 18 may be employed under an employment relationship only if the work is not severe, hazardous or harmful to the health or for the proper development of the child and the performance of the work does not prevent the child from regularly attending and preparing for classes.

Persons under the age of 18 shall be prohibited from carrying out work which is:

1. beyond their physical or mental capacity;
2. associated with exposure to harmful physical, biological or chemical influences, especially with toxic agents, carcinogens, agents that cause heritable genetic or intrauterine damage;
3. related to hazards which may have permanent adverse effects in any way on the health;

4. carried out in a radioactive environment;
5. carried out at extremely low or high temperatures, noise or vibration;
6. associated with a risk of accidents which cannot be avoided or realized by minors because of their physical and mental immaturity.

Minors to be employed shall undergo a medical examination to determine if they are fit to carry out the work concerned and that it will not harm their health or impede their proper physical, moral or mental development.

The labour legislation also regulates the obligations of the employer to take particular care when employing minors. The employer is obliged to create lighter working conditions for minors, as well as conditions for obtaining professional qualification and enhancement. Furthermore, the employer shall inform the underage workers and their parents or guardians about the possible work related risks and the measures which have been taken in order to ensure healthy and safe working conditions.

According to the Labour Code, the working time of the workers and the employees under the age of 18 is reduced: up to 35 hours per week and up to 7 hours per day for a 5-day working week. Daily and weekly working hours shall also include the time for acquiring and enhancing the professional qualifications when these are carried out in the course of work. Also, they are entitled to paid annual leave of not less than 26 working days, including for the calendar year during which they turn 18 years of age. For the other workers and employees, the paid annual leave amounts to not less than 20 working days.

According to the Labour Code Art. 399, para. 1, the overall control of compliance with the labour legislation in all sectors and activities, including payment of outstanding salaries and post-employment benefits, is carried out by the General Labour Inspectorate Executive Agency under the Minister of Labour and Social Policy.

All minors may work only with the written permission of the Labour Inspectorate, which is given on a case-by-case basis. The employment of minors is unlawful if the employer has not obtained permission from the respective Labour Inspectorate Directorate to employ any particular minor. The work permit allows the person to be employed for a specific job by a specific employer. The work permit issued to a person under the age of 18 may be withdrawn by the Labour Inspectorate if it is established that the health and safety for the person at work are not ensured. The employment of persons up to the age of 18 without the permission from the Labour Inspectorate is declared a crime in the Criminal Code.

As an exception, persons under the age of 15 may be employed to take part in films, to prepare and perform theatrical and other performances. Another exception concerns circuses, which may employ girls over the age of 14 and boys over the age of 13.

Persons up to the age of 16 may work only with the express consent of their parents and guardians.

As regards possible acceptance of Article 10§5, the Bulgarian authorities express a concern that despite the legislative measures undertaken over the last years, if they were to accept this provision, collective complaints alleging unsatisfactory application of the provision could be submitted against Bulgaria. Therefore, they do not currently plan to accept Article 10§5.

Opinion of the European Committee of Social Rights

Article 10§5 provides for complementary measures to make access to vocational training effective in practice.

Under Article 10§5(a) States must ensure that vocational training is provided free of charge or that fees are progressively reduced. Under Article 10§5(b) 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. The number of beneficiaries and the amount of financial assistance are also taken into consideration for assessing compliance with this provision. The granting of financial assistance to students and trainees shall be based on equal treatment between own nationals and nationals of other States Parties lawfully resident or regularly working, while no length of residence may be required. For a thorough assessment of the situation in practice, the Committee seeks additional information on the types and nature of financial assistance available and the conditions of entitlement. With regard to Article 10§5(c), the time spent on supplementary training at the request of the employer must be included in the normal working-hours. With regard to Article 10§5(d), states must evaluate their vocational training programmes for young workers, including the apprenticeships. In particular, the participation of employers' and workers' organisations is required in the supervision process.

The Committee considers that the applicable legislation in Bulgaria does not create major obstacles to accept Article 10§5. As regards the concern expressed by the Bulgarian authorities that if they were to accept this provision, collective complaints alleging unsatisfactory application could be submitted against Bulgaria, the Committee stresses that a fear of collective complaints shall not overshadow the commitment to pursue by all appropriate means the attainment of conditions in which the right to appropriate facilities for vocational training could be effectively realized by everyone.

Article 12§2 (*Right to social security – satisfactory level of the social security system*)

With a view to ensuring the effective exercise of the right to social security, the Parties undertake:

- to maintain the social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security.

Situation in Bulgaria

Bulgaria ratified the ILO Convention No 102 on Social Security (Minimum Standards) on 14 June 2008 accepting Parts II (medical care), III (sickness benefit), V (old-age benefit), VI (employment injury benefit), VII (family benefit), VIII (maternity benefit) and X (survivors' benefit) of the Convention. Bulgaria additionally accepted Part IV (unemployment benefit) on 12 July 2016. Bulgaria has not accepted only Part IX (invalidity benefit) of the ILO Convention No 102.

The report confers that Bulgaria can accept Article 12§2 of the Revised Charter.

Opinion of the European Committee of Social Rights

Article 12§2 obliges States Parties to establish and maintain a social security system which is at 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 parts relating to branches of social security, although certain branches count for more than one part (medical care counts as two parts, and old age counts as three). Each contingency sets minimum levels of personal coverage and minimum levels of benefits.

Given that Bulgaria has accepted more than the minimum number of parts the ILO Convention No 102 and is already bound by commitments arising from 8 of the 9 branches of social security, while the commitments under the ILO Convention No 102 and the

European Social Security Code are practically identical, the Committee holds that there are no obstacles for ratification of the European Social Security Code as well as accepting Article 12§2 of the Revised Charter. The Committee welcomes the readiness of the Bulgarian authorities to accept Article 12§2 and encourages them to proceed towards acceptance.

Article 12§4 (*Right to social security – coordination of social security systems*)

With a view to ensuring the effective exercise of the right to social security, the Parties undertake:

- to take steps, by the conclusion of appropriate bilateral and multilateral agreements or by other means, and subject to the conditions laid down in such agreements, in order to ensure:
 - a. equal treatment with their own nationals of the nationals of other Parties in respect of social security rights, including the retention of benefits arising out of social security legislation, whatever movements the persons protected may undertake between the territories of the Parties;
 - b. the granting, maintenance and resumption of social security rights by such means as the accumulation of insurance or employment periods completed under the legislation of each of the Parties.

Situation in Bulgaria

The Bulgarian social security legislation, including the Social Security Code, ensures equal treatment of insured persons and the Bulgarian citizenship is not required for rights which depend on the person's social security contributions. However, transfer of pensions and aggregation of insurance periods acquired in third (non-EU) countries is not possible unless a bilateral social security agreement has been concluded with the country concerned. This requirement applies both to Bulgarian and third-country nationals.

Bulgaria has concluded bilateral social security agreements with the following Council of Europe member states: Albania; former Yugoslavia (applicable in relations with Bosnia and Herzegovina); Turkey (provides for a transfer of Bulgarian pensions to Turkey); Ukraine; North Macedonia; Moldova; the Russian Federation; Serbia; Montenegro and Azerbaijan. These agreements govern the use of social rights by Bulgarian nationals and the respective nationals who are living or have lived, and who are working or have worked on the territory of Bulgaria and the country concerned. Almost all of these agreements include the principles of equal treatment, aggregation of insurance periods and applicability of a single legislation.

Bulgarian authorities are currently in the process of negotiating draft agreements with Belarus, Albania (new agreement), Kazakhstan, and Armenia.

The report points out that since the 2016 report on non-accepted provision, bilateral agreements have been concluded with two Council of Europe member states – Montenegro and Azerbaijan – while with Albania negotiations are in an advanced stage.

In relations between Bulgaria and the other EU member state, as well as the EEA countries (Iceland, Norway, Liechtenstein) and the Swiss Confederation, the EC Regulations 883/2004 and 987/2009 apply. The EU Regulation 1231/2010 extending Regulations 883/2004 and 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality, applies to social security of third-country nationals, stateless persons and refugees who are in a situation which is not restricted to a single Member State (cross-border situation). Directive 2011/95/EU is also

applied in the field of social protection of third-country nationals, stateless persons and refugees.

The Bulgarian authorities conclude that they can accept Article 12§4 of the Revised Charter.

Opinion of the European Committee of Social Rights

The aim of Article 12§4 is to ensure the right to social security of persons moving between States. For this purpose, equal treatment of nationals of other States, retention of accrued rights and maintenance of accruing rights must be guaranteed with respect to all branches of social security.

To ensure equal treatment under Article 12§4 States Parties shall remove all forms of discrimination from their social security legislation against foreigners insofar as they are nationals of other States Parties.

Invalidity, old age, survivor's and occupational accident or disease benefits acquired under the legislation of one state shall be maintained irrespective of any change of residence of the beneficiaries between the territories of the States Parties and exported to the country of residence.

To confer entitlement and determine the amount of social security benefits, employment or insurance periods completed in the territories of States Parties shall be aggregated, while a pro-rata principle may be used for calculation of the amount of benefit.

The Committee recalls that already in the 2016 report it noted the steady progress of Bulgaria in respect to concluding bilateral social security agreements. This progress has continued with the conclusion of two new agreements while negotiations are ongoing with three more Council of Europe member states.

The Committee welcomes the readiness of the Bulgarian authorities to accept Article 12§4 and encourages them to proceed towards acceptance.

Article 13§4 (*Right to social and medical assistance-equal application of the right to nationals of other Parties lawfully residing in their territories*)

With a view to ensuring the effective exercise of the right to social and medical assistance, the Parties undertake:

- to apply the provisions referred to in paragraphs 1, 2 and 3 of this article on an equal footing with their nationals to nationals of other Contracting Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at Paris on 11th December 1953.

Situation in Bulgaria

The report suggests that as Bulgaria has not ratified the European Convention on Social and Medical Assistance, Article 13§4 does not refer to Bulgaria.

Opinion of the European Committee of Social Rights

The personal and material scope of Article 13§4 are defined in the text of Article 13§4 itself and in the Appendix of the Charter.

Article 13§4 grants non-resident foreign nationals entitlement to emergency social and medical assistance. The personal scope of Article 13§4 differs from that of other Charter provisions. In accordance with the Appendix, Article 13§4 refers to “nationals of other Contracting Parties lawfully within their territories”. Accordingly, the beneficiaries of this right to emergency social and medical assistance are foreign nationals who are lawfully present in the country but do not have resident status. No condition of length of presence can be set on the right to emergency assistance.

States Parties are required to provide non-resident foreigners without resources emergency social and medical assistance (accommodation, food, emergency care and clothing) to cope with an urgent and serious state of need. The States shall not interpret too narrowly the “urgency” and “seriousness” criteria. At the same time, the States are not required to apply the guaranteed income arrangements.

The provision of free emergency medical care must be based on the individual’s particular state of health. Migrant minors in a country are entitled to receive health care extending beyond urgent medical assistance and including primary and secondary care, as well as psychological assistance, even if they are in an irregular situation.

As regards the emergency social assistance, there shall be a right to appeal to an independent body and a proper administration of shelter distribution. This right must be effective in practice.

The reference to the 1953 European Convention on Social and Medical Assistance does not affect the personal and material scope of Art.13§4. The only link between Art.13§4 and the 1953 Convention concerns the conditions under which States Parties can repatriate non-resident foreigners without resources on the ground that they are in need of assistance, namely that the persons are in a fit state of health to be transported (Article 7.a.ii of the 1953 Convention). This option may only be applied in the greatest moderation and where there is no objection on humanitarian grounds. The conditions for repatriation of non-resident nationals of other contracting Parties in state of need apply also in respect of States Parties that have not ratified the 1953 Convention.

The Committee stresses that under Article 13§4 emergency social and medical assistance shall be granted to foreign nationals who are lawfully present in the country, but do not have resident status, and certain cases also to persons in irregular situations.

The Committee invites Bulgaria to continue their efforts with a view to securing the effective right to social and medical assistance and acceptance of Article 13§4.

Article 15§ (*Right of persons with disabilities to independence, social integration and participation in the life of the community*)

With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular:

Article 15§1:

- to take the necessary measures to provide persons with disabilities with guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialised bodies, public or private.

Situation in Bulgaria

From 1 January 2020 the Law on Persons with Disabilities (LPD) entered into force. The law aims to guarantee the rights of persons with disabilities in a way that ensures respect for their human dignity and equal treatment in private, social and political life, applying an individual approach and an individual needs assessment. The areas of support for persons with disabilities under the LPD include health, education, employment, housing provision, accessible environments in urban areas and public buildings, transport, culture, sport, private life, social and political life, justice, and others.

Regarding the provision of education and vocational training opportunities, the LPD states that children and pupils with disabilities, including children and pupils with special educational needs, are provided with support for personal development in the pre-school and school education system. The support is implemented in accordance with the individual assessment of each child and each pupil with disabilities, carried out under the conditions and in accordance with the Preschool and School Education Act (PSEA) and the state educational standards. The assessment is made and provided to children and pupils in conjunction with state and local authorities and their structures, as well as with social service providers.

In the PSEA, which is in force from 2016, the inclusive education is set as a priority of the education policy. The act regulates opportunities for the introduction and development of inclusive education, taking into account the educational needs of all children and students, as well as providing support for the personal development of children and students with special educational needs, children and students at risk, gifted children and students and children and students with chronic diseases.

In accordance with the law, the Ordinance on Inclusive Education was adopted by a Decree of the Council of Ministers as one of the state educational standards. The ordinance regulates the relations in respect to the provision of inclusive education for children and pupils in the pre-school and school education system, as well as the activities of the institutions in this system for providing support for the personal development of children and pupils. Institutions in the pre-school and school education system – kindergartens, schools, centres for personal development support and the specialised service units, shall provide general and additional support for the personal development of children and pupils.

Under PSEA Art. 187(1), pre-school and school education system institutions shall provide conditions for equal access to quality education and inclusion of children and pupils through the provision of additional support.

There are 28 regional inclusive education support centres which include integrated personality development support teams for children and pupils with special educational needs. These teams carry out the following tasks: approve or disapprove additional support for children and pupils with special educational needs; conduct reassessment of individual needs for additional support; make individual assessment of children whose parents have applied for referral to a special school or centre for special educational support; postpone for objective reasons the compulsory education in 1st grade; refer to vocational training pupils who have completed the 7th or 10th grade with a certificate of completion; provide methodological support. Under PSEA, special schools have been transformed into special educational support centres, and all assisted children are enrolled as pupils of a relevant general or vocational school.

In 2019, under the National programme for creating an accessible architectural environment, the Ministry of Education and Science financed the following measures:

- design and construction of covered ramps – 2;
- construction of coverings on already built ramps – 1;
- adaptation and construction of sanitary facilities – 16;

- repair of adjacent infrastructure – 9;
- equipment with an elevator system – 2;
- delivery and installation of platform facilities – 11;
- finishing works on route marking and designation of premises – 3.

In recent years, the government has undertaken a major investment in educational infrastructure, a significant part of which is focused on sports facilities.

Vocational training for people with disabilities is provided by vocational schools and vocational colleges, vocational training centres, employers, enterprises and cooperatives, as well as legal entities providing social services for people with disabilities.

Higher education institutions shall provide supportive environments, special facilities, the necessary teaching materials, and additional teaching support for the process of training and evaluation of students with disabilities, as well as training professionals to work with people with disabilities.

