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Implementation of the International Covenant on Economic, Social and Cultural Rights

**Fourth and fifth periodic reports submitted under articles 16
and 17 of the International Covenant on Economic, Social
and Cultural Rights**

Bulgaria*

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I. Introduction

1. The third periodic report of the Government of the Republic of Bulgaria on the implementation of the International Covenant on Economic, Social and Cultural Rights was considered by the Committee on Economic, Social and Cultural Rights at its twenty-first session on 16–17 November 1999.¹

2. Information regarding the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR) in Bulgaria until the end of 1999 is contained in the three previous reports of the Bulgarian Government and in the answers provided by the representatives of the Bulgarian Government to the questions raised by the members of the Committee on Economic, Social and Cultural Rights during the discussion of these reports.

3. In accordance with the revised General Guidelines regarding the form and content of reports to be submitted by States parties to the ICESCR under Articles 16 and 17 of the Covenant, this consolidated fourth and fifth report presents the most important new developments in Bulgaria's national legislation and practice relevant to the implementation of the rights recognized in the International Covenant which occurred during the period commencing on 1 January 2000 and ending on 30 June 2008. For the rest of the issues concerning the implementation of the Covenant, we refer to the previous reports of the Government and the information presented during their discussion at the Committee on Economic, Social and Cultural Rights.

4. The democratic development and the implementation of deep-going changes in society, which started in Bulgaria after 10 November 1989, continued during the period under review. Several elections, assessed by the Bulgarian citizens and by the international community as free, democratic and fair, were held in the period between January 2000 and June 2008 in accordance with the Constitution of 1991: regular parliamentary elections (2001 and 2005), presidential elections (2001 and 2006), and local elections (2003 and 2007). These elections consolidated political pluralism which, according to Article 11 (1) of the Constitution, is the basis of political life in the Republic of Bulgaria, stabilized the domestic political situation and asserted the irreversibility of democratic changes in this country over the last 19 years.

5. As a result of the measures taken by the Government, the transition to a stable economic development, predominantly based on private property, continued successfully during the period. Foreign investments in the country surged. By the end of 2008 alone, they are expected to reach EUR 6,000 million.² The gross domestic product started to grow gradually and steadily: from BGN 34,267 million in 2003 to BGN 38,823 million in 2004, BGN 42,797 million in 2005, BGN 49,091 million in 2006 and BGN 56,520 million in 2007.³

6. At the beginning of the period under review, unemployment continued to rise and reached nearly 20 per cent of the labour force in March 2001 with a jobless total of some

¹ Committee on Economic, Social and Cultural Rights Twenty first session, UN: E/C.12/1999/SR.30, 16 November 1999; E/C.12/1999/SR.31, 30 November 1999; E/C.12/1999/SR.32, 17 November 1999. Concluding Observations of the Committee on Economic, Social and Cultural Rights: Bulgaria, 8 December 1999. E/C.12/1/Add.37.

² Stoyan Stalev, Executive Director of Invest Bulgaria Agency: "We Hope for EUR 5 Billion Investments", *Trud* daily, 25 September 2008.

³ *Statistical Reference Book 2007*, published by the National Statistical Institute, Sofia, 2007, p. 207; *Statistical Reference Book 2008*, published by the National Statistical Institute, Sofia, 2008, p. 211.

750,000. Since the beginning of 2002, as a result of an active economic policy of employment promotion, unemployment started to decline as follows: 12 per cent in 2004, 10.7 per cent in 2005, 10.7 per cent in 2005, 9.1 per cent in 2006, 6.9 per cent in 2007,⁴ and 5.7 per cent (210,940) in July 2008.⁵

7. Legislation ensuring implementation of the rights provided for in the Covenant developed mainly along the line of approximation to European standards in the process of implementation of the Europe Agreement establishing an association between the European Communities and Bulgaria. A number of new important laws in the social sphere were adopted: the Social Insurance Code (promulgated in the *State Gazette* No. 110 of 1999, effective 1 January 2000), the Economic and Social Council Act (*State Gazette* No. 41 of 2002, effective 1 January 2002), the Employment Promotion Act (*State Gazette* No. 112 of 2001, effective 1 January 2002), the Act on Factory and Office Workers' Claims Guaranteed in the Event of their Employer's Bankruptcy (*State Gazette* No. 37 of 2004, effective 1 January 2005), the Protection Against Discrimination Act (*State Gazette* No. 86 of 2004, effective 1 January 2005), the Health Act (*State Gazette* No. 70 of 2004, effective 1 January 2005) etc. Besides this, important amendments were introduced in basic social laws: the Labour Code, the Law on the Settlement of Collective Labour Disputes, the Law on the Health and Safety at Work etc. The underlying idea of these amendments was to bring the effective laws into full conformity with the requirements of the ICESCR, of the ILO and Council of Europe conventions and of the directives of the European Union.

8. During the period under review, Bulgaria ratified several important ILO conventions which are directly relevant to the implementation of the economic and social rights recognized in the Covenant. Such conventions are: Convention No. 182 of 1999 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (*State Gazette* No. 54 of 2000), Convention No. 156 of 1981 concerning Equal Opportunities and Equal Treatment for Men and Women Workers with Family Responsibilities (*State Gazette* No. 9 of 2006), Convention No. 181 of 1997 concerning Private Employment Agencies (*State Gazette* No. 10 of 2005), Convention No. 173 of 1992 concerning the Protection of Workers' Claims in the event of the Insolvency of their Employer (*State Gazette* No. 58 of 2004), Convention No. 183 of 2000 concerning the Maternity Protection Convention (Revised), (*State Gazette* No. 85 of 2001), Convention No. 122 of 1964 concerning Employment Policy (*State Gazette* No. 33 of 2008, effective 9 June 2009), Convention No. 102 of 1952 concerning Minimum Standards of Social Security (*State Gazette* No. 54 of 2008, effective 1 August 2009), as well as seven of the latest ILO seafarers conventions (Nos. 146, 147, 164, 166, 178, 179 and 180) etc. The ratification in April 2000 of the European Social Charter (Revised) of 3 May 1996 (*State Gazette* No. 30 of 2000, effective 1 August 2000) also deserves express mention, as does the additional ratification of Part II, Article 2, paragraph 3 of the Charter, providing for a minimum of four weeks' annual holiday with pay (*State Gazette* No. 12 of 2007). The vigorous pace at which Bulgarian legislation has been renewed over the last decade in conformity with the universal and European standards was one of the decisive factors that made possible the accession of the Republic of Bulgaria to the European Union on 1 January 2007.