Opinion of the European Committee of Social Rights

According to Article 15§1, all persons with disabilities have a right to education and training: primary education, general and vocational secondary education as well as other forms of vocational training, including university education.

Under Article 15§1 States Parties shall provide education for persons with disabilities, together with vocational guidance and training, while priority should be given to education in mainstream schools. The right to an inclusive education is about the child's right to participate in mainstream school and the school's obligation to accept the child taking account of the best interests of the child as well as their abilities and educational needs as a primary consideration. States Parties must demonstrate that tangible progress is being made in setting up inclusive and adapted education systems.

To assess the effective equal access of children and adults with disabilities to education and vocational training, the following key figures are taken into consideration:

- the total number of persons with disabilities, including the number of children;
- the number of students with disabilities following respectively mainstream and special education and vocational training facilities;
- the percentage of students with disabilities entering the labour market following mainstream or special education or/and training;
- the number of persons with disabilities (children and adults) living in institutions;
- any relevant case law and complaints brought to the appropriate bodies with respect to discrimination on the ground of disability in relation to education and training.

The existence of non-discrimination legislation is necessary as an important tool for the advancement of the inclusion of children with disabilities into general or mainstream educational schemes. Such legislation should, as a minimum, require a compelling justification for special or segregated educational systems and confer an effective remedy on those who are found to have been unlawfully excluded or segregated or otherwise denied an effective right to education. Legislation may consist of general anti-discrimination legislation, specific legislation concerning education, or a combination of the two.

The Committee recognises the continuing progress made through the national legislation and programmes to promote education of persons with disabilities in Bulgaria. The Committee reiterates its earlier consideration that there are no legal obstacles to the acceptance of Article 15§1 by Bulgaria. To assess the situation in practice, data on above

referred indicators is needed, including the number of students with disabilities attending respectively mainstream and special education and vocational training facilities. The Committee recommends that Bulgaria accept Article 15§1 as a matter of priority, given the importance of monitoring and protecting the rights of persons with disabilities to education and vocational training.

Article 15§2:

➤ to to promote their access to employment through all measures tending to encourage employers to hire and keep in employment persons with disabilities in the ordinary working environment and to adjust the working conditions to the needs of the disabled or, where this is not possible by reason of the disability, by arranging for or creating sheltered employment according to the level of disability. In certain cases, such measures may require recourse to specialised placement and support services

Situation in Bulgaria

According to the LPD, employment of persons with disabilities may occur in normal, specialised or protected working environment. In order to encourage employers to recruit and keep persons with disabilities in employment several measures are implemented.

To ensure the employment of people with permanent disabilities in normal working environments, a quota system has been introduced in 2019. Companies with more than 50 but less than 99 employees must hire at least one permanently disabled person. For companies with 100 or more employees, the quota is set at 2 per cent of the number of employees in the company. Employers must report the number of unoccupied positions designated for disabled persons and the qualification and work experience required for each position to the local department of the Employment Agency. Employers can be relieved of the obligation to maintain the respective quota, if specific factors in the work environment make it impossible for disabled persons to be hired; or if no disabled persons have applied for the respective position, subject to verification of such circumstances by the Labour Inspectorate. Employers may apply certain alternative by way of exemptions from the quota, including the purchase of goods produced or services provided by disabled persons. The total monthly value of such purchased goods or services should be no less than twice the national minimum monthly salary. Failure to maintain the minimum quota of employees with permanent disabilities or to undertake alternative measures can result in payment of a monthly compensatory fee, which is set at 30 per cent of the minimum national salary per each unoccupied position designated for persons with disabilities. Payment of this compensatory fee does not relieve the company from the obligations under the quota system.

Under the National Disability Employment Programme, the Agency for People with Disabilities may fund the following specific measures designated for employers or respective recruitment authorities, on a condition that they employ a person with a permanent disability for a period of not less than 3 years following the provision of the funding:

- provision of access to the workplace;
- adaptation of the workplace;
- equipment in the workplace;
- qualification and pre-qualification, or the appropriate training for professional and career development, etc.

The job placement of persons with disabilities is regulated in Section III 'Special protection of persons with partial incapacity' of the Labour Code. An employee who after an illness or occupational accident is not able to continue with his former job, but who is able to perform

with no harm to his health another suitable job or the same job under alleviated conditions, shall be reassigned to another job or to the same job with alleviated conditions upon prescription of the health authorities (LC Art. 314). An employer with more than 50 employees shall provide annually jobs suitable for reassignment, their number being 4 to 10% of the total number of jobs depending on the economic sector.

State and local authorities shall support and promote the employment of persons with disabilities also by enabling specialised enterprises and cooperatives of persons with disabilities and labour facilities to operate through appropriate economic and financial incentives in accordance with the applicable legislation. These measures also include the provision of opportunities for local initiatives to be implemented in support of specialised enterprises and cooperatives of people with disabilities and workplaces in order to increase their productivity and competitiveness, measures to increase the employability of people with disabilities in a specialised working environment and improvement of their professional training, as well as measures to overcome financial and economic constraints of enterprises and cooperatives. The Agency for People with Disabilities shall fund specialised enterprises and cooperatives of people with disabilities under targeted projects and programmes.

The LPD introduced a new measure to encourage the development of employment in a protected working environment, through which sheltered employment centres for people with multiple permanent disabilities shall be created. One such centre was opened in 2019. These centres are seen a mechanism to support the labour integration of persons with multiple permanent disabilities in order to provide conditions for productive activity, paid work and provision of personal support services.

The Ministry of Labour and Social Policy and the Employment Agency in cooperation with other stakeholders shall implement the employment policy of persons with permanent disabilities by developing programmes and measures which provide funds to promote employment, provide equal opportunities through socio-economic integration and stimulate employers who create jobs for persons with permanent disabilities.

Under the Employment Promotion Act (EPA), persons with disabilities registered at the territorial units of the Employment Agency are entitled to mediation in terms of information and finding a job, as well as in terms of career guidance. The territorial units of the EA shall provide specialised labour mediation to persons with disabilities seeking employment, including the following:

- professional skills assessment of persons with disabilities;
- assessment of preferences and opportunities for the acquirement of professional skills in the light of labour market needs;
- programme/project inclusion for the acquirement of professional skills;
- support through labour mentors in the process of training and starting work;
- referral of people with disabilities to potential employers in order to meet the quota principle and mediation of negotiations between people with permanent disabilities and employers.

Persons with disabilities seeking employment are entitled to use employment mediation services free of charge. Such services are provided by labour intermediaries with a certificate of registration for conducting employment mediation activities in accordance with the requirements of EPA and the Ordinance on the terms and conditions for conducting employment mediation activities

According to the new Social and Solidarity-based Enterprises Act, persons with disabilities may also be employed in social enterprises. According to this law (Chapter 4), all registered social enterprises shall be supported by the Ministry of Labour and Social Policy or the local authorities. In order to be registered as a Class A or A+ social enterprise and receive

additional support, *inter alia* at least 30% of all employed persons shall be from the prescribed vulnerable groups, which include persons with permanent disabilities.

Many OP HRD schemes have been implemented through which persons with permanent disabilities or reduced ability are included in both training and employment.

Measures are also being implemented in the framework of the National Programme for Employment and Training of People with Permanent Disabilities (endorsed in February 2020), financed by the state budget.

Opinion of the European Committee of Social Rights

Article 15§2 requires States Parties to promote an equal and effective access to employment on the open labour market for persons with disabilities. It applies to persons with physical and/or intellectual disabilities.

States Parties need to systematically provide updated figures concerning the total number of persons with disabilities, including those in working age; those employed (on the open market and in sheltered employment); those benefiting from employment promotion measures; those seeking employment; those that are unemployed as well as the general transfer rate of people with disabilities from sheltered to open market employment.

Legislation must prohibit discrimination on the basis of disability to create equality of opportunities on the open labour market, the dismissal on the basis of disability and confer an effective remedy on those who are found to have been unlawfully discriminated. In addition, regarding work conditions there must be obligations on the employer to take steps in accordance with the requirement of reasonable accommodation to ensure effective access to employment and to keep in employment persons with disabilities, in particular persons who have become disabled while in their employment as a result of an industrial accident or occupational illness.

States Parties enjoy a margin of discretion concerning the other measures they take in order to promote access to employment of persons with disabilities. Article 15§2 does not require the introduction of quotas but, when such a system is applied, its effectiveness is taken into consideration when assessing conformity with Article 15§2.

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 enter 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.

The Committee recognises the continuing progress made through the national legislation and programmes to promote employment of persons with disabilities in Bulgaria. To assess the situation in practice, the data on above referred indicators is needed, including the employment and unemployment rate of persons with disabilities. Data is also needed on the implementation and effectiveness of the quota system. The Committee recommends that Bulgaria accept Article 15§2 as a matter of priority, given the importance of monitoring and protecting the rights of persons with disabilities to employment.

Article 15§3:

➤ to promote their full social integration and participation in the life of the community in particular through measures, including technical aids, aiming to overcome barriers to

communication and mobility and enabling access to transport, housing, cultural activities and leisure.

Situation in Bulgaria

The Government is making efforts to advance the disability rights policy with the aim of achieving effective social inclusion of persons with disabilities and through the coordinated actions of the institutions in relation to the implementation of the requirements of the UN Convention on the Rights of Persons with Disabilities.

Persons with disabilities in Bulgaria have the right to equal access to the physical living, work and recreation environment, personal mobility, transport, information and communication, including information and communication systems and technologies, as well as to all other amenities and public services in urban areas. Access shall be ensured by the identification and removal of any obstacles and barriers to accessibility that relate to the following:

- accessible environment elements in the urban area: pedestrian spaces, crossings and pedestrian crossings, accessible parking spaces, vehicle stops on regular public passenger transport lines, urban furniture components, etc.;
- buildings and public service facilities in the following areas: education, health, arts and culture, transport, religion, administrative services, trade, public catering and services, sports, green areas for public use and other public service areas, including access to premises and common areas, as well as to accessible workplaces in manufacturing buildings with production technology allowing the provision of jobs for people with disabilities;
- new multi-family residential or mixed-use buildings;
- means of urban and intercity transport;
- information, communication and other services, including information systems and emergency services;
- provision of information in accessible formats for people with various types of disabilities, including in Bulgarian sign language, in Braille and an easy-to-read version.

The LPD regulates a new measure to support people with disabilities, allowing for public funding of activities to build an accessible environment for people with disabilities in order to remove existing barriers and obstacles to accessibility and in order to support personal mobility of persons with permanent disabilities for their social inclusion under the National Programme for Accessible Housing Environment and Personal Mobility. The programme shall be implemented on a project basis within the approved budget resources for the relevant year on the territory of all municipalities in Bulgaria.

The LPD also regulates the terms and conditions for ensuring targeted assistance for the provision of technical aids, devices, equipment, and medical devices (ADEMD). Due to the many challenges in terms of ADEMD provision and dissatisfaction on the part of persons with disabilities, there is an urgent need for this type of activities. It is envisaged that ADEMD funding and provision for persons with disabilities should be based on a new mechanism and quality standards developed and approved jointly by the Ministry of Health and the National Health Insurance Fund (NHIF). However, given the complexity of the issue of ADEMD funding and provision, the entry into force of the new mechanism, which was set to be implemented from 1 January 2020, was postponed and a phased start approach was adopted instead to shift the ADEMD funding and provision to the health care system. Currently, a temporary mechanism is in place for payment of traders or producers for ADEMD provision to persons with disabilities by the NHIF through the Social Assistance Agency, taking into account the allocation of targeted benefits based on the conclusions of the individual needs assessment.

The rules, norms and regulations (minimum standards) for accessibility and universal design of accessible environment in urban areas and of buildings and facilities are determined by Ordinance of the Minister of Regional Development and Public Works No. 4 of 2009 for the design, execution and maintenance of constructions in relation to the requirements for accessible environment for the population, including for people with disabilities. In 2019 an interinstitutional working group was initiated to review the implementation of the requirements of this ordinance. The main objectives of the task force are to comply with the provisions of the new legislation and take into account the requirements of the UN Convention on the Rights of Persons with Disabilities. A new regulation to upgrade the Ordinance No. 4 of 2009 is currently being drafted.

The Ministry of Transport, Information Technology and Communications shall create conditions for people with disabilities to access transport, information, and communication services by developing regulations as follows:

- provision of accessible transport for public use;
- implementation of technical adaptations for vehicles driven by people with disabilities in order to compensate for their deficits and development of standards for public transport in order to facilitate the movement of persons with disabilities;
- provision of special conditions for movement, stopping, parking and staying of road vehicles driven by or transporting disabled persons;
- ensuring unimpeded access to public transport for people with disabilities accompanied by guide dogs to lead blind people or assisting dogs for people with disabilities.

The Ministry of Youth and Sports, in cooperation with municipalities and sports organisations, shall enable the social inclusion of persons with disabilities as follows:

- promoting the benefits of physical activity and participation in sport by people with disabilities;
- enabling adapted physical activity, sports and participation in sporting events and competitions of people with disabilities, including children and students;
- assisting preparation and participation of disabled athletes in sport competitions;
- supporting youth activities.

The Ministry of Culture, in cooperation with municipalities, shall provide conditions for the integration of people with disabilities as follows:

- provision of specialised information for the use of services, routes, architectural and transport facilities and other facilities in public places intended for recreation and culture;
- supporting talent development and promoting creative performances of people with disabilities.

In 2017 a national study on the Bulgarian sign language was conducted, which resulted in the development of a dictionary and a description of the grammar of the Bulgarian sign language. In 2019, another study on the grammar of the Bulgarian sign language was carried out.

One of the priorities of the Ministry of Education and Science (MES) includes the development of methodologies for teaching and training in Bulgarian sign language to be used in the educational process. In this regard, in 2019, MES initiated and supported several scientific works by higher education institutions and non-profit entities:

- a scientific study of children's vocabulary in the Bulgarian sign language;
- development of methodical guide for teaching Bulgarian sign language at preschool and primary school age;
- development of a methodical guide for training of interpreters in Bulgarian sign language;
- development of methodological guide for teaching deaf-blind people in Bulgarian sign language and alternative means of communication.

MES also supported the implementation of a speech-to-text conversion platform in the learning process of deaf students.

Since 2018, MES has periodically presented news in sign language in the field of education in order to overcome the limited access to information for hearing impaired people.

The MES website includes a section “Inclusive education” with a sub-section “Bulgarian sign language” featuring the following information:

- Bulgarian sign language dictionary;
- Theoretical description of the grammar in the Bulgarian sign language;
- Concept of amending the legal framework related to the application of the UN Convention on the Rights of Persons with Disabilities Article 21 “Freedom of expression and opinion, and access to information” as regards the sign language.

In 2019 the MES initiated the drafting of the new Law on the Bulgarian Sign Language. The new law, when adopted, will regulate the recognition and equivalent application of the Bulgarian sign language in various areas of public life. The draft was elaborated with participation of representatives of organisations of hearing-impaired people.

Overall, on the prospect to accept Article 15 of the Charter, the Bulgarian authorities expresses a concern in the report that if they were to accept Article 15, collective complaints alleging unsatisfactory application of the provision could be submitted against Bulgaria, in particular as implementation in practice of all described measures remains a challenge, given the early stage of the reform and problems identified in the implementation of the new legal framework. Based on these considerations, the Bulgarian authorities indicate that they do not currently plan to accept Article 15. Nonetheless, they add that in the context of implementation of the UN Convention on the Rights of Persons with Disabilities high standards and specific measures for the protection of the rights of persons with disabilities and the provision of their equal rights are envisaged, which is expected to create more favourable conditions for the adoption of Article 15 at a later stage.