9. Alongside these achievements in the country's political, economic and social development over the last decade, there are also certain difficulties and unsolved problems. Two of them, which are related to the implementation of the Covenant, will be mentioned:

⁴ *Statistical Reference Book 2007*, op. cit., p. 67.

⁵ *Trud* daily, 11 August 2008.

(a) The standard of living of a considerable part of the population remains below the European standards. The economic recovery of the last five or six years did not result in a dramatic improvement of the living standards and the quality of life for broad strata of Bulgarian society. Poverty is a social problem affecting part of the population. Pay for work is low. The elderly and the young are among the most vulnerable social strata: the elderly (aged 60 and over) because of low pensions, and the young, especially the better educated ones (with secondary and higher education) because they cannot find adequate realization and satisfactory pay, which is why they emigrate to other countries. Approximately 1 million people aged between 20 and 60 have left the country over the last 19 years and work or have already settled durably mainly in Europe but also across the Atlantic;

(b) Citizens' security is impaired. Conventional and serious crime, encroaching on citizens' property and life, has increased. The law-enforcement and judicial authorities have not yet identified adequate measures to effectively cope with crime. Society was sharply politicized during the long transition period, and the privatization of the 1990s was not sufficiently fair and transparent, part of the assets were sold at a fraction of their real value, which resulted in an unprecedented economic and social polarization in society: a thin stratum of rich and a far larger number of poorer people.

10. The birth rate in Bulgaria has been gradually declining since the early 1990s. This tendency was intensified by the economic difficulties in the transition period and by the resulting poverty and economic insecurity for part of the population. As a result, the country has been steadily depopulating. At the same time, the last three years for which official statistics are available (2004, 2005 and 2006) have seen a certain increase in the birth rate. The figures for 2007 confirm this positive development, even though the natural population increase remains negative.

Here are the statistics:

Birth rate (live births per 1,000 of population)

1999	2004	2005	2006
8.8	9.0	9.2	9.6 ⁶

The figures for 2007 are: 75,349 live births (compared to 73,978 for 2006) and 113,004 deaths, which gave a still negative natural increase of 37,655.⁷

11. In recent years, and especially during the last three years, the governments have been making considerable efforts to improve the living standards of the broad social strata and to mitigate poverty. The steps taken in 2007 and in the first half of 2008 was targeted the satisfaction of basic life necessities, but the lag is too large and cannot be addressed overnight. This results in justified discontent in society. The pace must be accelerated and increased in line with an improvement of labour productivity. The implementation of the rights under the Covenant will be presented below in the light of these developments.

⁶ *Statistical Yearbook of the Republic of Bulgaria 2007*, published by the National Statistical Institute, Sofia, 2008, p. 52.

⁷ *Statistical Reference Book 2008*, op. cit., p. 19; *Statistical Reference Book 2007*, p. 21.

II. General provisions of the Covenant

Articles 1–5

12. The right to self-determination of the Bulgarian people has long been attained. The democratic changes in the country at the end of 1989 were enshrined in the Constitution of 12 July 1991, adopted by the Seventh Grand National Assembly. The Constitution regulates the state organization and citizens' fundamental rights and obligations.

13. According to Articles 1 and 2 of the Constitution, Bulgaria is a republic with parliamentary system of government. According to recital 5 of the Preamble and Article 4 (1) of the Constitution, the Republic of Bulgaria is a democratic and social State committed to the rule of law, which is governed according to the Constitution and the laws of the land.

14. Chapter Two "Citizens' Fundamental Rights and Obligations" (Articles 25 to 57) of the Constitution and a number of other basic laws (the Labour Code, the Employment Promotion Act, the Social Insurance Code, the Health Insurance Act, the Public Education Act, the Higher Education Act etc.) recognize and expressly regulate the fundamental economic, social and cultural rights under the Covenant in the effective legislation of the Republic of Bulgaria.

15. According to Article 6 (2) of the Constitution, "[a]ll citizens shall be equal before the law. Neither abridgement of rights nor any privileges whatsoever shall be admissible on the basis of race, nationality, ethnic identity, sex, origin, religion, education, convictions, political affiliation, personal and social status, or property status".

16. For enhancing implementation of Article 6 (2) of the Constitution and Article 2 of the ICESCR, a Protection Against Discrimination Act was adopted in 2003 (State Gazette No. 86 of 2003, as amended and supplemented). The purpose of the Act is to ensure to every person the right to equality before the law, equal treatment and opportunities for participation in public life, and effective protection against discrimination (Article 2 of the Protection Against Discrimination Act). Both direct or indirect discrimination are prohibited under the criteria listed in Article 2, paragraph 2 of the Covenant, as well as under a number of other, expressly listed up-to-date criteria, such as: prohibition of discrimination based on human genome, sexual orientation, marital status, as well as "any other grounds established by law or by an international treaty to which the Republic of Bulgaria is a party". The Protection Against Discrimination Act contains a detailed framework of protection against discrimination in exercise of the right to work (Articles 12 to 28), of the right to education and training (Articles 29 to 35), as well as in exercise of other rights (Articles 36 to 39). The Act furthermore provides for the establishment of a Commission for Protection against Discrimination as a specialized body for the implementation of the law. The Commission consists of nine members, of whom five are elected by the National Assembly and four are appointed by the President of the Republic for a renewable five-year term of office.

17. Special anti-discrimination provisions are also contained in a number of other existing laws on exercise of the rights provided for in the Covenant, depending on the subject matter regulated by these laws: Article 8 (3) of the Labour Code, Article 2 of the Employment Promotion Act, Article 2 of the Health Act, Article 4 of the Higher Education Act etc.

III. Specific rights contained in the Covenant

Article 6

18. The Republic of Bulgaria is party to:

(a) The ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111);

(b) The ILO Employment Policy Convention, 1964 (No. 122). This Convention was ratified by the National Assembly in March 2008, which is why it has not yet entered into force for Bulgaria (see paragraph 8 above);

(c) The International Convention on the Elimination of All Forms of Racial Discrimination;

(d) The Convention on the Elimination of All Forms of Discrimination against Women.

Bulgaria regularly submits its periodic reports on the measures which it has taken to give effect to the provisions of the ratified ILO Conventions under Article 22 of the Constitution of the International Labour Organization. The latest consolidated report on compliance with the International Convention on Elimination of All Forms of Racial Discrimination was presented in 2009.