Opinion of the European Committee of Social Rights

Under Article 15§3 there shall be comprehensive non-discrimination legislation covering both the public and private sphere in fields such as housing, transport, telecommunications and cultural and leisure activities. Such legislation may consist of general anti-discrimination legislation, specific legislation or a combination of the two. There shall also be effective remedies for those who have been treated unlawfully.

States shall adopt a coherent policy in the disability context which includes 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, and people with disabilities should have a voice in the design, implementation and review of such policy.

States shall also remove barriers to communication and mobility to enable access to transport (land, rail, sea and air), housing (public, social and private), cultural activities and leisure (social and sporting activities). They shall establish mechanisms to assess the barriers to communication and mobility faced by persons with disabilities, and identify the support measures that are required to assist them in overcoming these barriers. All public transport vehicles, all newly constructed or renovated public buildings, facilities and buildings open to the public should be physically accessible, and there shall be tangible progress in adapting existing environment.

Technical aids (prostheses, walkers, wheelchairs, guide dogs etc) must be available either free of charge or subject to an appropriate contribution towards their cost and taking into account the beneficiary's means. Support services (such as personal assistance and auxiliary aids) must be available, either free of charge or subject to an appropriate contribution towards their cost and taking into account the beneficiary's means. Telecommunications and new information technology must be accessible, and sign language must have an official status.

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

The Committee recognises the continuing progress made by the Bulgarian authorities to develop national legislation and programmes promoting the rights of persons with disabilities, their social integration and participation in the life of the community.

The Committee also takes note that Bulgaria ratified the Convention on the Rights of Persons with Disabilities in 2012. The Committee on the Rights of Persons with Disabilities issued its concluding observations on the initial report of Bulgaria in 2018, where it *inter alia* noted its concern about the following matters:

- lack of enforceability of the decisions issued by the Commission for the Protection against Discrimination;
- denial of reasonable accommodation is not explicitly recognized as an act of prohibited discrimination in all areas;
- physical barriers that persons with disabilities face, particularly in remote and rural areas;
- public transport is still not fully accessible for persons with disabilities;
- the shortage of trained sign language interpreters for deaf persons in judicial proceedings, and the lack of documents in accessible formats for blind persons and for persons with intellectual or psychosocial disabilities in different proceedings;
- insufficient efforts to support access of persons with disabilities to and their participation in cultural, recreational, leisure and sporting activities.

The Committee encourages Bulgaria to take the necessary measures to ensure a steady progress towards securing the right of persons with disabilities to independence, social integration and participation in the life of the community.

As regards the concern expressed by the Bulgarian authorities that if they were to accept Article 15, collective complaints alleging unsatisfactory application could be submitted against Bulgaria, the Committee stresses that a fear of collective complaints shall not overshadow the commitment to pursue by all appropriate means the attainment of conditions in which the right of disabled persons to independence, social integration and participation in the life of the community could be effectively realized.

Article 17§1 (*Right of children and young persons to social, legal and economic protection*):

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



- a) to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they

- need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;
- b) to protect children and young persons against negligence, violence or exploitation;
 - c) to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family's support.

Situation in Bulgaria

As regards the right of children and young persons to social, legal and economic protection, protected under Article 17§1, Bulgaria is bound by the provisions of the following international treaties and declarations:

- International Covenant on Economic, Social and Cultural Rights (in force in respect of Bulgaria from 1976);
- United Nations Convention on the Rights of the Child (in force in respect of Bulgaria from 1990);
- Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with special reference to Foster Placement and Adoption Nationally and Internationally;
- Guidelines of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice.

Child protection system in Bulgaria includes legislative, administrative and other measures for the implementation of the rights of the child. Child protection authorities include the Minister of Labour and Social Policy, the Minister of Interior, the Minister of Education and Science, the Minister of Justice, the Minister of Foreign Affairs, the Minister of Culture, the Minister of Health, municipalities mayors, the Chairman of the State Agency for Child Protection and the Social Assistance Directorates of the Social Assistance Agency. Policy implementation involves various actors of different sectoral competencies.

According to the Youth Law, the concept of 'young people' covers persons aged 15 to 29. The objective of the Government's youth policy, implemented on the basis of the Youth Law, is to address young people's needs by 'upgrading' their basic needs (care, assistance, protection, education and training, measures against violence and exploitation, etc) and promote their fullest personal development, economic and social activity. The law promotes youth initiative, volunteering, and inclusion with civil society through affiliation in voluntary youth organisations. Instruments for the achievement of those objectives are laid down in the National Youth Programme. Under this programme youth organisations can apply for funding of their projects.

As regards Article 17§1(a), various programmes and a system of social services has been developed in Bulgaria in support of the process of recovery and reintegration of children victims of violence, trafficking, exploitation, etc. The State Agency for Child Protection (SACP) monitors the activity of licensed providers of social services for children on an annual basis. The licensing regime controls in advance the quality of social services for children and monitors their activities. A specific information card was introduced for the collection of data under pre-defined indicators on the activities performed for the provision of services, including their scope and impact on users.

Over the period from 2018 to June 2020, pursuant to Art. 43b (1) of the Child Protection Act (CPA) and Art. 38 of the Regulations for implementation of the CPA, the SACP Chairman has issued over 300 licenses for more than 200 organisations providing social services for children in more than 400 locations throughout the country. Many of those providers work with children who have become victims of domestic violence, abuse or exploitation (Centres for Public Support; Centres for Information, Consultation, Training and

Support; Centres for Social Rehabilitation and Integration; Mobile Centres, etc.). Information on the providers of licenced social services is available in the dedicated register on the SACP website (in Bulgarian):<https://sacp.government.bg/услуги/регистри>.

As regards Article 17§1(b), according to Art. 10 of the CPA, every child has a right to protection with a view to his/her normal physical, intellectual, moral and social development and to protection of his/her rights and interests, including protection against violence and exploitation. According to CPA Art. 7, persons who become aware of the existence of a child in need of protection, shall immediately report the case to the Social Assistance Directorate, the State Agency for Child Protection, or the Ministry of the Interior. The same obligation extends to all persons who become aware of such a situation in the course of exercising their profession or occupation, irrespective of them being bound by an occupational secret. Upon signal receipt by the SACP that a child needs protection, the SACP Chairman shall forward the signal immediately to the Child Protection Unit in the Social Assistance Directorate at the current address of the child. According to CPA Article 11, every child has a right to protection against involvement in activities that are harmful to his or her physical, mental, moral and educational development, incl. protection against the use of children for purposes of begging, prostitution, dissemination of pornographic material, receipt of unlawful pecuniary income, as well as protection against sexual abuse.

As of 1 July 2020, a new provision, Article 36e of the CPA, entered into force specifying the measures and procedures for the protection of a child who has become victim of violence or exploitation.

Pursuant Art. 6a of the CPA, in 2010 a Cooperation and Coordination Agreement for the work of child protection authorities' territorial structures was concluded. Under this agreement, child protection authorities at national and local level are committed to implement the Coordination Mechanism for Interaction at Work in the case of children who have become victims of violence or who are at risk of violence, as well as in terms of crisis intervention. The SACP in partnership with the Ministry of Interior, the Social Assistance Agency and the Regional Administrations, monitors the implementation of the Coordination Mechanism on an annual basis. Monitoring is carried out according to an established methodology and comparable indicators. Multidisciplinary teams have been established at local level, implementing the Coordination Mechanism.

In March 2019, new provisions of the CPA, Art. 36d on Coordination Mechanism in cases of Violence and Art. 36e on Protection of a Child Victim of Violence or Exploitation were introduced, and activities and interaction between the protection authorities in cases of violence against children were adopted.

The National Programme for Prevention of Violence and Abuse of Children 2017–2020 was adopted by the Decision of the CoM No. 115 of 2017. This constitutes a national framework for coordination on violence against children, and establishes a communication mechanism between state authorities, representatives of civil society and the NGO sector in relation to the necessary measures to prevent violence in all its forms. The national programme has several main strategic objectives: increasing the effectiveness of measures to protect children against violence; establishing an effective system to prevent domestic violence against children; prevention of sexual violence, sexual abuse and sexual exploitation of children, etc. The programme is implemented through two-year action plans adopted by the CoM.

In 2018, SACP introduced electronic information reporting by means of information cards which are filled in online on the Agency's website. Regional structures shall send information to all institutions represented in the inter-service team at local level (Social Assistance Directorates, Regional Directorates of the Ministry of Interior and

municipalities). The data is summarised at regional level by the Regional Social Assistance Directorates (RSAD), Regional Directorates of the Ministry of Interior and Regional Administrations. The SACP summarises and analyses the information at national level.

Monitoring reports include a descriptive analysis of the data, outline the problem areas identified, as well as provide recommendations for the improvement of the interaction in terms of handling of cases of children who have become victims of violence or who are at risk of violence, as well as in terms of crisis intervention.

Signals and cases of violence are distributed according to signal source, violence type and source, as well as by the child's sex and age. According to the RSAD summary overview, in 2018 the multidisciplinary teams reviewed a total of 1,414 signals.

For the implementation of the SACP 2019 operational objectives and according to the orders of the SACP Chairman, a thematic inspection was carried out in schools on the topic "Work aimed at school violence prevention for children/pupils, overcoming problematic behaviour of the child/pupil, and handling critical situations." Between February and May 2019, such inspections were carried out across the country in 91 schools, including 12 elementary schools, 38 secondary schools and 22 sports schools under the Ministry of Youth and Sports, as well as 19 cultural and art schools under the Ministry of Culture. The objective of the inspection was to examine the effectiveness of institutions in terms of the prevention and rehabilitation of various types of violence against children, as well as in terms of working with children/pupils with problematic behaviour, and in crisis situations.

The inspectors checked the mandatory working documentation, including case reporting to the respective Social Assistance Directorate regarding penalties imposition to a student with problematic behaviour; compliance with the obligation for assistance under CPA Art. 7(1) and (2) was also verified. The anti-bullying and anti-violence mechanism implementation in pre-school and school education institutions was also examined. Identified omissions and violations resulted in 54 mandatory prescriptions to school principals with a total of 142 specific measures.

The mandatory prescriptions issued were related to the prevention of cases of school violence, including in connection with the assignment of an obligation to all employees to get to know and comply with the Code of Ethics of Child Workers, as well as the obligation to assist in the case of a child at risk, according to CPA Art. 7. Prescriptions were also issued regarding the regulation and compliance with the filing and handling of complaints and signals procedure that needs to be spread in an accessible manner among students, parents and school staff in order for them to get aware with, and the order for alerting and responding to each responsible staff member shall be indicated, as well as the procedure for staff members removal if they are the subject of a complaint or alert, etc.

A similar thematic SACP inspection on the topic "Work aimed at violence prevention in kindergartens, overcoming problematic behaviour of children, and handling critical situations" was also carried out in kindergartens between February and May 2019 to examine the effectiveness of work in kindergartens in terms of the prevention and rehabilitation of various types of violence against children. The inquiry related to compliance with the right to protection against all methods of upbringing that undermine child's dignity; against physical, psychic or other types of violence; against all forms of influence which go against child's interests. A total of 35 inspections were carried out in kindergartens throughout the country.

The inspection teams checked the mandatory working documentation, incl. incoming and outgoing correspondence (regarding the verification of presence or absence of complaints and alerts from parents or other persons external to the organisation, as well as the

interaction with protection authorities at local level); job descriptions of the staff (one for each position held) were also checked in terms of the existence of requirements for knowledge and compliance with national and international legislation in the field of children's rights and their protection; compliance with the obligation for assistance under CPA Art. 7(1) and (2), as well as knowledge and compliance with the Code of Ethics of Child Workers, adopted by the National Council for Child Protection in 2003.

The inspection in kindergartens showed different practices in terms of setting the requirements in job descriptions. Some of these include the obligation for assistance under CPA Art. 7 (1) and (2), but they lack the requirement for knowledge and compliance with national and international legislation or with the Code of Ethics of Child Workers. Part of the management of kindergartens does not distinguish between the following two documents: Code of Ethics for Kindergartens and Code of Ethics of Child Workers. Some of the pedagogical staff job descriptions specify a requirement for compliance with the CPA and the Code of Ethics of Child Workers, but job descriptions of non-pedagogical staff do not include such a requirement. In this regard, mandatory prescriptions were issued for the prevention of violence risk factors in kindergartens, including the inclusion of a requirement for knowledge and compliance with national and international legislation in employees' job descriptions, as well as the obligation for assistance.

In late 2019, SACP also carried out a third thematic inspection of the compliance with the child's rights of obstetric and gynaecological (OB-GYN) professionals in cases of monitoring of pregnancy and births by minor girls. The inspection was carried out in 56 OB-GYN medical practices and professionals in medical centres and diagnostic-advisory centres throughout the country, selected on the basis of official data received by Regional Health Inspectorates for the period 28.10.2019–05.12.2019. The main objective of this thematic inspection was to collect information on cases of pregnancies and deliveries by minor girls in 2019 and to monitor the awareness and actual compliance with the obligation to assist child protection authorities by OB-GYN professionals, pursuant to CPA Art. 7(1) and (2), with regard to supervised minor and underaged pregnant girls and children, as well as to examine the interaction with local social assistance units and with the services, as well as taking actions for the prevention of such cases. It was found that 29 of the inspected OB-GYN practices had an organisation established for the implementation of the obligation of assistance pursuant to CPA Art. 7(1) and (2). As a result of the inspections performed, 24 mandatory prescriptions on 45 different points and 32 recommendations were issued to OB-GYN professionals. Issued mandatory prescriptions are related to early pregnancy-related risks for the girl and the foetus, reproductive health promotion and counselling for children and persons of reproductive age, as well as to compliance with the obligation of assistance, and reporting to Social Assistance Directorates on all registered minors and underaged pregnant girls.

In 2019, the SACP employees issued 27 acts establishing administrative violations, of which 6 acts establishing administrative violations under CPA Art. 45(11) for failure to comply with the obligation to cooperate under CPA Art. 7(1) and (2) and to provide information to protection bodies about the need for protection of a child at risk. The SACP Chairman has also issued a number of recommendations to the heads of educational institutions – schools and kindergartens – on the improvement of inter-institutional relations in cases of violence and incidents.

In 2019, 4 methodological guidelines were also updated: Practical guidelines for the staff of institutions in the field of secondary education on responding to incidents, violence and other critical situations, reporting protocol and follow-up actions; Practical guidelines for the staff of institutions in the field of education on child support in situations of separation and conflict between parents (for kindergarten and school professionals); Computer network safety rules for children and pupils in the kindergarten, school and on the Internet; as well

as a Methodological guide for dealing with cases of children at risk of parental alienation. These specifically indicate the inter-institutional interaction and which responsible institutions shall be notified in the case of a child at risk. An annex to the Practical Guidelines has been developed, as a plan of the assistance obligation and the coordination mechanism in case of violence, as well as a form to be filled in when reporting a child at risk. These have been sent to the Minister of Education and Science and the Regional Education Departments (REDs) in order to be brought to the attention of the country's schools and kindergartens.

The SACP, in partnership with REDs and Sofia Municipality, also held several training seminars for professionals working with children from educational institutions, municipal administrations and Social Assistance Directorates. These seminars focused on the assistance obligation under CPA Art. 7, the functions and powers of protection bodies, as well as the means of reporting about a child at risk.

In February 2019, the SACP organised an event dedicated to the International Safer Internet Day. Discussion on the rules for safe internet in kindergartens and schools was organized. The meeting presented the mobile app of the SACP "Safety of Children in Digital Environment" competition, as well as posters of the winners of the "Security in Digital and Real Environment" contest. The contest aimed at promoting children's participation and implementing ideas created by children for mobile applications, in order to protect children's rights and risk prevention on the Internet. The discussion covered ethical rules of conduct in the Internet environment, dangers associated with the selfie craze, fake news and fake profiles, ways to protect children from cyberbullying, etc.

Prevention of sexual violence, sexual abuse and sexual exploitation of children is also a priority in the work of SACP, with national campaigns for the prevention of sexual abuse and sexual exploitation of children, including on the Internet. Measures are envisaged in terms of the effective prevention of early marriages and early motherhood, as well as for the reduction of the number of children who have become victims of trafficking for sexual exploitation.

Bulgaria is committed to combating sexual exploitation and sexual violence against children, as well as to protecting the rights of children who have become victims of sexual exploitation and sexual violence. This is reflected in the ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which has been in force from 2002. Bulgaria has also ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention), which has been in force from 2012.

The wide range of unlawful acts qualifying as sexual abuse of children are covered in the Special Part of the Criminal Code.

Regarding domestic violence, the Criminal Code was amended in 2019. It provides for a comprehensive legal protection against all forms of domestic violence. The amendments introduced a definition of the term 'domestic violence', and provided for more severely punishable groups for murder, kidnapping, unlawful deprivation of liberty, coercion and stalking committed in the context of domestic violence.

In the framework of the National Programme for Prevention and Protection from Domestic Violence, in 2019 a working group was formed to elaborate a Law amending and supplementing the Law on Protection from Domestic Violence. The aim is to optimise proceedings for the imposition of domestic violence protection measures in relation to promptitude, effective enforcement and creation of safeguards to protect the interests of victims, especially when it comes to women and children.

Implementing Art. 76a of the Bulgarian Personal Documents Act (BPDA) is regarded as an effective measure for the protection of children involved in labour exploitation and trafficking in human beings. According to this provision, no children are allowed to leave the country and no passports or replacement documents shall be issued to them if there is information that they have been included or are used in activities as listed in CPA Art.11. For the prevention of involvement and use of children in labour or sexual exploitation, the SACP shall prepare reasoned opinions to the Minister of Interior in order to impose a measure under BPDA Art. 76a for a period of up to 2 years. Implementing this measure enables social workers to monitor and track the development of children who have been identified as victims of labour or sexual exploitation.

The Coordination Mechanism for Referral, Care and Protection of Repatriated Bulgarian Unaccompanied Minors and Children Victims of Trafficking Returning from Abroad, which was established in 2005 and is coordinated by the SACP, has proved to be a good practice in the fight against child trafficking in Bulgaria. Multidisciplinary teams are set up to examine each individual case and aiming at finding the best solution for each child who has become a victim. Upon receipt of information about a child who has become a victim of trafficking, the Ministry of Interior and the SACP (Art. 21 of the Combating Trafficking in Human Beings Act) shall be notified within 24 hours.

Paragraph 1, item 11b of the Additional Provision of the CPA defines children-at-risk as children, who are victims of “abuse, violence, exploitation or any other inhuman or degrading treatment or punishment within or outside their families.” Victims of trafficking would certainly fall into the category of children at risk and are, as such, entitled to special protection (CPA Art. 3, item 4). In relation to children who have become victims of trafficking, undertaking protection measures is obligatory under the CPA and not under the Juvenile Delinquency Act. In this way, children who have become victims shall be supported by measures aimed at overcoming the trauma experienced, rather than by applying measures aimed at children in conflict with the law.

CPA Art. 4 provides for several general measures for the protection of children at risk, such as police protection, placement of the child with relatives or close families, adoption, etc. The Social Services Act defines the order and types of social services ensuring adequate and safe accommodation of the child who has become a victim of trafficking. Implementing protection measures for children who have become victims of trafficking is subject exclusively to the application of “the child’s best interest” principle.

According to CPA Art. 11, identity and data of children, especially in respect of children under protection measures, shall not be disclosed.

The child has a right to legal aid and appeal in all proceedings, affecting his or her rights or interests (CPA Art. 15 (8)). The Social Assistance Directorate shall grant legal aid to the child and his/her parents, guardians, custodians or carers, providing advice and consultation on children’s rights issues (Art. 31 of the CPA Implementing Regulation).

In 2019, SACP handled 17 cases related to Bulgarian children who were trafficked, mostly for the purpose of sexual exploitation. The developments over the last 3 years show that the majority of cases occurred in 2018, while 2017 levels were similar to those in 2019. In 2019, in relation to 16 of the cases, reasoned opinions were prepared by the SACP Chairman to the Minister of Interior for imposing measures under BPDA Art. 76a.

In 2019, children were sent back to Bulgaria in 15 cases of trafficking, and respective protection measures were taken, such as accommodation in a specialised service (crisis centre), or placement of the child with relatives or close families. The Crisis Centre for

children victims of trafficking is the first profiled service in Bulgaria addressing the needs of such underaged and minor victims. Its main objective is to overcome the consequences of human trafficking and subsequent reintegration of victims into society by providing profiled support, including psychological, social, medical and legal assistance, cooperation and protection. Cases of child victims are actively monitored by the Child Protection Units of the Social Assistance Directorates for a period of one year in order to provide the necessary support and prevent children from being re-involved in trafficking, as well as preventing other children from being trafficked.

As regards Article 17§1(c) the report notes that over the 29 years since Bulgaria ratified the United Nations Convention on the Rights of the Child in 1991, Bulgaria has developed child-related policies based on the principles of the Convention, including the adoption of the Child Protection Act in 2000. The CPA is the main specialised law in Bulgarian legislation regulating state policy towards children at risk. It governs the rights of the child; the principles and the measures of child protection; the state and municipal bodies and their interaction in the process of performing child protection activities, as well as the participation of non-profit legal entities and natural persons in such activities.

The CPA is based on the philosophy that the family environment is the best for rearing and upbringing of the child. The Act stipulates that children shall be placed in specialised institutions only where the opportunities for leaving the child in a family environment have been exhausted, except in cases when there is an immediate threat for the physical, mental, moral, intellectual and social development of the child. Risk prevention remains the main priority, including prevention of separation of the child from his or her parents and support measures for biological families in order to prevent abandonment and support of the child's reintegration into the family. Priority is given to family protection measures consisting of the provision of pedagogical, psychological and legal assistance to parents or persons entrusted with parental functions on issues related to upbringing, rearing and education of children, referring to appropriate community social services, counselling and informing the child in accordance with his or her age and to the extent of his or her development, advising on social assistance issues, supporting the improvement of social and living conditions, social work aimed at facilitating relations between children and parents, and dealing with conflicts and crisis in relations, etc.

The principle that the family is the best environment for the upbringing and development of each child is also the main driver of the support policy to children and families, as well as of the ongoing process of deinstitutionalisation of childcare. In 2016, the Council of Ministers adopted the Updated Action Plan for the implementation of the National Strategy "Vision for deinstitutionalization of children in the Republic of Bulgaria". The strategic objectives of this action plan shall be fully implemented by 2025. The updated action plan focuses on 6 main groups of measures:

- provision of social and integrated services for early intervention and prevention in family environment;
- provision of care in family environment for children at risk who are not being raised by their biological parents;
- provision of social services and community support for children placed in homes for children deprived of parental care and those leaving the care system;
- provision of social, health and integrated health and social services for children with disabilities;
- increasing the effectiveness of the system for guaranteeing children's rights;
- provision of necessary infrastructure.

As a result of the reform, the number of children in specialised institutions has decreased by over 94 % (from 7,587 children in 2010 to 448 children at the end of February 2020),

while the number of specialised institutions for children has decreased by more than 86 % (from 137 specialized institutions in 2010 to 19 at the end of February 2020). Over the first phase of reform 118 specialised institutions have been closed, including all institutions for children with physical disabilities and intellectual disabilities, as well as foster homes for children aged 4 to 7. High investments have been made in order to achieve these results. On the other hand, significant investments have been from the state budget with the support of the EU structural funds (the European Regional Development Fund and the European Social Fund) to develop new services and enhance the system and specialists' capacity.

Childcare reform is based on the perception that everyone has the right to community support. In this regard, the main objective is to create the conditions for supporting families in order to prevent risks, including the risk of separation and abandonment of children, and to create the conditions that will best meet the individual needs of children and guarantee their rights and interests.

As of the end of February 2020, the number of children placed in families of relatives was 4,594; the number of children placed in foster families was 1,970; while the number of children/young people placed in residential care services (family-type accommodation centres) was 2,888 (total number of children/young people with and without disabilities). By comparison, around 80% of children in formal care used residential services in 2010. The data shows that the proportion of children brought up in families of relatives or foster families has significantly increased, and the reform has resulted in substantially higher prevalence of childcare in a family environment

The right of every child to be raised in his or her biological family, family environment or in a situation similar to family environment is also supported by various forms of community social services (advisory, daily, residential, etc.) offering care and support tailored to the child's individual needs. Community social services *inter alia* aim to protect children at risk, to improve good and responsible parenting and childcare skills, to improve social inclusion conditions, etc. By the end of February 2020, 631 community-based social services for children were established and operated in Bulgaria, with the total capacity for 14,477 persons.

The Social Services Act (SSA), which is effective as of 1 July 2020 aims at improvement of planning, financing, control and monitoring mechanisms of services, as well as at the improvement their quality, efficiency and sustainability. With a view to prevent risks of separation of the child from the family, the SSA regulates that social support services for parental skills formation; counselling and support for parents on early childhood development and childcare and early disability intervention for children are free of charge for individuals. In addition, all social services for children financed from the state budget are free of charge. The SSA also creates additional guarantees for closing the residential care and changing the model of childcare. The law stipulates that all existing specialised institutions for children: Homes for Children Deprived of Parental Care (managed by municipalities), and Homes for Medico-Social Care for Children (managed by the Ministry of Health) shall be closed by the end of 2020. The SSA allows the use of social services for residential care only if the possibilities of supporting people through social services in the home environment and in the community are no longer available and are organised in a way that prevents the isolation of persons from the community. It is stipulated that residential care shall not be provided to children up to 3 years old, except for children with permanent disabilities who require continuous medical supervision and medical care where it cannot be otherwise provided. The period of use of residential care as a child protection measure shall not be longer than 2 years and shall be reviewed every 6 months. A strong emphasis in the legislation is placed on the control of the service quality. For the first time, SSA regulates integrated provision of support and cross-sectoral services. Amendments to the CPA (enacted by the transitional and final provisions of the SSA) regulate the inter-

institutional cooperation and actions at imminent risk of abandoning a child after birth and preventing the abandonment of a child with disabilities, including through early disability intervention services for children, as well as a coordination mechanism in case of violence.

With reference to the implementation of international law commitments, national legislation, policies and practices on child protection the Bulgarian authorities conclude that Article 17§1 can be accepted by Bulgaria.

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.

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

Article 17 guarantees the right of a child to know in principle, his or her origins. The Committee examines the procedures available for the establishment of maternity and paternity and, in particular, the situations where the establishment of maternity or paternity is not possible and where the right of a child to know his or her origins is restricted.

Any restriction or limitation 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. Children placed in institutions are entitled to the highest degree of satisfaction of their emotional needs and physical well-being as well as to special protection and assistance. Such institutions must provide conditions promoting all aspects of children's growth. A unit in a child welfare institution should be of such a size as to resemble the home environment and should not therefore accommodate, more than 10 children.

Domestic law 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. A procedure must also 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

Article 17 requires States Parties to prohibit and penalise all forms of violence against children, including all forms of corporal punishment, in the home, as well as in all educational settings, public and private and in all alternative care settings. These are acts or behaviour likely to affect the physical integrity, dignity, development or psychological well-being of children. The relevant provisions must be sufficiently clear, binding and precise, so as to preclude the courts from refusing to apply them to violence against children. Moreover, States Parties must act with due diligence to ensure that such violence is eliminated in practice.

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 detained pending trial 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. Young offenders should not serve their sentence together with adult prisoners.

The Committee has already in its earlier findings noted that corporal punishment is prohibited in Bulgaria. The Committee also takes note of the measures taken and progress achieved in Bulgaria as regards combatting violence against children and development of community-oriented care for children, in compliance with the principles of the Charter.

The Committee welcomes the readiness expressed by the Bulgarian authorities to accept Article 17§1 of the Charter and encourages them to proceed towards acceptance. In this regard the Committee also reiterates its earlier finding from the 2016 report in 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*)

With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake:

Article 18§1:

- to apply existing regulations in a spirit of liberality;

Article 18§2:

- to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers;

Article 18§3:

- to liberalise, individually or collectively, regulations governing the employment of foreign workers.

Situation in Bulgaria

The Employment Agency (EA) is responsible for the implementation of the labour market protection policy for Bulgarian nationals, citizens of EU/EEA member states and the Swiss Confederation, foreigners with equivalent rights, as well as for the regulated admission of third-country (non-EU/EEA/Swiss) nationals to work in Bulgaria.

The EA offers all jobseekers, including foreigners registered with Labour Office Directorates (LODs), mediation services for employment and training, which is provided free of charge. All registered persons have equal access to the services, and no direct or indirect discrimination, privileges or restrictions based on nationality, origin, gender, race, etc. shall be allowed.

The EPA Article 18 (3) regulates the provision of mediation services by the EA to citizens of EU/EEA member states and the Swiss Confederation; foreigners holding a long-term or permanent residence permit for the Republic of Bulgaria; persons who have been granted the right of asylum; persons who have been granted refugee status or humanitarian status under Art. 29 (3) of the Act on Asylum and Refugees; persons enjoying such rights as provided for in an international treaty whereto the Republic of Bulgaria is a party; third-country nationals, who are family members of Bulgarian citizens or of nationals of a EU/EEA member states or of the Swiss Confederation; family members of foreigners who have been granted a long-term residence permit; EU Blue Card holders who have remained jobless for 3 months or wish to change their employer. Services shall be used after registration in the relevant LOD. In 2018, the range of persons entitled to use the EA mediation services expanded. An opportunity was provided for third-country nationals who have graduated from a higher school in Bulgaria and persons admitted as researchers to register with LODs, for the purpose of faster integration into the Bulgarian labour market.

The EA also provides employment mediation services by assisting third-country (non-EU/EEA/Swiss) nationals to exercise employment in implementation of international agreements and agreements regulating labour migration within the meaning of the Law on Labour Migration and Labour Mobility (LLMLM). Migrant workers enjoy the same labour rights and obligations as local workers and enjoy equal protection at the workplace in accordance with the legislation of the Republic of Bulgaria, as well as the same legal protection with regard to their personal and property rights provided for local citizens.

EA is responsible for applying the national legislation and its administrative procedures, which are in accordance with the relevant EU legislation and practice, regarding the employment of foreigners on the territory of the Republic of Bulgaria. The employment of foreigners on the territory of the Republic of Bulgaria is regulated by LLMLM and its Implementing Regulations (LLMLMIR). In accordance with LLMLM Art. 49(2) they may operate on Bulgarian territory only if they reside legally, as evidenced by the relevant residence permit issued by the Ministry of Interior and/or after receiving the appropriate permit or registration of their employment for access to the Bulgarian labour market by the EA Executive Director. This category of persons shall have equal rights as Bulgarian citizens in terms of working conditions, including in terms of pay, working hours and breaks, termination of the employment relationship, minimum age for starting work, participation in collective bargaining, etc.