19. The law of the Republic of Bulgaria recognizes, guarantees and regulates the right to work. The Constitution (Article 48 (1)) expressly provides: "Citizens shall have the right to work." This right consists in provision of work for remuneration which ensures earned income for support of the working person and of his or her family members. Citizens are free to choose the work they perform in exercise of the right to work. The right to a free choice of the nature and place of work is expressly provided for in Article 48 (3) of the Constitution, which states: "Every citizen shall be free to choose an occupation and a place of work", and in Article 48 (4) of the Constitution, which lays down the general rule: "No one may be compelled to perform forced labour." The prohibition of forced labour is also consistent with the obligations of the Republic of Bulgaria arising from the two relevant ILO conventions it has ratified: Convention No. 29 of 1930 concerning Forced or Compulsory Labour, ratified by Bulgaria back in 1930, and Convention No. 105 of 1957 concerning the Abolition of Forced Labour, ratified by Bulgaria in 1999.

20. The policy of the State on implementation of the constitutional right to work and its guaranteeing is defined in another two constitutional provisions. One of them is Article 16 of the Constitution, according to which "[l]abour shall be guaranteed and protected by the law." By this provision the Constitution:

(a) Delegates to current legislation the framework of the exercise of the right to work by citizens;

(b) Determines the high rank of the statutory framework of the exercise of the right to work – by a law as a statutory instrument adopted by the National Assembly;

(c) Defines the principal content of the laws that regulate the exercise of the right to work: guaranteeing and protecting this right (see paragraphs 21–23 below).

The other constitutional-level provision in this respect is sentence two of Article 48 (1) of the Constitution: "The State shall take care to create conditions for exercise of this right" (i.e. the right to work). The Constitution obligates "the State", i.e. the competent state bodies: the legislative, executive and judicial branches of government, through their

operation and the acts they adopt and issue, to create favourable conditions for the actual realization and protection of the citizens' right to work.

21. "The law", within the meaning of Article 16 of the Constitution, which guarantees and protects the right to work (see paragraph 19 above) is a notion subsuming all laws related to the performance of work. In the first place, this is the Labour Code of 1986, which regulates comprehensively the formation, functioning and termination of employment relationships. Following the start of democratic changes in 1989, the Labour Code underwent profound revisions (1992, 2001, 2004, 2006, 2007 etc.) The amendments of 2001 addressed specifically the widespread practice of concluding fixed-term employment contracts, which created legal uncertainty for factory and office workers (Articles 67 and 68 of the Labour Code). The revised provisions prohibited in principle the conclusion of fixed-term employment contracts for work and positions related to the carrying out of the employer's core activity. Such contracts may be concluded only for casual, seasonal and short-term work and activities and, as an exception, when specific economic, technological and other objective reasons justify this (Articles 67 and 68 of the Labour Code). This amendment led to a steep decline in the conclusion of fixed-term employment contracts and gave factory and office workers greater security in employment relationships. The framework of Article 405a of the Labour Code, inserted in 1996, was refined and continued to be applied. This provision is intended to deter certain employers from concluding the so-called "civil-law contracts" instead of employment contracts as a concealment of employment relationships, so as to circumvent labour legislation and avoid the social protection of factory and office workers according to labour legislation. A detailed legal framework regarding factory and office workers' information and consultation was created in 2006 (Articles 7 to 7d, Articles 130 to 130d of the Labour Code). The framework of non-termination of employment relationships in case of change of employer (relocation, merger by the formation of a new enterprise, merger by acquisition of one enterprise by another, division of enterprises etc. under Articles 123 and 123a of the Labour Code) was improved etc.

22. The new Employment Promotion Act, adopted in 2001 (State Gazette No. 112 of 2001), plays an important part for the exercise of the right to work. The Act created new specialized state bodies responsible for employment: a National Employment Agency under the Minister of Labour and Social Policy, a National Employment Promotion Board set up with the Minister of Labour and Social Policy and composed, on a tripartite basis, of representatives of the Government and the representative employers' and workers' organizations, regional employment services etc. (Articles 4 to 19). Article 4 (2) of the Act provides for the annual adoption by the Government of a National Action Plan for Employment, which defines the vulnerable target groups addressed by the employment policy during the respective year (for 2007 and 2008 these are the unemployed aged under 29, the unemployed aged over 50, the unemployed without professional qualification and vocational education, and the long-term unemployed, those out of work for more than one year, also known as "discouraged workers", and others).⁸ Such plans have been adopted since 2002. The 2008 plan furthermore regulates such important aspects of the state employment policy as: state budget financing of employment policy, development of subsidized employment, the procedure for keeping the unemployed informed of job vacancies and the employers – of the professional qualification of the unemployed registered at the labour offices etc.⁹

⁸ National Action Plan for Employment, Ministry of Labour and Social Policy, 2008, 144 pages.

⁹ National Action Plan for Employment 2008, *op. cit.*, p. 24–29.

23. The Commission for Protection against Discrimination, established by the Protection Against Discrimination Act (see paragraphs 7 and 15 above) has been part of the legal and institutional machinery for guaranteeing the exercise of the right to work. Between its establishment in early 2006 and the middle of 2008, the Commission examined 125 cases on complaints of discrimination in exercise of the right to work, harassment in exercise of the right to work, complaints of discrimination on the basis of trade union affiliation, violation of the principle of social dialogue and other such.¹⁰

24. As a result of the Government's active policy and the improved domestic macroeconomic situation, as well as the favourable economic development, since 2002: (a) the employment of the country's economically active population has steadily tended up and (b) unemployment in the country has steadily and steeply tended down.

25. Since 2002, the number of employed against the economically active population (persons aged between 15 and 64) has been steadily increasing and it already approximates, although it does not yet reach, the average employment indicators in the Member States of the European Union. Over the last three years alone (2005–2007), the number of employed persons has increased as follows: from 3,253,518 in 2005 to 3,349,199 in 2006 and 3,714,000 in 2007. The structure of employed persons has improved as well. The overwhelming part of them are employed in the private sector and moreover in the real economy: 2,564,007 (about 78 per cent) in 2005, 2,670,621 (about 81 per cent) in 2006, and 3,109,672 (about 85 per cent) in 2007.¹¹

26. The rate of employment of the country's economically active population has increased compared to the average levels of the Member States of the European Union. The employment rate stood at: 62.8 per cent for the EU and 50.6 per cent for Bulgaria in 2002; 62.9 per cent for the EU and 52.5 per cent for Bulgaria in 2003; 63.3 per cent for the EU and 54.2 per cent for Bulgaria in 2004; 63.8 per cent for the EU and 55.4 per cent for Bulgaria in 2005; 64.5 per cent for the EU and 58.6 per cent for Bulgaria in 2006; 65.4 per cent for the EU and 61.7 per cent for Bulgaria in 2007.¹² The margin between the employment rate of the economically active population in the EU Member States and Bulgaria has narrowed from 12.2 percentage points in 2002 to 3.7 percentage points in 2007. This is undoubtedly a positive tendency as a result of the active employment policy of the Government and the economic operators.