Recent legislative amendments have improved the access regime for non-EU nationals to the Bulgarian labour market for employment and subsequent integration, taking into account the current economic situation and growth, job creation opportunities and related existing labour force needs.

The Bulgarian authorities express the view that the current legislation regulating the employment of foreigners provides opportunities for application of Article 18§§1–3 in Bulgaria.

Opinion of the European Committee of Social Rights

Article 18 applies to employees and the self-employed who are nationals of States which are party to the Charter. It also covers members of their family allowed into the country for the purposes of family reunion. Article 18 relates not only to workers already on the territory of the State concerned, but also to workers outside the country applying for a permit to work on the territory.

The 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.

Economic or social reasons might justify limiting access of foreign workers to the national labour market. This may occur, for example, with a view to addressing the problem of national unemployment by means of favouring employment of national workers. However, the implementation of such policies limiting access of third-country nationals to the national labour market, should neither lead to a complete exclusion of nationals of non-EU (or non-EEA) States parties to the Charter from the national labour market, nor substantially limit the possibility for them of acceding the national labour market.

Formalities and dues and other charges governing the employment are dealt with specifically under Art.18§2. 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. States Parties are under an obligation to reduce or abolish chancery dues and other charges paid either by foreign workers or by their employers. In order to comply with such an obligation, States must, first of all, not set an excessively high level for the dues and charges in question that is a level likely to prevent or discourage foreign workers from seeking to engage in a gainful occupation, and employers from seeking to employ foreign workers.

In addition, States have to make concrete efforts to progressively reduce the level of fees and other charges payable by foreign workers or their employers. States are required to demonstrate that they have taken measures towards achieving such a reduction. Otherwise, they will have failed to demonstrate that they serve the goal of facilitating the effective exercise of the right of foreign workers to engage in a gainful occupation in their territory.

The Bulgarian report does not present details on the currently applicable formalities and dues for foreign workers or their employers. There are also no statistics on the number of permits granted and denials of applications to assess the situation in practice. The Committee is therefore unable to assess whether the current legal situation and practice in Bulgaria complies with the requirements of Art.18§§1–3.

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

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

Article 19§1

➤ to maintain or to satisfy themselves that there are maintained adequate and free services to assist such workers, particularly in obtaining accurate information, and to take all appropriate steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration;

Situation in Bulgaria

As regards Article 19 in general, the report refers to the applicable Bulgarian legislation in the field of protection of the rights of migrants and their families, namely the Law on Labour Migration and Labour Mobility, the Law on Foreigners in the Republic of Bulgaria and respective Regulations for Implementation.

The Bulgarian authorities indicate that they do not currently plan to accept Article 19.

The report provides no specific information on Article 19§1.

Opinion of the European Committee of Social Rights

Article 19§1 guarantees the right to free information and assistance to nationals wishing to emigrate and to nationals of other States Parties who wish to immigrate. Information should be reliable and objective and cover issues such as formalities to be completed and the living and working conditions they may expect in the country of destination (such as vocational guidance and training, social security, trade union membership, housing, social services, education and health).

Another obligation under this provision is that States Parties must take measures to prevent misleading propaganda relating to immigration and emigration. Such measures should prevent the communication of misleading information to nationals 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 Parties must also take measures to raise awareness amongst law enforcement officials, such as awareness training of officials who are in first contact with migrants.

As the report does not provide relevant information, the Committee is not in a position to assess the situation in Bulgaria in respect of Article 19§1.

Article 19§2

➤ to adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and to provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey;

Situation in Bulgaria

Upon entrance into the territory of the Republic of Bulgaria foreigners shall provide a regular passport or a replacement travel document issued by their own country of origin. The Migration Directorate of the Ministry of Interior only issues travel and identity documents to persons who have been granted stateless status in the Republic of Bulgaria – a certificate for travelling abroad to a stateless person. The State Agency for Refugees at the Council of Ministers, upon granting international protection issues respective travel and identity documents – a certificate for travelling abroad to a refugee or a foreigner with a humanitarian status; and in the case of granting asylum – a certificate for travelling abroad to a foreigner who has been granted asylum.

Opinion of the European Committee of Social Rights

Article 19§2 obliges States Parties to adopt special measures for the benefit of migrant workers, beyond those which are provided for nationals to facilitate their departure, journey and reception. ‘Reception’ means the period of weeks which follows immediately from their arrival, during which migrant workers and their families most often find themselves in situations of particular difficulty, and the measures at issue must include not only assistance with regard to placement and integration in the workplace, but also assistance in overcoming problems, such as short-term accommodation, illness, shortage of money and adequate health measures.

The obligation to “provide within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey” relates to migrant workers and their families travelling either collectively or under the public or private arrangements for collective recruitment. The Committee considers that this aspect of Article 19§2 does not apply to forms of individual migration for which the State is not responsible.

The Bulgarian report provides information only on the issuance of travel documents, but not on reception and other appropriate services, which are covered by Article 19§2. As the report does not provide all relevant information, the Committee is not in a position to assess the situation in Bulgaria in respect of Article 19§2.

Article 19§3

➤ to promote co-operation, as appropriate, between social services, public and private, in emigration and immigration countries;

Situation in Bulgaria

The report provides no specific information on Article 19§3.

Opinion of the European Committee of Social Rights

The scope of Article 19§3 extends to migrant workers immigrating as well as migrant workers emigrating to the territory of any other State. Contacts and information exchanges should be established between public and/or private social services in emigration and immigration countries, with a view to facilitating the life of emigrants and their families, their adjustment to the new environment and their relations with members of their families who remain in their country of origin. Formal arrangements are not necessary, the provision of practical co-operation on a needs basis may be sufficient.

As the report does not provide relevant information, the Committee is not in a position to assess the situation in Bulgaria in respect of Article 19§3.

Article 19§4

➤ to secure for such workers lawfully within their territories, insofar as such matters are regulated by law or regulations or are subject to the control of administrative authorities, treatment not less favourable than that of their own nationals in respect of the following matters:

- a. remuneration and other employment and working conditions;
- b. membership of trade unions and enjoyment of the benefits of collective bargaining;
- c. accommodation.

Situation in Bulgaria

The report provides no specific information on Article 19§4.

Opinion of the European Committee of Social Rights

Article 19§4 guarantees the right of migrant workers to a treatment not less favourable than that of the nationals in the areas of: (a) remuneration and other employment and working conditions, (b) trade union membership and the enjoyment of benefits of collective bargaining, and (c) accommodation.

States are required to guarantee certain minimum standards in these areas with a view to assisting and improving the legal, social and material position of migrant workers and their families. States are obliged to eliminate all legal and *de facto* discrimination concerning remuneration and other employment and working conditions, including in-service/vocational training and promotion. The right to membership of a trade union includes the right to be founding member and access to administrative and managerial posts in trade unions. This also applies to workers who provide services within the host state but are contracted by an employer in another state. There must be no legal or *de facto* restrictions on access to public or private accommodation including home-buying, access to subsidised housing or housing aids, such as loans or other allowances.

As the report does not provide relevant information, the Committee is not in a position to assess the situation in Bulgaria in respect of Article 19§4.

Article 19§5

➤ to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals with regard to employment taxes, dues or contributions payable in respect of employed persons;

Situation in Bulgaria

The taxation of income of natural persons, including income from activity in a sole-trader capacity, is regulated by the Income Taxes on Natural Persons Act (ITNPA). According to ITNPA Art. 4 (1), as a 'resident natural person', regardless of nationality, is considered any person who has a permanent address in Bulgaria, or who is present within the territory of Bulgaria for a period exceeding 183 days in any 12-month period, or who is sent abroad by the Bulgarian State, by bodies and/or organisations thereof, by Bulgarian enterprises, and the members of the family of any such person, or whose centre of vital interests is situated in Bulgaria. According to Art. 5 of the same law, a 'non-resident natural person' is any person who is not a resident person within the meaning given by Article 4. Any resident natural person and any non-resident natural person is liable to taxes in respect of any income acquired thereby from sources inside and outside the Republic of Bulgaria (ITNPA Art. 6 and Art. 7).

Opinion of the European Committee of Social Rights

Article 19§5 recognises the right of migrant workers to equal treatment in law and in practice in respect of the payment of employment taxes, dues or contributions.

On the basis of the information provided by the Bulgarian authorities in the current and previous reports, the Committee reiterates its view that there are no legal or practical obstacles to the acceptance by Bulgaria of Article 19§5.

Article 19§6

➤ to facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory;

Situation in Bulgaria

National legislation ensures that the right to family life is respected. Bulgaria complies with the requirements of Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification.

According to Art. 2 (3) of the Law on Foreigners in the Republic of Bulgaria (LFRB), as members of the family of a Bulgarian citizen as considered persons, living together in one abode and are:

1. a spouse;
2. children of the foreigner and his or her spouse, under 18 years of age and have not entered into a marriage;
3. children of the foreigner, including adopted ones, under 18 years of age and have not entered into a marriage, when the parent has custody and has to take personal care of them;
4. children of the spouse, including adopted ones, under 18 years of age and have not entered into a marriage, when the parent has custody and has to take personal care of them.

According to LFRB Art. 2 (4), members of the family also include children of the foreigner and his or her spouse, who have turned 18 years of age and have not entered into a marriage, but do not have income of their own for they are not in a condition to provide their maintenance or serious health reasons enforce the parent to take personal care of them.

The Bulgarian authorities regard that provisions referred to in the LFRB fully correspond to the meaning embodied in the notion of “family of the migrant worker” of Art. 19§6 of the Charter.

Concerning possible refusal of family reunification for health reasons, LFRB Art. 10, (1), item 8 of the BSDA applies, according to which “the issuing of visa and entering in the country shall be refused to a foreigner when it could be supposed that he will disseminate grave infectious disease, suffers from a disease which according to the criteria of the Ministry of Health or the World Health Organisation represents a threat for public health or when he does not have a certificate for vaccination, or comes from a region with complicated epidemic or epizootic situation.” The legislation sets out clear criteria aimed at preventing the spread of serious infectious diseases which may pose a threat to public health, but do not hinder family reunification in general.

On the other hand, there are conditions related to the duration of residence, proof of insured housing, proof of stable, regular, foreseeable and sufficient means of subsistence for family members, with no need for provisions by the social assistance system, and amounting to not less than the minimum monthly salary or the minimum pension for the country, for the duration of residence on the territory of the Republic of Bulgaria. The national legislation requires that foreigners shall have an authorised right of residence on the territory of the Republic of Bulgaria of not less than 1 year in order to be able to submit an application for family reunification. This complies with the requirements of Article 8 of Directive 2003/86/EU, stipulating that “Member States may require the sponsor to have stayed lawfully in their territory for a period not exceeding two years, before having his/her family members join him/her.”

Members of the family of a foreigner, who has received permission for a long stay as a worker, shall be able to receive permission for long stay pursuant to LFRB Art. 24 (1), item 13. In the cases under LFRB Art. 24 (5) in the event of termination of a marriage due to divorce or death, administrative control of foreigners services may issue an autonomous residence permit for long-term residence to a foreigner who has obtained a permit for long-term stay or long-term residence under para. 1, items 13 and 18, when the family has resided continuously and legally in the territory of the Republic of Bulgaria for at least 2 years. This provision allows, after a divorce or in the event of the death of the holder, for family members to obtain a one-off autonomous residence permit for long-term residence in case the family has resided continuously and legally on the territory of the country for at least 2 years.

Family members of migrant workers shall be granted permission for permanent or long stay if they have stayed on legal grounds without interruption on the territory of the country during the last 5 years. Regarding the right of permanent residence, worker’s family members have the opportunity to apply on an independent legal basis – under LFRB Art. 25 (1), item 5 or on grounds related to their marriage under LFRB Art. 25 (1), item 2, taking into account the additional conditions, along with 5 years of legal and continuous residence as a general requirement.

A long-term residence status pursuant to LFRB Art. 24d (1) may be granted to a foreigner who has stayed on legal grounds and without interruption in the territory of the Republic of Bulgaria during the last 5 years before submitting the application for a long-term residence permit. Periods of absence from the territory of the Republic of Bulgaria do not interrupt the

period referred to in paragraph 1 and are taken into account in the calculation in case they amount to less than 6 consecutive months and do not exceed a total of 10 months for the 5-year period.

Obtaining long-term residence is an autonomous legal basis on which worker's family members may reside and cannot be withdrawn in the event of termination of the marriage. Upon granting, the long-term residence status shall be permanent as long as there are no grounds for revoking of the right of stay of the foreigner under LFRB Art. 40, which grounds are independent ones and are not bound by the marriage of the person.

According to LFRB Art. 40 (3) "the revoking of the right of permanent stay shall be imposed on the grounds of para. 1, items 3, 6, 9 and 11 and Art. 42 (1), when the foreigner's presence in the country creates a serious threat for the national security or for the public order." The other cases referred to in the provision include when the foreigner has presented a document of untrue contents or has declared incorrect data in his or her application (Art. 40 (1), item 3), or the foreigner has not stayed in the territory of EU Member States for a period of 12 consecutive months, except in cases of a declared emergency (Art. 40 (1), item 6), the foreigner has been granted a long-term resident status in another EU Member State (Art. 40 (1), item 9), as well as in case an EU Blue Card holder authorised to reside in the Republic of Bulgaria or his or her family members authorised to reside for a long-term period, have not stayed in the territory of the EU Member States for a period of 24 consecutive months (Art. 40 (1), item 11);

In terms of stay, procedures are organised in line with the requirements of EU legislation on legal migration.

Opinion of the European Committee of Social Rights

Article 19§6 obliges States to allow the families of migrants legally established in their territory to join them. The worker's children entitled to family reunion are those who are dependent and unmarried, and who fall under the legal age-limit in the receiving state (under the Charter the age limit for admission under family reunion is set at the age of majority, which in most countries is 18 years).

The Committee considers that certain conditions excessively inhibit family reunion and are therefore violations of the Charter, these include: refusal on health grounds except where the condition is a threat to public health, order or security; a requirement that the migrant has been resident for more than one year; a requirement that the family have sufficient accommodation which is too restrictive; a requirement that the family have sufficient means which is too restrictive; or language tests which must be passed in order to be allowed to join the family in the State.

The Committee considers that there are no major obstacles to the acceptance of Article 19§6 by Bulgaria. Updated information on refusals is essential to assess the situation in practice.

Article 19§7

➤ to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals in respect of legal proceedings relating to matters referred to in this article;

Situation in Bulgaria

The report provides no specific information on Article 19§7.

Opinion of the European Committee of Social Rights

Under Article 19§7, States must ensure that any migrant worker residing or working lawfully within the territory of a State Party who is involved in legal or administrative proceedings and does not have counsel of his or her own choosing should be advised that he/she may appoint counsel and, whenever the interests of justice so require, be provided with counsel, free of charge if he or she does not have sufficient means to pay the latter, as is the case for nationals or should be by virtue of the European Social Charter. Under the same conditions (involvement of a migrant worker in legal or administrative proceedings), whenever the interests of justice so require, a migrant worker must have the free assistance of an interpreter if he or she cannot properly understand or speak the national language used in the proceedings and have any necessary documents translated. Such legal assistance should be extended to obligatory pre-trial proceedings.