27. The structure of the employed labour force is improving as well. The figures for 2007 show:

(a) In terms of the **age distribution** of the employed population, substantial disparities by age group persist. Persons aged 25 to 44 have the highest employment rate, 82.8 per cent, followed by those aged 45 to 54 and those aged 25 to 34 (76.2 per cent). The employment rate of persons of pre-retirement age (aged 55 to 64) and of young persons (aged 15 to 24) is considerably lower: 42.6 per cent and 24.5 per cent, respectively. There has been a positive development and employment has tended up in all age groups over the last six years (2002–2007);

(b) In the **educational structure** of the employed population, persons with higher education have the highest employment rate, 82.6 per cent, followed in a descending order of educational attainment: 63 per cent for persons with secondary education, 22.4 per cent for persons with basic education, and 9.9 per cent for persons with basic and lower education. This shows the correlation between the employment rate and educational

¹⁰ Source: Commission for Protection against Discrimination, by 20 July 2008.

¹¹ *Statistical Reference Book 2007*, op. cit., p. 60; *Statistical Reference Book 2008*, op. cit., p. 60.

¹² *Yearbook of the Ministry of Labour and Social Policy*, Sofia, 2008, p. 9.

attainment, as well as the requirements of modern economic development and its saturation with state-of-the-art equipment, which require more highly skilled persons and fewer persons with lower education;

(c) Employment by **place of residence** tends to be unevenly distributed. The employed number is 2,524,000 (77.6 per cent of the total) in urban areas and 728,500 (22.4 per cent) in rural areas. This discrepancy is attributable to the better employment opportunities in cities, their better infrastructure and better living conditions compared to villages, which also accounts for the ongoing internal rural-urban migration of the population;

(d) On the whole, the **gender distribution** of employment has remained largely unchanged in recent years. At 1,731,500 (53.2 per cent of the total), employed men outnumber employed women (1,521,100 or 46.8 per cent). Certain difficulties in the labour realization of women result from the need to reconcile their career development with their still larger share in the discharge of family responsibilities;

(e) Regarding the **activities and branches** in which persons are employed, the steady tendency of the previous years (2002–2007) persisted in 2007. A growing number of persons are employed in the economy, mainly in the private sector (see paragraph 24 above). Figures for 2007 suggest a decrease in both the number and share of the self-employed: 234,000, 12,000 fewer than the 246,000 in 2006, down to 6.3 per cent of the employed in Bulgaria in 2007.

The largest number of persons are employed in the services sector (1,852,500), which also accounts for the largest share of the employed total (57 per cent), followed by industry (1,154,700 or 35.5 per cent) and agriculture, hunting, forestry and fishing (245,400 or 7.5 per cent – a proportion that continues to diminish).¹³

28. As a result of the active labour market policy conducted by the Bulgarian governments and, on the whole, of the constructive behaviour of social partners, employment has been demonstrating positive upward tendencies over the last six years. The National Employment Agency implements various employment programmes, employment-promotion measures and measures for professional qualification (see paragraphs 28–31 below).

29. Job placement intermediation services are provided by the labour offices with the help of the employment officers. In 2007 alone, employment officers facilitated the placement of 230,129 unemployed persons, the provision of employment to 1,411 learners and 635 pensioners, and the change of work of 857 employees.¹⁴

30. Employment-promotion programmes and measures seek to integrate disadvantaged groups, enhance their employability, improve labour market flexibility, and promote entrepreneurship. Subsidized employment was created by particular programmes, the more important of which are:

(a) Programmes and projects addressed at young persons: Career Start, which provided employment for a monthly average of 375 young people with higher education and without relevant experience to start work in the public administration immediately after their graduation;

(b) Programmes and projects in support of people with disabilities: Disabled Persons' Assistants. Over the last three years, 10,000–11,000 people, mostly women, have

¹³ Source: *Yearbook of the Ministry of Labour and Social Policy 2008*, op. cit., p. 9–11.

¹⁴ *Yearbook of the Ministry of Labour and Social Policy 2008*, op. cit., p. 32–35.

been working annually under these programmes and projects, servicing 12,000–13,000 disabled persons;

(c) Programme “From Social Assistance to Employment.” It covers an average annual 65,000–70,000 unemployed, a substantial proportion of whom (about 40 per cent) are long-term unemployed. They are included in activities or security protection of rural areas, maintenance of installations and buildings, urban development, landscaping etc.;

(d) Programmes and projects financed by European and other international donors;

(e) Maternity support programmes. The basic idea is to encourage the career development of mothers of small children, with unemployed babysitters taking over the care of these children. An average 612 unemployed worked under this programme annually over the last three years.¹⁵

31. Employment and training measures. These include measures encouraging unemployed persons to start up their own business on a business plan approved by the labour offices, as well as measures offering employers incentives to hire permanently disabled unemployed, long-term unemployed, lone parents or mothers of children up to 3 years of age and other such, for which minimum wages are paid by the labour offices with budget resources for periods ranging from six to twelve months.¹⁶

32. Since 2006, state budget-financed professional qualification courses have been organized for the unemployed, enabling them to acquire vocational knowledge and skills in line with the new employment requirements and the increasingly complex and high-technological production equipment. Some 35,000 persons annually attended these professional qualification courses during the last four years (2004–2007).¹⁷

33. The state of unemployment is indicative of the extent to which the implementation of the right to work under Article 6 of the Covenant is ensured. In addition to the steady downward tendency of unemployment in Bulgaria in the 2002–2007 period, discussed in the Introduction (see paragraph 6 above), the following statistics can be cited.

Between 2001 and 2007, the average annual unemployment rate declined steeply, according to the National Statistical Yearbook:

2001	663 907	19.75 per cent
2002	592 391	17.68 per cent
2003	449 100	13.68 per cent
2004	399 800	12.03 per cent
2005	334 200	10.10 per cent
2006	305 700	9.00 per cent
2007	239 100	6.95 per cent

The unemployment rate dropped from 19.75 per cent of the labour force in 2001 to 6.95 per cent in 2007, i.e. by 12.8 percentage points or by a factor of 2.8 in seven years.

¹⁵ *Yearbook of the Ministry of Labour and Social Policy 2008*, op. cit., p. 35–39.

¹⁶ *Yearbook of the Ministry of Labour and Social Policy 2008*, op. cit., p. 39–41.

¹⁷ *Ibid.*, p. 41–43.

This is lower than the average annual level in the European Union (EU-27) for 2007 which was 7.13 per cent in 2007.¹⁸

34. Against the background of the cited overall decline of unemployment countrywide in the period 2001–2007, there are regional variations in the unemployment level and variations in key distributions of unemployed persons (see paragraphs 35–36 below).

35. The unemployment rate varies widely in the country's 28 administrative regions. The unemployment rate is far below the country average in eight regions, and this tendency was maintained in 2007 from the previous years. These regions are: Sofia City (1.81 per cent); Bourgas Region (3.89 per cent); Gabrovo Region (4.04 per cent); Varna Region (5.43 per cent); Pernik Region (6.39 per cent); Plovdiv Region (6.76 per cent); and Blagoevgrad and Stara Zagora Regions (6.77 per cent). In the remaining 20 regions, the unemployment rate, despite its substantial fall over the last six years, remains above 7 per cent of the labour force.¹⁹ The state of unemployment in those administrative regions is conditioned by the relatively lower level of their economic development compared to the other regions.

36. The structure of unemployment in 2007 did not show any changes from the tendencies in previous years. In 2007 the unemployed were distributed as follows:

(a) By sex: an average annual 171,457 women and 115,523 men were registered at the employment offices;

(b) By age: the number of unemployed aged under 19 showed the largest decline, 31.9 per cent, followed by the 19–24 age group — 30.8 per cent, and the 25–29 age group — 27.6 per cent. The number of unemployed aged between 50 and 54 showed the smallest decline — just 15.6 per cent;

(c) By occupation: 53,391 unemployed workers were registered at the employment offices, and the 44,950 specialists registered were by 11,311 fewer, year-on-year. The largest group of unemployed was the unskilled: 188,639 or 42,232 (18.3 per cent) fewer than in 2006;

(d) By education: while the number of unemployed decreased in all educational groups, the smallest number of unemployed are those with higher education: 18,164 or 6.3 per cent, followed by the unemployed with secondary special and vocational education — 22,034 or 34.2 per cent, and those with elementary and lower education — 78,670 or 27.4 per cent of the jobless total;

(e) The group of the long-term unemployed (persons registered as unemployed for more than one year): their number decreased, compared to 2006, by 37,956 or 18.6 per cent to 165,856 in 2007. The share of this group, however, remains high, at 57.8 per cent of the jobless total in 2007.

37. The overall conclusion from the above presentation (paragraphs 17–35) is that the legislative and economic measures taken to ensure and guarantee the practical implementation of the right to work of citizens in the Republic of Bulgaria have produced positive results. However, problems also persist with respect to providing work to able-bodied job seekers and the further reduction unemployment especially of the long-term unemployed, of the unemployment rate in certain parts of the country and with upgrading the educational attainment and professional qualification of the unemployed in Bulgaria.

¹⁸ *Yearbook of the Ministry of Labour and Social Policy 2008*, op. cit., p. 13, 16.

¹⁹ *Yearbook of the Ministry of Labour and Social Policy*, op. cit., p. 14.

Article 7

38. The Republic of Bulgaria is a party to the following ILO Conventions:
- (a) The Weekly Rest (Industry) Convention, 1921 (No. 14);
 - (b) The Minimum Wage-Fixing Machinery Convention, 1928 (No. 26);
 - (c) The Labour Inspection Convention, 1947 (No. 81);
 - (d) The Protection of Wages Convention, 1949 (No. 95);
 - (e) The Equal Remuneration Convention, 1951 (No. 100);
 - (f) The Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106);
 - (g) The Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173).

The Republic of Bulgaria regularly submits periodic reports on the measures which it has taken to give effect to the provisions of the ratified ILO Conventions under Article 22 of the Constitution of the ILO to the International Labour Office. The latest reports on these conventions were submitted in 2007.

39. In 2003 Bulgaria ratified the ILO Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173). Amendments to the Labour Code of 2001 and 2004 introduced important changes in the legal framework of labour remuneration (see paragraphs 40–42 below). A separate Act on Factory and Office Workers' Claims Guaranteed in the Event of their Employer's Bankruptcy (*State Gazette* No. 37 of 2004, as amended and supplemented – see paragraph 41 below) was adopted in 2004 as well. The period under review also witnessed important revisions in the Health and Safety at Work Act (see paragraphs 43–45 below). The 2001 amendments to the Labour Code introduced important changes and a legal framework of working time and of paid annual leaves (see paragraphs 46–52 below). Apart from these new developments regarding the implementation of Article 7 of the Covenant, we refer to the 1999 Report of the Government.

40. The changes in legislation and practice on the implementation of Article 7 of the Covenant in the part concerning remuneration for work (Article 7 (a) of the Covenant) in the period January 2000–June 2008 concern several key points:

(a) The new Article 243, inserted in the Labour Code in 2001, reaffirmed in domestic legislation the principle of the right to equal pay for women and men. According to the provision of Article 243 of the Labour Code, “(1) Women and men shall be entitled to equal pay for equal work or work of equal value. (2) Paragraph (1) shall apply to all payments under the employment relationship”;

(b) In 2002–2003, serious problems and difficulties with the regular payment of the wages to factory and office workers emerged in the practice of implementation of legislation regarding the protection of remuneration for work. In increasingly frequent cases, employers, invoking economic difficulties they were experiencing in the transition period, delayed the payment of all or part of the wages to employees by months and, in some cases, even by years. This gave rise to serious discontent among factory and office workers and to tensions in their relations with the employers and necessitated the intervention of the legislator in 2004 in two areas:

(i) Article 128 of the Labour Code was supplemented. The employer's general obligation to owe and pay wages was particularized, expressly providing for three new obligations of the employer:

- a. To charge in payrolls the wages of the factory and office workers for the work performed thereby;
- b. To pay the wages agreed for the work done within the established time limits;
- c. To issue, at the request of the factory and office workers, abstracts from the payrolls on the wages and compensations, whether paid or unpaid. On the basis of these abstracts, the factory and office workers were able to seek, according to an expedited court procedure, payment of the wages due to them from the employer;

(ii) Article 245 of the Labour Code was reformulated to regulate the cases in which the employer is in a difficulty to pay the wages due to the factory or office worker in full amount and within the established time limits. According to that provision, upon performance of his or her labour duties in good faith, the factory or office worker is owed payment of the wages by the employer to the amount of at least 60 per cent of the gross salaries but not less than the national minimum wage, and the balance to the full amount of the labour remuneration is paid additionally with legal interest.

41. With the economic difficulties accompanying the transition to a market economy in the country, debtor employers were being adjudicated bankrupt according to the procedure provided for this in the Commerce Act ever more frequently since the beginning of 2000. This posed a real threat to the payment of the labour remunerations due by the employers. Tangible social tensions were created in some of these cases. The legislator thus had to intervene yet again. An express Act on Factory and Office Workers' Claims Guaranteed in the Event of their Employer's Bankruptcy (*State Gazette* No. 37 of 2004) was passed in 2004 and entered into force as from 1 January 2005. This Act provided for the establishment of a special Factory and Office Workers' Guaranteed Claims Fund, the resources in which were raised from employers' contributions and were managed by bodies provided for in the same law. The Fund paid the wages of factory and office workers upon the adjudication in bankruptcy of their employer. The Act transposed the main provisions of ILO Convention No. 173 of 1992 concerning the Protection of Workers' Claims in the event of the Insolvency of their Employer.