As the report does not provide relevant information, the Committee is not in a position to assess the situation in Bulgaria in respect of Article 19§7.

Article 19§8

➤ to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality.

Situation in Bulgaria

According to LFRB Art. 42, expulsion of a foreigner is imposed when:

- his or her presence in the country creates a serious threat for the national security or for the public order;
- there are grounds under LFRB Art. 10 (1) items 1-4:
 1. in cases where the foreigner with his or her activities has put or could put in danger the security or the interests of the Bulgarian state or about whom there are data that he acts against the security of the country; he or she implements, incites, participates in preparation, assistance or training for the commission of terrorist activity or that the purpose of its entry is to use the country as a transit point to a third country on the territory of which he or she will commit such acts;
 2. with his or her activities he or she has discredited the Bulgarian state or has derogated the prestige and the dignity of the Bulgarian people or his or her entry into the country may damage the relations of the Republic of Bulgaria with another country;
 3. there are data that he or she is a member of a criminal group or organisation or that he or she implements terrorist activity, smuggling and illegal transactions with arms, explosives, ammunitions, strategic raw materials, products and technologies with double use as well as illegal traffic of anaesthetic and psychotropic substances and precursors and raw materials for their production;
 4. there are data that he or she implements trade with people and illegal bringing of persons in the country and bringing out of the country persons to other states.

Expulsion cannot be based on economic considerations.

LFRB Art. 40 refers to the grounds on which a compulsory administrative measure “revoking of the right of stay” may be imposed, and not “expulsion”. The grounds for imposing the measure “expulsion” are referred to in LFRB Art. 42. According to LFRB Art. 44 (2), competent authorities shall impose compulsory administrative measures by taking into account the duration of residence of the foreigner on the territory of the Republic of Bulgaria, categories of vulnerable persons, the existence of proceedings under the Law for Asylum and Refugees or proceedings for renewal of the residence permit or other authorisation granting the right of residence, marital status, as well as the existence of

family, cultural and social ties with the person's country of origin. Before imposing expulsion of a foreigner with a long-term residence permit, account shall be also taken of his or her age, state of health, marital status, social integration.

According to LFRB Art. 46 (2), item 3, the expulsion order can be appealed under the conditions and by the procedures of the Administrative Procedure Code. The court's decision is final.

The Bulgarian authorities consider that the migration legislation ensures the protection of the rights of migrant workers and their family members when residing on the territory of the Republic of Bulgaria.

Opinion of the European Committee of Social Rights

Article 19§8 obliges States to prohibit by law the expulsion of migrants lawfully residing in their territory, except where they are a threat to national security, or offend against public interest or morality. Expulsion for offences against public order or morality can only be in conformity with the Charter if they constitutes a penalty for a criminal act, imposed by a court or a judicial authority, and are not solely based 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 territory of the State.

Risks to public health are not in themselves risks to public order and cannot constitute a ground for expulsion, unless the person refuses to undergo suitable treatment. The fact that a migrant worker is dependent on social assistance cannot be regarded as a threat against public order and cannot constitute a ground for expulsion. States must ensure that foreign nationals served with expulsion orders have a right of appeal to a court or other independent body, even in cases where national security, public order or morality are at stake.

Migrant worker's family members, who have joined him or her through family reunion, may not be expelled as a consequence of his or her own expulsion, since these family members have an independent right to stay in the territory. Moreover, for as long as a migrant workers' family members hold a right of residence it must not be possible to remove them, even if the migrant worker has personally lost this right, except where they endanger national security or offend against public interest or morality. Finally, the impossibility of expelling or removing a migrant worker which follows either from a State Party's undertakings pursuant to the Charter or from choices specific to that State and enshrined in its legislation, presupposes that the migrant worker is not placed in a situation of non-law as regards residence.

The guarantees against expulsion contained in Article 19§8 only apply to migrant workers and his or her family members if these persons reside lawfully in the territory of the State.

The Committee has already previously noted that as Bulgaria has implemented Directive 2003/109/EC, the individual circumstances are taken into account when dealing with expulsions. On the other hand, the Committee considers that only criminal liability, or threat to national security, public order or morals, may be a legitimate ground for expulsion, while some grounds listed in LFRB Art. 42 could be interpreted too broadly.

The Committee considers that the situation in Bulgaria may give rise to certain problems of conformity with Article 19§8. The Committee encourages the Bulgarian authorities to take necessary measures to bring the situation in law and in practice in conformity with Article 19§8, thus allowing its acceptance.

Article 19§9

- to permit, within legal limits, the transfer of such parts of the earnings and savings of such workers as they may desire.

Situation in Bulgaria

The report provides no specific information on Article 19§9.

Opinion of the European Committee of Social Rights

Under Article 19§9 migrants must be allowed to transfer money (earnings and savings) to their own country or any other country both during their stay and when they leave their host country. There may be legal limits, but not excessive restrictions. This provision includes the right to transfer moveable property in their possession.

The Committee recalls that at the 2016 meeting in the framework of the procedure on non-accepted provisions, the representatives of the Government stated that Bulgarian law does not restrict the right of migrants to transfer their savings and earnings. Subject to confirmation that this remains the case, the Committee holds that there are no obstacles to acceptance by Bulgaria of Article 19§9.

Article 19§10

- to extend the protection and assistance provided for in this article to self-employed migrants insofar as such measures apply.

Situation in Bulgaria

The report provides no specific information on Article 19§10.

Opinion of the European Committee of Social Rights

The Committee provided information concerning interpretation and case law on Article 19§10.

Under Article 19§10, States must ensure equal treatment of self-employed persons and wage-earners as well as self-employed migrants and self-employed nationals as regards the rights covered by Art.19§§1–9 and Art.19§§11–12.

States must ensure that there is no unjustified treatment which amounts to discrimination, in law or in practice between wage-earners and self-employed migrants. A finding of nonconformity under any of the paragraphs Art.19§§1–9 or Art.19§§11–12 may lead to a finding of nonconformity under Art.19§10.

Given the lack of updated information on the situation as regards several paragraphs of Article 19 and the possible problems of conformity with Article 19§8, the Committee is not in a position to assess properly the situation in Bulgaria in respect of Article 19§10.

Article 19§11

- to promote and facilitate the teaching of the national language of the receiving state or, if there are several, one of these languages, to migrant workers and members of their families;

Article 19§12

- to promote and facilitate, as far as practicable, the teaching of the migrant worker's mother tongue to the children of the migrant worker.

Situation in Bulgaria

Foreigners residing in the Republic of Bulgaria, including persons seeking or receiving international protection, have all rights and obligations under the Constitution of the Republic of Bulgaria, with the exception of the rights and obligations for which the Constitution and legislation require Bulgarian citizenship. In accordance with Art. 53 (1) of the Constitution, everyone shall have the right to education, and school attendance up to the age of 16 shall be compulsory.

According to the Constitution, PSEA and its implementing regulations, the state and municipal educational establishments shall provide education free of charge. Migrants and applicants for or beneficiaries of international protection who hold a document for a completed educational period, class, stage or level shall be enrolled in the state and municipal schools in accordance with Ordinance No. 11/01.09.2017 on evaluation of students' learning outcomes issued by the Minister of Education and Science.

Knowledge of Bulgarian is considered a prerequisite for effective pre-school and school education of migrant children and pupils and children and pupils seeking or receiving international protection. Under PSEA, children and pupils of the compulsory pre-school and school age, who are residing in Bulgaria, regardless of their citizenship, shall be taught the Bulgarian language free of charge.

Pursuant to Ordinance No. 6 of 11.08.2016 on the adoption of the Bulgarian literary language, two curricula in Bulgarian as a foreign language were prepared and approved by the Minister of Education and Science – for applicants for or beneficiaries of international protection and for migrants of compulsory school age and adults. According to Art. 13 (12) of the Ordinance, additional training in Bulgarian as a foreign language for migrant children and pupils of and for children and pupils seeking or who have been granted international protection shall be held in out-school classes for a period of 12 months. The training may also be conducted completely or partially intensively during vacations or at other appropriate times if the parent (guardian, trustee, representative of unaccompanied minors seeking or who have been granted international protection) requests so in the application submitted.

In the academic years 2017/2018 and 2018/2019, additional training in Bulgarian as a foreign language was provided respectively to 85 and 62 migrant children, and children and pupils who are seeking or have been granted international protection. In 2018 and 2019 respectively 70 and 60 pedagogical professionals were trained to work with such children and pupils.

According to Art. 36 (2) of the Constitution, citizens whose mother tongue is not Bulgarian shall have the right to study and use their own language alongside the compulsory study of the Bulgarian language.

School education provides the opportunity for pupils of compulsory school age for whom the Bulgarian language is not their mother tongue and who are children of EU/EEA/Switzerland citizens to study also their mother tongue and culture (PSEA Art. 13 (6) and Art. 111 of Ordinance No. 10 of 01.09.2016 on organisation of activities in school education).

The Bulgarian authorities express the view that they do not consider it sustainable to provide the possibility of learning all respective languages spoken by migrant workers' children in the framework of school education.

Opinion of the European Committee of Social Rights

Under Article 19§11 States should promote and facilitate the teaching of the national language to migrants and their family members which is the main means to integrate into the world of work and society at large. The Committee holds that national language classes shall be provided free of charge otherwise these are not accessible to many migrants, and a requirement to pay substantial fees is not in conformity with the Charter.

While the Bulgarian report explains that the teaching of Bulgarian language to children at pre-school establishments and at schools is free of charge, the report does not clarify whether there are fees for participating in the courses of the Bulgarian language for adult migrants.

Under Article 19§12 States should promote and facilitate the teaching of the languages most represented among the migrants present on their territories in schools, voluntary associations, NGOs etc. The Committee points out that the obligation under Article 19§12 is to promote and facilitate the teaching of mother tongue to the children of the migrant workers 'as far as practicable' and hence does not extend to all languages spoken by migrant workers' children, but only to the languages most represented among the migrants in Bulgaria. Accordingly, compliance with Article 19§12 is to be assessed against the languages of the largest groups of migrants in Bulgaria.

The Committee also recalls that in order to comply with the requirements of Article 19§12, Bulgaria should 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*)

With a view to ensuring the effective exercise of the right of elderly persons to social protection, the Parties undertake to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular:

- to enable elderly persons to remain full members of society for as long as possible, by means of:
 - a) adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life;
 - b) provision of information about services and facilities available for elderly persons and their opportunities to make use of them;
- to enable elderly persons to choose their lifestyle freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of:
 - a) provision of housing suited to their needs and their state of health or of adequate support for adapting their housing;
 - b) the health care and the services necessitated by their state;
- to guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in their institution.

Situation in Bulgaria

The Constitution of the Republic of Bulgaria prohibits discrimination on all grounds and guarantees equality of citizens. The Law on Protection from Discrimination transposes EU directives on equality, regulating the protection of any natural persons on the territory of the

Republic of Bulgaria against all forms of discrimination, prevention of discrimination and promotion of measures for equal opportunities.

The principle of equal opportunities and protection against discrimination, including of the elderly, is regulated in the Labour Code, the Health and Safety at Work Act, the Code of Civil Procedure, the Criminal Code, the Code of Criminal Procedure, the Social Security Code, the Employment Promotion Act, the Social Assistance Act, the Social Services Act, the Civil Servants Act, the Higher Education Act, etc. Special protection is provided under the Ombudsman Act, the Law on Persons with Disabilities, the Combating Trafficking in Human Beings Act, the Protection Against Domestic Violence Act, the Personal Data Protection Act, the Statistics Act, etc.

The Government aims at a balanced approach in relation to ageing by encouraging the activity of older people and providing conditions for their full participation in the social and economic life.

The main strategic instruments for meeting the demographic challenges in Bulgaria, including ageing, are adopted by the Council of Ministers and include the Updated National Strategy for Demographic Development of the Population of the Republic of Bulgaria (2019–2030).

The National Strategy for Active Ageing sets out the following priorities:

- Priority 1: Promoting active working life for elder people;
- Priority 2: Promoting active participation of elder people in all aspects of social life;
- Priority 3: Promoting active participation of elder people in the field of independent living;
- Priority 4: To create capacity and favourable environment for active ageing at national and regional level.

Measures are planned under each priority and their implementation will be monitored through 2-year plans and 2-year reports, to achieve a clear distribution of responsibilities as well as mobilization of available institutional and civilian resources to provide positive changes in measurable areas. The Minister of Labour and Social Policy has approved a Communication and Publicity Plan of the Strategy.

The implementation of the National Strategy for Active Ageing in Bulgaria shall be carried out with the combined efforts of all stakeholders. There is an Inter-ministerial Working Group on demographic affairs, income and standard of living to facilitate inter-ministerial interaction.

The first 2-year plan of the Strategy was adopted by Decision of the Council of Ministers No. 779 of 20.12.2019, covering the period 2019–2020 and outlining the specific activities and tasks in implementation of its priorities.

The 2019–2020 Plan for the implementation of the National Strategy for Active Ageing in Bulgaria contains *inter alia* the following measures:

- Inclusion of persons over the age of 50 in adult education under EPA Art. 63, including unemployed and employed persons. The measure shall be implemented by the MLSP and the EA at national level;
- Inclusion of unemployed persons over the age of 50 in adult education organised by the EA through referral to the Centre for Human Resources Development and Regional Initiatives (CHRDR). The measure is implemented by CHRDR and the EA at regional level;

- Inclusion in training of unemployed persons over the age of 50 under the “Education of adults who have taken literacy courses” Scheme/Project of OP HRD 2014-2020. The measure is funded from the ESF and the state budget. It shall be applied on the territory of the whole country;
- Inclusion in training of employed persons over the age of 50 under the “Vouchers for Employees” Scheme/Project of OP HRD 2014–2020. The measure is funded from the ESF and the state budget. It shall be applied on the territory of the whole country;
- Introduction of a pilot service for remote monitoring of the health and social status of people over the age of 50 with chronic diseases and disabilities. The funds for the implementation of the measure are provided by the “Local Development, Poverty Reduction and Enhanced Inclusion of Vulnerable Groups” Programme, funded by the EEA Financial mechanism 2014–2021. The service is offered in the territory of the North-Western Region – Vidin, Vratsa and Montana districts;
- Provision of integrated health and social services in the home environment to elderly people over 65 years of age with chronic diseases and permanent disabilities. The measure is implemented with funds from the Bulgarian Red Cross, projects, the municipal budget of Varna Municipality, and the EEA Financial Mechanism 2014–2021.

An evaluation of the National Strategy for Active Ageing in Bulgaria will be carried out every 4 years of the planned period (2019–2030).

The Bulgarian authorities note that despite the existing legislation in respect of the elderly and considering the relatively short practical implementation of the relevant national strategic and planning instruments, they do not currently plan to accept Article 23.

Opinion of the European Committee of Social Rights

Under Article 23 States Parties shall combat age discrimination in a range of areas beyond employment, namely in access to goods, facilities and services, healthcare, education, services such as insurance and banking products, participation in policy making/civil dialogue, allocation of resources and facilities. An adequate legal framework is required to combat age discrimination in these areas. There should also be a legal framework on assisted decision making for the elderly guaranteeing their right to make decisions for themselves unless it is shown that they are unable to make them.