42. The national minimum monthly wage is a Bulgarian labour law feature known since the mid-1950s. The amount of the minimum wage is fixed by the Council of Ministers (Article 244 of the Labour Code). After an unjustified stagnation in the 1990 and in the first years after 2000, since 2005 the amount of the minimum wage has been growing faster. It amounted to BGN 150 in 2005, BGN 160 in 2006, BGN 180 in 2007, and only in 2008 it was increased to BGN 220, even though this, too, is objectively insufficient to satisfy the vital necessities of workers.

43. The average wage, too, has posted a certain, though slow growth in both the private and public sector. Below are the relevant figures released by the National Statistical Institute for 2004–2007.

Average annual wage of persons hired under an employment and civil-service relationship by economic activity (BGN)²⁰

<i>Economic activities</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>
Total	3 509	3 885	4 321	5 174
Agriculture, hunting and forestry	2 596	2 809	3 051	3 660
Fishery	1 772	2 043	2 186	2 544
Mining and quarrying of energy producing materials	6 039	6 414	7 032	8 868
Mining and quarrying except energy producing materials	5 561	6 103	7 513	8 844
Manufacture of food products, beverages and tobacco	3 140	3 474	3 931	4 708
Manufacture of textiles and garments	2 246	2 457	2 728	3 237
Manufacture of leather and leather products	2 037	2 178	2 444	2 824
Manufacture of timber and timber products except furniture	2 389	2 690	3 016	3 886
Manufacture of paper and cardboard; publishing and printing	3 520	3 873	4 209	4 904
Manufacture of coke, refined petroleum products and nuclear fuel	9 013	11 133	13 784	16 309
Manufacture of chemicals, chemical products and man-made fibres	4 726	5 181	5 729	6 763
Manufacture of rubber and plastic products	2 725	2 891	3 111	3 561
Manufacture of other non-metallic mineral products	3 805	4 006	4 525	5 552
Metallurgy and metal-work manufacture except machinery and equipment	4 231	4 505	5 033	5 868
Manufacture of machinery and equipment not elsewhere classified	3 719	4 071	4 478	5 539
Manufacture of electrical and optical equipment	3 426	3 797	4 110	5 403
Manufacture of transport equipment	4 103	5 036	5 597	6 932
Manufacturing not elsewhere classified	2 342	2 636	2 864	3 465
Electricity, gas and water supply	6 487	6 895	7 537	8 865
Construction	2 941	3 210	3 542	4 348
Wholesale and retail trade; repair of motor vehicles, motorcycles and personal and household goods	2 609	3 008	3 174	4 207
Hotels and restaurants	2 064	2 429	2 757	3 495
Transport, storage and communication	4 255	4 772	5 331	6 597
Financial intermediation	8 165	9 051	9 951	11 998
Real estate, renting and business activities	3 255	3 891	4 229	5 115
Public administration and defence; compulsory social security	5 644	5 737	6 400	7 644
Education	3 858	4 068	4 535	5 186
Health and social work	3 961	4 543	4 603	5 487
Other community, social and personal service activities	2 471	2 912	3 216	4 161

²⁰ *Statistical Reference Book 2007*, p. 78–79; *Statistical Reference Book 2008*, p. 76–77.

Average annual wage of persons hired under an employment and civil-service relationship in the public sector by economic activity (BGN)²¹

<i>Economic activities</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>
Total	4 400	4 811	5 265	6 242
Agriculture, hunting and forestry	3 186	3 434	3 873	4 710
Fishery			4 726	
Mining and quarrying of energy producing materials	6 375	7 736	8 880	12 287
Mining and quarrying except energy producing materials	3 029	3 630	4 665	5 169
Manufacture of food products, beverages and tobacco	7 856	10 225	11 082	14 986
Manufacture of textiles and garments	2 517	2 556	3 420	3 443
Manufacture of leather and leather products				
Manufacture of timber and timber products except furniture	2 639	3 137	3 100	3 617
Manufacture of paper and cardboard; publishing and printing	5 454	5 667	5 990	7 369
Manufacture of coke, refined petroleum products and nuclear fuel				
Manufacture of chemicals, chemical products and man-made fibres	4 370			
Manufacture of rubber and plastic products	2 415	2 285	2 491	3 208
Manufacture of other non-metallic mineral products	4 923	3 101	5 756	5 986
Metallurgy and metal-work manufacture except machinery and equipment	4 182	4 958	4 961	5 306
Manufacture of machinery and equipment not elsewhere classified	3 367	3 473	3 689	4 495
Manufacture of electrical and optical equipment	4 160	3 446	3 697	4 089
Manufacture of transport equipment	4 148	4 833	5 311	6 336
Manufacturing not elsewhere classified	3 680	4 754	5 077	6 535
Electricity, gas and water supply	6 504	7 014	7 511	8 747
Construction	3 865	4 505	4 634	6 089
Wholesale and retail trade; repair of motor vehicles, motorcycles and personal and household goods	5 698	6 611	7 385	6 830
Hotels and restaurants	3 325	3 442	3 799	4 512
Transport, storage and communication	4 747	5 230	5 630	6 931
Financial intermediation	10 510	12 433	13 293	14 319
Real estate, renting and business activities	3 829	4 458	4 933	6 010
Public administration and defence; compulsory social security	5 644	5 737	6 400	7 644
Education	3 832	4 037	4 502	5 131
Health and social work	4 213	4 837	4 900	5 769
Other community, social and personal service activities	2 250	2 716	3 158	3 782

²¹ *Statistical Reference Book 2007*, p. 80–81; *Statistical Reference Book 2008*, p. 77–78.