To assess the adequacy of resources, all social protection measures guaranteed to elderly persons and aimed at maintaining income level allowing them to lead a decent life and participate actively in public, social and cultural life are taken into account. The emphasis is on minimum level of pensions, but other complementary cash benefits available to elderly persons are also considered. These resources are compared with the median equivalised income in the country concerned. The Committee also takes into consideration indicators relating to at-risk-of-poverty rates for persons aged 65 and over.

The Committee assesses the existence, extent and cost of home help services, community based services, specialised day care provision (e.g. 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. States must also have a system for monitoring the quality of services, a procedure for complaining about the standard of services and an appropriate regulation of fees for services.

Housing law and policy must take account of the special needs of elderly persons. There shall be sufficient supply of adequate and appropriate housing for elderly persons, and assistance for the adaptation of homes and provision of sheltered/supported housing to allow elderly persons to remain in their own homes for as long as possible. There must also be health care programmes and services (in particular primary health care services including domiciliary nursing/health care services), specifically aimed at the elderly, mental health programmes for any psychological problems in respect of the elderly, as well as adequate palliative care services.

Elderly persons living in institutions 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.

As regards acceptance of Article 23 of the Charter, the situation in practice is of particular importance in order to assess the extent to which the effective exercise of the right of elderly persons to social protection is ensured.

The Bulgarian report on Article 23 does not provide information on the minimum level of pensions and other complementary cash benefits available to elderly persons, which prevents assessment of the adequacy of resources. The Committee recalls that in its Conclusions 2017, the Committee concluded that the minimum level of contributory old age benefits was inadequate.

The report does also not provide information on social services, including care and services for persons living in institutions, as well as on supply of suitable housing for elderly persons.

The Committee encourages Bulgaria to continue its efforts towards ensuring the right of elderly persons to social protection in view of possible acceptance of Article 23.

The Committee also invites the Government to ensure that there is a system for monitoring the quality of services provided to the elderly persons and a procedure for complaining about the standard of services or about the treatment and care in institutions.

Article 27 (*Right of workers with family responsibilities to equal opportunities and equal treatment*)

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

Article 27§1 (*Participation in working life*)

- to take appropriate measures:
 - a. to enable workers with family responsibilities to enter and remain in employment, as well as to re-enter employment after an absence due to those responsibilities, including measures in the field of vocational guidance and training
 - b. to take account of their needs in terms of conditions of employment and social security;
 - c. to develop or promote services, public or private, in particular child day care services and other childcare arrangements

Situation in Bulgaria

As regards Article 27§1(a), the Employment Promotion Act includes a provision guaranteeing equal treatment, inter alia in respect to marital status.

The updated Employment Strategy 2013–2020 has implemented measures aimed at a better reconciliation of the work-life balance to attain successful labour market transitions via the provision of a wide range of services, incentives for employers to recruit unemployed parents with young children, access to training to upgrade parents' knowledge and skills after parental leave, and provision of employment for unemployed persons in the field of childcare for parents with children.

Integration into the labour market of unemployed parents is supported through a range of services tailored to their individual profile and the specific difficulties they face. Individuals are provided with information and counselling services, they are encouraged to be active in the labour market, referred to job vacancies in the real economy, programmes, projects and promotion measures for training and employment, and engaged in skills development training. Post-employment consultation and mentoring are necessary services for vulnerable groups. During the first few months after starting work, persons from vulnerable groups shall be consulted in order to adapt to the work process and to carry out their professional tasks. Unemployed people from vulnerable groups and their families at risk of poverty are supported through family labour counselling. Family members are informed of the opportunities offered by labour offices.

Employment mediation services are part of the individual action plan drawn up for each unemployed person. Steps in the plan aimed at upskilling shall be tailored to the individual characteristics of the persons.

In 2019, the Employment Agency continued the implementation of the “Parents in Employment” project under OP HRD 2014–2020. The project aims at a better work-life balance for parents by providing care for their children.

The EPA regulates a specific measure (Art. 53a), which provides financial incentives for employers who create jobs and employ single parents/adoptive parents and/or mothers/adoptive mothers with children up to 5 years of age. Vocational training opportunities are also provided to support parents' career development. In 2019, under this measure part of employers' wage costs, additional payments under labour law and employers' contributions for a period of 6 months were financed.

Parents with children can actively participate in training to acquire professional qualifications or key competences, on-the-job-training (traineeship – for persons qualified and without work experience in the profession; apprenticeship under a mentor – for persons with primary or lower education or without qualifications), learning-by-doing forms (dual system of training), etc.

Unemployed parents have equal access to and participate in all training and employment programmes, projects and promotional measures that are financed with funds from the state budget and the OP HRD.

Employees and workers' rights to get a job, to retain it while taking parental and care leave for a sick/quarantined family member, including their related social security rights, as well as to return to work after taking family-related leave, are regulated in the Labour Code (LC), the Social Security Code (SSC) and the Law on Protection against Discrimination (LPAD).

LPAD sets out that when a vacancy is announced, the employer shall not have the right to set requirements relating *inter alia* to the grounds of sex, age, sexual orientation, marital status, or any other grounds. The employer shall not have the right to refuse to employ a candidate on the grounds of pregnancy, maternity or bringing up a child. The employer shall ensure equal working conditions notwithstanding the above grounds.

Bulgarian labour legislation regulates various possibilities for taking a leave to care for a child by both parents. These are:

- paid leave for pregnancy and childbirth for raising a baby up to 1 year of age, which could be used by the father after the child has reached the age of 6 months. For the time of the leave the persons shall be paid pecuniary compensation under conditions and in amounts determined in SSC.
- paid leave for raising a child up to 2 years of age, which is used after the leave for pregnancy and childbirth, and, with the consent of the mother (adoptive mother), the leave shall be granted to the father (adoptive father). For the time of the leave, the mother (adoptive mother) or the father (adoptive father), respectively, shall be paid a cash indemnity under terms and in amounts specified by the Law on the State Social Security Budget.
- paid leave for adoption of a child up to 5 years of age, amounting to 365 days, which could be used by the adoptive parent after the expiration of 6 months from the day of handing the child over for adoption. For the time of the leave the persons shall be paid pecuniary compensation under conditions and in amounts determined in SSC.
- unpaid leave for raising a child up to 8 years of age, amounting to 6 months for each parent.

In addition, the Labour Code regulates the right of the employee to a leave for temporary incapacity for work in order to take care of an ill or quarantined member of the family, for urgent need to accompany an ill member of the family to a medical check-up, test or treatment, and for taking care of a healthy child dismissed from a child-care facility because of quarantine imposed on that facility or on the child. For the duration of the leave in case of temporary incapacity for work, the employee shall be paid a cash compensation of 80% of the social security income.

Other options are also envisaged to protect women who are mothers and help to balance the work and the private life. The employer is obliged to grant a leave from work to a pregnant employee, as well as to an employee in an advanced stage of IVF treatment, for medical examinations when necessary during working hours. For this time, the pregnant employee, as well as the employee in an advanced stage of IVF treatment, shall be paid remuneration by the employer in the amount regulated by LC Art. 177 (LC Art. 157, para. 2).

Chapter 15 of the Labour Code provides for special protection of certain categories of workers and employees – minors, women, including pregnant and breastfeeding workers, disabled workers. The protection shall comply with the provisions of the Revised European Social Charter.

Reference is also made to the protection provided for in the Labour Code upon the termination of the employment relationship. An employee who takes leave under LC Art. 163 (pregnancy and birth, paternity, etc.) may only be dismissed upon the closing down of the enterprise (LC Art. 328, para. 1, item 1). A pregnant employee, as well as an employee in an advanced stage of IVF treatment, may be dismissed with an advance notice only on the grounds of the closing down of the enterprise, the refusal of the employee to follow the enterprise or its subsidiary in which she works when it moves to another city or locality, where the position occupied by the employee must be freed for the recovery of a previously wrongfully discharged employee on the same position and in the event of an objective impossibility of performing the employment contract (LC Art. 328, paragraph 1, items 1, 7, 8 and 12), and without an advance notice when the employee is detained for the execution of a sentence or is disciplinary dismissed (LC Art. 330, para. 1 and 2, item 6). Prior

authorization from the Labour Inspectorate is required in the event of disciplinary dismissal. The termination of employment of a mother of a child up to the age of 3 years, a reassigned employee, as well as an employee who has begun to take their approved leave, including under LC Art. 167a, is possible only with the prior permission from the Labour Inspectorate on precisely stated grounds: closure of part of the enterprise or reduction of the staff numbers, when reducing the amount of work, when changing the requirements for performance of the job if the employee does not meet them and in the event of disciplinary dismissal. The opinion of the Labour and Expert Medical Commission shall also be taken into account for the reassigned employees.

Under LPAD, when a mother using pregnancy or childbirth leave, or the father using paternal leave or leave for raising a young child under LC, returns to work because of the expiry of the leave or because of interruption of its use, they are entitled to take the same position or another equivalent position and to benefit from any improvements in the working conditions, to which they would have been entitled if they hadn't been on leave. In addition, after returning from pregnancy or childbirth leave and/or leave for raising a child, in the event of a technological change, training shall be provided to those persons to obtain the relevant professional qualifications.

The Bulgarian authorities consider that legal guarantees and opportunities have been created in Bulgaria to ensure equal treatment for working men and women with family obligations. Based on this, they consider that there are no obstacles to accept Article 27§1(a).

As regards 27§1(b), the report notes that in 2011 and 2012 new forms of flexible employment were introduced, including work at home, remote work and working through a temporary work agency, which allow combining of professional and family obligations in a flexible manner.

According to LC Art. 312(1), a female employee who is a mother shall be entitled to work at home with the same or another employer until her child reaches the age of 6, if the nature of the enterprise's activity permits so. If the enterprise permits such an option, the employer shall release the worker or employee of the performance of her work in the undertaking in order to continue to perform the work for which she has been appointed at home or to provide her another type of work, of a different nature but tailored to her qualifications to perform from home.

The Labour Code provides the possibility for the employee to propose to the employer to switch from work done at the employer's premises to work done remotely. The terms and conditions for work at home are negotiated within the individual employment contract, including all terms, rights and obligations of the parties thereto, procedures for assignment and reporting of the work, as well as mixed working modes and other specific conditions. If the proposal is accepted, a supplementary agreement to the employment contract shall be signed.

The Labour Code allows parents, regardless of the age of the child, to work part-time, i.e. for a part of the statutory working hours, so that they can dedicate the rest of the day to their children. This option also applies to any other employee with family obligations.

Flexibility can also be ensured by the employer by establishing working hours with variable limits. The time during which the employee must be at work in the enterprise, as well as the manner of accounting for it, shall be specified by the employer. Outside the time of his compulsory presence, the employee may determine the beginning of his working hours himself, as well as to work off the underworked daily working hours on the following or on other days of the same working week.

The Labour Code also stipulates that upon return to work after the leave for pregnancy, childbirth, raising a child, paternity or adoption has been used or due to interruption of its use, the employee has the right to propose to the employer an amendment to the duration and distribution of his or her working hours for a certain period, or to propose other changes to the employment relationship in order to facilitate his or her return to work. In order to encourage more effective coordination of employment and family responsibilities of the employee, the employer is obliged to take the offer into account in case such a possibility exists in the enterprise. The employment relationship may be changed between the worker or employee and the employer under LC Art. 119 even during a period of use of the above-mentioned types of leave.

The time of all types of maternity and paternity leave, parental leave or leave for taking care of an ill or quarantined member of the family is recognised as length of service without making social security contributions.

The Bulgarian authorities consider that the national legislation also allows to accept Article 27§1(b).

As regards 27§1(c), under PSEA, childcare and pre-school education shall be carried out by kindergartens, whereas the compulsory pre-school education may also be carried out by schools if these can provide appropriate conditions thereof. Pre-school education may be provided in full-day, half-day, part-time or in a bespoke form of instruction, at the parents' request. Municipal kindergartens may organize hourly, weekend and seasonal activities as an additional childcare service at the parents' request and under the terms and conditions laid down in an ordinance of the relevant municipal council.

The Ministry of Education and Science is taking action to remove barriers to inclusion of children and pupils from vulnerable groups in pre-school education. The reimbursement of fees under a Project "Active Inclusion in the Pre-school Education System" started in February 2020. The project aims to increase access to pre-school education for children from disadvantaged groups and those living in poverty. The reasons for not enrolling in pre-school education are related to social, economic and ethno-cultural factors such as low income, lack of awareness of the benefits of pre-school education, unemployed adults who can take care of the children, etc. The project envisages the implementation of a set of measures, including the payment of fees for attending kindergarten to overcome the economic barrier, which is a main factor for non-participation in pre-school education.

According to the Law on the State Budget for 2020 (§20 p.2), the Council of Ministers shall take the necessary actions, including by exercising its right of legislative initiative, to introduce compulsory pre-school education of children over the age of 4, as well as to support fee payment by parents under PSEA Art. 298 (2).

The Bulgarian authorities indicate that despite the legislative and financial measures applied they do not currently consider accepting Article 27§(c).

Opinion of the European Committee of Social Rights

Article 27§1 addresses the issues of reconciliation of work and family responsibilities.

Under Article 27§1(a), States shall ensure that workers with family responsibilities are not discriminated against and shall take positive action, in particular by means of vocational guidance, training and re-training, to provide people with family responsibilities with equal opportunities in respect of entering, remaining and re-entering employment.

With regard Article 27§1(b), States must take measures concerning the length and organisation of working time. Workers with family responsibilities should be allowed to work part-time or to return to full-time employment. Periods out-of-employment due to family responsibilities should be taken into account when determining the right to and calculating the amount of pension. Crediting of periods of childcare leave in pension schemes should be secured equally to men and women.

Under Article 27§1(c), States shall develop child day care services and other childcare arrangements, and make them available and accessible to workers with family responsibilities. Another aspect addressed under Art. 27§1(c) is that parents should be allowed to reduce or cease work because of the serious illness of a child. As regards child care services, there is an overlap between Article 16 and Article 27§1(c) of the Charter. As Bulgaria has ratified Article 16, it is already bound by the obligation concerning the provision of child day care services under that provision.

Article 27§3 addresses the issue dismissal protection of workers with family responsibilities. Family responsibilities must not constitute a valid ground for termination of employment. Courts or other competent bodies shall be able to order reinstatement of an employee unlawfully dismissed and/or a level of compensation that is sufficient both to deter the employer and proportionate to the damage suffered by the victim and should not be subject to an upper limits. Such measures have an important preventive role to deter employers from discriminating workers with family responsibilities.

The Committee concurs with the findings of the Bulgarian authorities in that there are no obstacles to the immediate acceptance of Article 27§1(a) and (b). As regards Article 27§1(c) the Bulgarian authorities are encouraged to continue their efforts to develop child day care services and other childcare arrangements.

Article 30 (*Right to protection against poverty and social exclusion*)

With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake:

- a. to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance.
- b. to review these measures with a view to their adaptation if necessary.

Situation in Bulgaria

The key document on the vision, priorities and policy activities in the field of poverty and social exclusion in Bulgaria has been the National Strategy for Reducing Poverty and Promoting Social Inclusion 2020, adopted by the Council of Ministers on 6 February 2013. The strategy was adopted in the context of the Europe 2020 strategy and builds on the National Target for Reducing the Number of Persons Living in Poverty by 260 000 people by 2020. It includes 4 sub-targets for children, the unemployed, the working poor and the elderly (over 65 years of age). This strategy paper aims the implementation of a single, coherent and sustainable social inclusion policy based on an integrated approach and cross-sectoral cooperation at national, regional and municipal level.