Average annual wage of persons hired under an employment and civil-service relationship in the private sector by economic activity (BGN)²²

<i>Economic activities</i>	2004	2005	2006	2007
Total	3 049	3 461	3 804	4 762
Agriculture, hunting and forestry	2 481	2 699	2 899	3 469
Fishery	1 625	1 930	2 186	2 544
Mining and quarrying of energy producing materials	4 216	3 475	3 909	4 962
Mining and quarrying except energy producing materials	5 600	6 125	7 531	8 862
Manufacture of food products, beverages and tobacco	2 792	3 124	3 627	4 405
Manufacture of textiles and garments	2 244	2 457	2 726	3 237
Manufacture of leather and leather products	2 037	2 178	2 443	2 824
Manufacture of timber and timber products except furniture	2 388	2 688	3 016	3 686
Manufacture of paper and cardboard; publishing and printing	3 393	3 760	4 093	4 781
Manufacture of coke, refined petroleum products and nuclear fuel	9 013	11 133	13 784	16 315
Manufacture of chemicals, chemical products and man-made fibres	4 740	5 166	5 719	6 754
Manufacture of rubber and plastic products	2 729	2 897	3 117	3 563
Manufacture of other non-metallic mineral products	3 768	4 015	4 499	5 566
Metallurgy and metal-work manufacture except machinery and equipment	4 232	4 500	5 034	5 876
Manufacture of machinery and equipment not elsewhere classified	3 775	4 138	4 561	5 636
Manufacture of electrical and optical equipment	3 401	3 802	4 116	5 417
Manufacture of transport equipment	4 098	5 054	5 620	6 976
Manufacturing not elsewhere classified	2 308	2 600	2 817	3 419
Electricity, gas and water supply	6 347	6 626	7 608	9 107
Construction	2 848	3 130	3 483	4 286
Wholesale and retail trade; repair of motor vehicles, motorcycles and personal and household goods	2 588	2 991	3 157	4 199
Hotels and restaurants	1 975	2 352	2 678	3 439
Transport, storage and communication	3 845	4 396	5 081	6 351
Financial intermediation	8 026	8 866	9 771	11 694
Real estate, renting and business activities	3 073	3 755	4 063	4 953
Public administration and defence; compulsory social security				
Education	4 907	5 268	5 773	7 039
Health and social work	2 280	2 767	2 833	3 824
Other community, social and personal service activities	2 890	3 185	3 292	4 541

44. The provision of healthcare and safety at work is regulated in Chapter Thirteen of the Labour Code (Articles 275 to 290) and in the Health and Safety at Work Act. The

²² *Statistical Reference Book 2007*, p. 82–83; *Statistical Reference Book 2008*, p. 79–81.

framework in the two laws does not duplicate itself. The difference between them is in their scope of application. While the framework of health and safety at work in the Labour Code applies only to factory and office workers at enterprises, institutions and organizations in which persons are hired as factory and office workers working under employment relationships, the framework in the Health and Safety at Work Act has a far broader scope of application and applies to all enterprises and places where work is implemented or training is conducted, regardless of the form of organization, type of ownership and grounds on which the work or training is performed, including with persons who perform work as self-employed: private craftsmen, sole traders, practitioners of a liberal profession and other such (Article 2 of the Health and Safety at Work Act).

45. No material amendments were made in Chapter Thirteen “Health and Safety at Work” of the Labour Code during the period under review, from January 2000 to June 2008, therefore we refer to the Third Report on the implementation of the Covenant. At the same time, the Health and Safety at Work Act was amended and supplemented in some material aspects concerning the following issues:

(a) The application of the Act was extended to persons working at enterprises employing temporary factory and office workers, i.e. workers assigned by a temporary employment business (their employer) to a user undertaking (Article 14 of the Health and Safety at Work Act);

(b) The obligations of the employer to prevent the harmful consequences in emergency circumstances were regulated, according to the specifics and size of the enterprise, upon the occurrence of a serious and immediate risk to the life and health of the factory or office worker (Articles 20–22 of the Health and Safety at Work Act);

(c) Provisions were made for the setting up of conditions of work committees and groups with the participation, on a parity basis, of representatives of the factory and office workers and of the employer and the employer’s obligation to consult these committees and groups when considering and undertaking measures affecting healthy and safe working conditions (Articles 26–30 of the Health and Safety at Work Act);

(d) The employer was obligated to ensure health services for the factory and office workers working for him by registered and licensed occupational medicine services (Articles 25 to 25e of the Health and Safety at Work Act);

(e) A special Conditions of Work Fund under the Minister of Labour and Social Policy was established to finance activities and measures for improvement of working conditions. The resources of this Fund are allocated by the state budget and are spent on improvement of the overall working conditions in the respective branch or industry (Articles 44 to 48 of the Health and Safety at Work Act).

46. Compliance with the requirements for occupational health and safety and the employers’ obligations to create such conditions is controlled by the General Labour Inspectorate Executive Agency (GLI) under the Minister of Labour and Social Policy. In its annual activity reports, published in compliance with the requirements of Articles 20 and 21 of the ILO Labour Inspection Convention, 1947 (No. 81), the GLI reports its vigorous activity for enforcing compliance with the requirements for normal healthy and safe working conditions through on-site checks and application of coercive administrative measures and administrative penalty liability through fines for violations of these requirements. The GLI activity report for 2007 cites 33,031 checks conducted by labour inspectors at enterprises and places where work is performed (19 per cent more than in the previous year), 136,361 ascertained violations of the requirements for safe and healthy conditions, which account for 71.4 per cent of all violations of labour legislation ascertained by the Inspectorate, 188,520 coercive administrative measures imposed, 187,857 mandatory instructions issued for elimination of the violations detected, including

1,500 cases in which machines, equipment and entire production lines were suspended from operation for violations of occupational safety and health rules. The report of the General Labour Inspectorate also points out the unsolved problems in this area – a large number of violations of occupational health rules and the lack of suitable conditions in some 25 per cent of all enterprises countrywide, problems in the operation of the labour inspectorate itself: understaffing, shortage of up-to-date equipment, computers of laboratories for measurement of harmful impacts etc.²³

47. Ensuring rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays (Article 7 (d) of the Covenant) underwent, on the whole, a positive development in the 2000–2007 period. These matters are subject to codified regulation in the Labour Code and were presented in detail in the Third Report of the Government in 1999. The presentation below is focused on the evolution of the legal framework and the practice on its implementation during the period under review.

48. The duration of working time was not changed in the 2000–2007 period. Just as in the period until 2000, the normal duration of working time during the day is eight hours, the working week consists of five working days and has a total duration of 40 hours. Still, several important changes were made within this general legal framework. They were intended to make the organization and the working time utilization flexible both by agreement between the parties and unilaterally on the part of the employer after consultation with factory and office workers' representatives and representatives of the trade unions at the enterprise (see below).

49. The normal duration of the working day (eight hours) and of the working week (40 hours) was established as a normal maximum duration rather than as a fixed duration, as was the case until March 2001. The amendments to the Labour Code of March 2001 provided that the daily duration of the working time is up to eight hours, and the weekly duration is up to 40 hours (Article 136 of the Labour Code). This change was important because it turned the duration of working time from mandatorily fixed in the law to an element of the negotiated content of the employment contract, which the parties may agree by means of the so-called part-time work (Article 138 of the Labour Code), which makes it possible to adapt the duration of the working time to the family and other responsibilities of the factory or office worker and the employer. The part-time factory or office worker enjoys the rights under the employment relationship, receives wages, paid annual leaves etc. in proportion to the duration of the working time.