The National Council on Social Inclusion at the Council of Ministers is in charge of coordination, cooperation and consultation of the process of developing, implementing, monitoring and evaluating government policy in the field of social inclusion. The Council

shall monitor policy implementation and the achievement of measurable results and to actively involve the stakeholders.

The Strategy is implemented by 2-year action plans which are adopted by CoM and outline specific measures and activities, performance indicators and responsible institutions. For the current 2-year period 2019–2020 the measures are structured in 9 priority areas, according to the priorities of the Strategy:

1. Providing opportunities for employment and increased labour income through active labour market inclusion;
2. Ensuring equal access to quality pre-school and school education;
3. Ensuring equal and efficient access to quality healthcare;
4. Eliminating the institutional care model and developing cross-sectoral social inclusion services;
5. Ensuring sustainable and adequate social transfers;
6. Improving the capacity and interaction in the field of education, healthcare, employment and social services while implementing common social inclusion targets;
7. Ensuring accessible environment – physical, institutional and informational alike, and also accessible transport;
8. Improving the housing conditions for vulnerable groups and supporting the homeless people;
9. Working in partnership for overcoming poverty and social exclusion, and the related consequences.

Plans and reports on their implementation are available on the MLSP website (in Bulgarian) <http://www.mlsp.government.bg/sotsialno-vklyuchvane>

In recent years, Bulgaria has maintained and strengthened one of its main competitive advantages – a stable and predictable macro-economic environment, which has also facilitated positive measures to tackle poverty. The level of the country's poverty line is now determined using a methodology based on the data of the EU Statistics on Income and Living Conditions (EU-SILC) for better transparency and comparison with other EU countries. The new methodology helps better targeting, formulation, implementation and monitoring of social policies and reducing poverty.

In 2019, the Government adopted a Methodology for determining the poverty line for the country (CoM Decree No. 241 of 2019). The level of the poverty line shall be determined by annual indexing the poverty line of the EU-SILC survey the previous year, with Price Index of a Small Basket for December of the previous year. The new amount of the poverty line for 2020 (BGN 363) is 4.3% higher compared to 2019 and reflects changes in the income distribution structure and the consumer Price Index of the Small Basket.

The poverty line is used in the public income and standard of living policy development, for defining specific social protection measures and it is the basis for determining the amount of financial support for people with disabilities.

The Bulgarian authorities indicate that despite the measures undertaken and considering the need for an analysis of the effectiveness of these measures, they do not currently plan to accept Article 30.

Opinion of the European Committee of Social Rights

Article 30 requires States to adopt an overall and coordinated approach, which should consist of an analytical framework, a set of priorities and measures to prevent and remove obstacles to access fundamental social rights. There should be in place monitoring mechanisms involving all relevant actors, including civil society and persons affected by

poverty and social exclusion. This approach must link and integrate policies in a consistent way, moving beyond sectoral or target group approach.

The measures taken must promote and remove obstacles to access to fundamental social rights, in particular employment, housing, training, education, culture and social and medical assistance, addressing the multidimensional phenomena of poverty and social exclusion. The measures should strengthen access 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.

Access to fundamental social rights is assessed by taking into consideration the effectiveness of policies, measures and actions undertaken. As long as poverty and social exclusion persist, there should be an increase in the resources deployed to make social rights possible. Adequate resources should be allocated to attain the objectives of the strategy. The measures should be adequate in their quality and quantity to the nature and extent of poverty and social exclusion in the country.

To assess national situations, the Committee uses the Eurostat at-risk-of-poverty rate (the percentage of people living under the poverty threshold, which is set at 60% of the equivalised median income) before and after social transfers is used as a comparative value.

In a statement of interpretation from 2013, the Committee noted that the economic crisis should not have as a consequence the reduction of the protection of the rights recognised by the Charter. The governments are bound to take all necessary steps to ensure that the rights of the Charter are effectively guaranteed at a period of time when beneficiaries need the protection most.

The Committee takes note of the Bulgarian National Strategy for Reducing Poverty and Promoting Social Inclusion, its priority areas and measures taken in the framework of the 2019-2020 action plan. However, considering the high share of population living at risk of poverty or social exclusion in Bulgaria – 32.5% in 2019 by Eurostat, which is the highest among the EU Member States – the Committee stresses its case law whereby the measures taken and resources allocated to attain the objectives of the strategy shall correspond to the nature and extent of poverty and social exclusion in the country. The Committee encourages Bulgarian authorities to strengthen their efforts towards ensuring the effective exercise of the right to protection against poverty and social exclusion.

Article 31§§1–3 (*Right to housing*)

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

Article 31§1 (*Adequate housing*)

- to promote access to housing of an adequate standard.

Situation in Bulgaria

According to the report, the housing policy implemented by municipalities is aimed at guaranteeing the right to housing for all citizens, including those at risk, to respect their fundamental rights and a decent life in the community. By applying a clear and objectively justified mechanism for identifying risk groups, existing provisions in the field of social protection provide benefits to certain categories of persons as well as opportunities in terms

of using social services (see also information under Article 31§2 below) to meet their basic needs when these persons are in a critical situation.

Regarding housing and assistance for deprived and homeless people, the social policy of Sofia Municipality (SM) serves as an example of good practice. With the aim to ensure good quality access to social housing or housing assistance, vulnerable people to have the right to receive assistance and protection, and homeless people to be provided with adequate shelter. The terms and conditions for determining residential needs of citizens in the city of Sofia, as well as rental relations, are regulated by the Ordinance on the Terms and Conditions for Managing and Disposal with Municipal housing on the Territory of Sofia Municipality. According to Art. 4 of this Ordinance, district mayors shall organise and are responsible for the maintenance and management of municipal housing on the territory of the respective district. The SM has conducted projects to provide modern social housing for vulnerable, minority and socially disadvantaged groups of population. Under such projects a 9-storey housing block was constructed in Lyulin district, with 45 social housing units and a 4-storey residential building was constructed in Vrabnitsa district with 26 social housing units of different area and functionality. The third in Slatina district also provides social housing.

Regarding the construction of municipal housing, under the SM investment programme, the construction of a 5-storey residential building with underground garages started in early 2020, to compensate owners of expropriated properties in the central part of the city. Families of these owners will receive apartments in this building.

Despite the undertaken measures and considering the necessity for an analysis of their effectiveness in other municipalities, the Bulgarian authorities indicate that at this stage they do not plan to accept Article 31§1.

Article 31§2 (*Reduction of homelessness*)

- to prevent and reduce homelessness with a view to its gradual elimination.

Situation in Bulgaria

The definition of a 'homeless person' is given in §1, item 1 of the Additional Provisions of the Social and Solidarity-based Enterprises Act. For the purposes of this Act 'homeless person' means a person who does not own a home, is incapable of renting a home with own means and has not been accommodated in a municipal domicile under the procedure of the Municipal Property Act and/or who, because of accidental force majeure circumstances (fire, natural disaster, collapse of building and others) has remained without shelter.

To combat homelessness, the provision of social services is particularly important. Under the Social Services Act (SSA), which is the new special law in the field of social services, 'social services' are activities that support and expand the ability of individuals to lead independent lives and are provided in specialised institutions and in the community. They shall be provided according to the wishes and personal choices of the persons. Social services are aimed at supporting assisted persons in carrying out day-to-day activities and social inclusion. In social services, teams of professionals in various fields provide the necessary support to those in need, depending on their individual needs. The right to social services is guaranteed to Bulgarian citizens, families and co-residents, whose needs assessment has identified their need of support.

Social services in Bulgaria are decentralised and their management is entrusted to municipalities. To promote private entrepreneurship in the social sphere and to implement

partnership with the non-governmental sector, SSA provides for the possibility for mayors of municipalities to outsource the management of the service on a competition basis.

As a form of accommodation for vulnerable persons, including the homeless, the resident type community social services, defined by the applicable legislation, which are as close as possible to the notion of housing, include Sheltered housing, Family-type Accommodation Centre, Supervised dwelling, Transitional dwelling and Temporary Accommodation Centre. These services may be used in combination with other social, health, educational and other services and in accordance with the needs of accommodated persons. Besides a place to live, the services provide support for inclusion in training and retraining courses and other training courses and/or for finding a job, as well as for social adaptation of users, support for the acquisition of independent living skills and preparation for inclusion in community life, psychological, social, legal and labour counselling.

Homeless persons may be assisted with one-off targeted support up to the amount of the guaranteed minimum income for the issuance of an identity card under the Regulation for implementing the Social Assistance Act (RISAA). Another type of support that can be provided to the homeless is the one-off allowance once a year to meet incidental health, educational, utility and other vital needs of individuals and families. With a view to preventing homelessness, RISAA regulates the right to monthly targeted rent support for municipal housing, which individuals can use if the housing order is issued on their behalf and if their income for the previous month is up to 250% of the differentiated minimum income. Homeless persons may also be assisted by payment of diagnosis and treatment costs in medical institutions for hospital care as persons who have no income and/or personal property which can help them participate personally in the health insurance process. However, such measures are of a temporary nature and can not solve the long-term housing problems of vulnerable groups.

In this context, efforts of all relevant institutions are focused on the prevention of homelessness as a priority. The prevention of homelessness, as well as addressing problems of people from vulnerable groups without housing, is complex and is therefore a cross-sectoral priority implemented by all institutions concerned.

In case of lack of any options for using social housing, municipal and/or private property (see information under Article 31§1 above), persons in need can benefit from social services created in the community and in specialised institutions.

High migration rates in Sofia District have resulted in overcrowding of the city of Sofia and inability to provide housing and shelter for all those in need. Data in recent years show that Sofia has the largest concentration of homeless persons and beggars. The Centre for Crisis Accommodation of Homeless Persons and its branch in Zaharna Fabrika Residential District (building No. 51, entrance A and building No. 48-A), with a total capacity of 170 persons provide shelter from 6 pm to 10 am the next day and functions all year round.

In addition to the group of homeless people, social services are aimed at meeting the needs of shelter and support for the elderly and people with special needs. For these persons, 8 specialised institutions with government-delegated activities, profiled according to age, physical and mental health, are functioning. The total capacity amounts to 1,013 persons. In addition, there are 6 sheltered housing units for people with disabilities, profiled according to the psychological and mental health status of users, with a total capacity of 48 persons. The Mother and Baby Unit functions as a social service for support and shelter of mothers with children primarily aimed at prevention of abandonment.

Community support to victims of domestic violence and other forms of trafficking is provided in Crisis Centres. These include 3 centres: for children who have become victims of

violence, for children who have become victims of trafficking and for victims of domestic violence – both women and their children. These centres have a total capacity of 40 persons.

A family-type accommodation centre for physically disabled adults with a capacity of 8 persons has been opened to accommodate persons with disabilities who require care in a similar to family environment. A total of 24 family-type accommodation centres for children and young people (with and without disabilities), as well as a Family-type Accommodation Centre with permanent medical care have been opened for care, upbringing and education for children who are raised in resident services for children and young people.

Transitional Housing is provided as a social service aimed at comprehensive care for minors, young people and people from vulnerable groups, as well as for those with long institutional stay, for whom reintegration into a family or a similar to family environment is currently not possible. There are 3 such units, with a total capacity of 24 persons.

Supervised dwelling is a community social service providing support and counselling to people over the age of 18, who are leaving a specialised institution for children and are about to lead an independent life, supported by a team of professionals and need help in order to achieve social integration and professional fulfilment on their way to independent living. In Sofia, there are 2 supervised dwelling units, with a total capacity for 12 persons.

The Temporary Accommodation Centre is a service aimed at providing a similar to family care to persons temporarily or permanently deprived of a home. This is a set of social services provided to homeless people aimed at meeting their daily needs. A total of 3 temporary accommodation centres with a state delegated activity function on the territory of the city of Sofia, with a total capacity of 510 persons. These accommodate families in need and their children.

The municipalities use all budget opportunities provided also under European operational programmes and projects in order to meet the needs of vulnerable groups in terms of support, shelter and accommodation.

Despite the undertaken measures at central and local levels and considering the necessity for an analysis of their effectiveness, the Bulgarian authorities indicate that at this stage they do not plan to accept Article 31§2.

Article 31§3 (*Affordable housing*)

- to make the price of housing accessible to those without adequate resources.

Situation in Bulgaria

The report contains no specific information as regards this provision.

Opinion of the European Committee of Social Rights

Article 31 covers the areas of access to an adequate standard of housing, the prevention of homelessness and access to affordable housing.

Under Article 31§1 States must guarantee to everyone the right to adequate housing. Adequate housing means a dwelling which is: 1) safe from a sanitary and health point of view and possesses all basic amenities (such as water, heating, waste disposal, sanitation facilities, electricity, etc); 2) not over-crowded – the size of the dwelling must be suitable in light of the number of persons and the composition of the household in residence; 3) with secure tenure supported by the law. To ensure that the housing stock is adequate, public

authorities shall take appropriate measure, such as conduct an inventory of the housing stock; apply injunctions against owners who disregard obligations; adopt urban development rules and maintenance obligations for landlords; and take safeguards against the interruption of essential services such as water, electricity and telephone. Public authorities shall also promote access to housing for different groups of vulnerable persons, such as low-income persons, unemployed persons, single parent households, young persons, persons with disabilities, including those with mental health problems. Hence, beyond legal provisions effective implementation is necessary.

Article 31§2 addresses the issue of prevention and reduction of homelessness. States must take action to prevent groups of vulnerable people from becoming homeless, in particular by ensuring access to social housing and setting up procedures to limit the risk of eviction. Evictions should be governed by rules of procedure, which are sufficiently protective of the rights of the persons concerned. There shall be legal protection of persons threatened by eviction, including an obligation to consult the parties affected to find alternative solutions to eviction, and an obligation to fix a reasonable notice period before eviction. Evictions, if they could not be avoided, must be carried out under conditions which respect the dignity of the persons concerned. Evictions carried out at night or during the winter period shall be prohibited by law and authorities must adopt measures to re-house or financially assist the persons concerned. To prevent homelessness, there shall be access to emergency measures, such as shelter, accompanied with procedures to find more permanent housing. The conditions in temporary shelters shall enable living in keeping with human dignity.

Article 31§3 addresses the affordability of housing, in particular for persons with limited resources. Social housing should target the most disadvantaged. Waiting periods for the allocation of housing must not be excessive, and legal and non-legal remedies must be available when waiting periods are long. Housing benefits shall be available at least for low-income and disadvantaged groups.

Finally, the rights to housing must be guaranteed without discrimination, in particular in respect of Roma or travelers.

Notably, Article 31 has some overlaps with Articles 11 and 16, which are ratified by Bulgaria.

The Committee takes note of the existing legislation and initiatives undertaken to address the right to housing in Bulgaria. However, the Committee recognizes that several of the initiatives have been introduced only recently and the capacity of respective services and measures in terms of the number of persons served is still rather low. The report does not address the measures to ensure adequacy of housing, the rules governing evictions and the issue of affordability of housing.

The Committee encourages the Bulgarian authorities to take the necessary measures and continue their efforts to ensure steady progress towards securing the right to housing.

APPENDIX I

Situation of Bulgaria with respect to the European Social Charter

Signatures and ratifications

Bulgaria ratified the Revised European Social Charter on 7 June 2000, accepting 61 of the 98 paragraphs of the Revised Charter. On 16 February 2007 Bulgaria additionally accepted Article 2§3 of the Revised Charter, bringing the total number of accepted provisions to 62 numbered paragraphs.

Table of Accepted Provisions

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