50. The amendments to the Labour Code of June 2004 and June 2006 took another two important steps in making working time flexible with its unilateral fixing by the employer after consultation with the factory and office workers' representatives and the trade union organizations. The first such step is the right of the employer, for production reasons (performance of intensive work, fulfilment of large urgent orders etc.), to be able to extend the working time by up to two hours on certain working days for a period of up to 60 working days within one calendar year, after which the employer is obligated to compensate the extension of the working time by its reduction by as many hours as have been added for each extended working day within four months (Article 136a of the Labour Code). The second step is the establishment of reduced working time unilaterally by the employer upon reduction of the volume of work for a period of up to three months within one calendar year. The duration of the reduced working time established according to this

²³ Source: 2007 Report of the General Labour Inspectorate Executive Agency, published in *Labour Information Bulletin*, June 2008, 96 p. (abridged version), and on the Internet site of the General Labour Inspectorate, <http://git.mlsp.government.bg> (full text version).

procedure may not be less than half of the statutory duration of the working time for the period for which it was established (Article 138a of the Labour Code). Reduced working time under Article 136a of the Labour Code is established by the employer in the cases of temporary difficulties in the activity and in anticipation of an early overcoming of these difficulties and return to the normal pace of work at full-time working day.

51. The framework of paid annual leaves was also amended during the period under review. Instead of the amount of the paid annual leave fixed in the course of decades depending on the length of employment service (14, 16 and 18 working days), a single minimum duration of the paid leave of 20 days was introduced for all factory and office workers (Article 155 of the Labour Code). Two types of additional paid annual leave of not less than 5 working days were introduced as well: for work under specific conditions which cannot be eliminated, and for work at open-ended working hours (Article 156 of the Labour Code). Longer basic and additional paid leaves may be agreed in the collective agreement and in the individual employment contract. This is common practice in individual and collective bargaining.

52. The new framework of paid annual leaves enabled Bulgaria to ratify in 2007 Part II, Article 2, paragraph 3 of the European Social Charter, which provides for a minimum of four calendar weeks' annual holiday with pay (ratification law promulgated in the *State Gazette* No. 12 of 2007).

Article 8

53. The Republic of Bulgaria is a party to:

- (a) The International Covenant on Civil and Political Rights;
- (b) The ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
- (c) The ILO Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

54. During the period under review, January 2000–June 2008, the right of factory and office workers in the Republic of Bulgaria to form and join trade unions of their own choice under Article 8 of the Covenant continued to be implemented in accordance with the principle of free and pluralistic trade-union association, as established in Articles 12, 44 and 49 (1) of the Constitution, Article 8 of the Covenant, ILO Conventions No. 87 and No. 98, Articles 5 and 6 of the European Social Charter, and Articles 4 and 33 to 49 of the Labour Code. A presentation on these issues was provided in the Third Periodic Report of the Government under Article 8 of the Covenant, which retains its relevance and we refer to it. The intervening changes in the period under review are presented below.

55. Changes were made in the legal framework of the criteria for recognition of trade union organizations as representative. Besides the requirements to have as a minimum 50,000 members; to have as a minimum 50 organizations with no fewer than five members each in more than one-third of the industries designated by the Council of Ministers in accordance with the National Classification of Economic Activities; to have local chapters in more than half of all 264 municipalities of the country and a national governing body (Items 1 to 3 of Article 34 of the Labour Code), the amendments to the Labour Code of 2004 and 2007 introduced a requirement that the organization possess the capacity of a legal person, acquired by means of entry into the register of the district court, at least two years prior to the submission of the request for recognition of representativeness (Item 4 of Article 34 of the Labour Code). The idea of this new requirement is that the trade union organization concerned must have become officially known and its legitimacy as a national

trade union entity must have been recognized for a definite period of time before seeking recognition as representative.

56. In pursuance of Articles 34 and 36 of the Labour Code, in December 2007, by Decisions No. 825 of 14 December 2007 and No. 826 of the same date (promulgated in the *State Gazette* No. 110 of 2007), the Council of Ministers recognized the following trade union organizations as representative:

- (a) The Confederation of Independent Trade Unions in Bulgaria (CITUB);
- (b) The Podkrepa Confederation of Labour.

57. By the amendments to the Labour Code of May 2007 (promulgated in the *State Gazette* No. 40 of 2007), the period for which trade union organizations are recognized as representative was extended from three to four years. Verification of compliance with the criteria for representativeness under Article 34 of the Labour Code is performed periodically by the authorities of the Ministry of Labour and Social Policy with the participation of representatives of the trade union organizations concerned once every four years. Depending on the results of the verification of compliance or non-compliance with the criteria under Article 34 of the Labour Code, the Council of Ministers recognizes or refuses to recognize the trade union organizations concerned as representative. This is the standard procedure for recognition of representativeness of trade union organizations. The new framework provides for a possibility for performance of verification of compliance with the criteria for representativeness even before the end of the four-year period for which the trade union organization has been recognized as representative. This procedure may be applied by the Council of Ministers on its own initiative or under a Council of Ministers decision adopted on a motion by the National Council for Tripartite Cooperation (Article 36a of the Labour Code). When such verification of compliance or non-compliance with the criteria under Article 34 of the Labour Code is performed, the Council of Ministers confirms the recognition of this capacity where the criteria continue to be complied with or withdraws this capacity where it is established that any of the criteria under Article 34 of the Labour Code is no longer complied with. The decision by which the Council of Ministers refuses to recognize a particular trade union organization as representative or by which it withdraws this capacity according to the procedure established by Article 36a of the Labour Code must be reasoned and may be appealed by the trade union organization concerned before the Supreme Administrative Court (Article 36 (7) of the Labour Code).

58. The decision by which the respective trade union organization is recognized as representative at the national level applies as recognition of representativeness of all its chapters: branch, industry, municipal and enterprise-level trade union organizations (Article 36 (8) of the Labour Code).

59. The representative trade union organizations enjoy all rights as trade union organizations, which the Labour Code and the other laws confer on them to represent and defend the socio-economic interests of their members. Along with that, however, they are vested with certain additional rights arising from their capacity as representative trade union organizations. These rights are:

- (a) Only they participate in the bodies of tripartite cooperation for regulation of industrial and social-security relations and living standard issues (Articles 3 to 3f of the Labour Code);
- (b) By virtue of express provisions of specific laws, their members participate in the composition and activity of a number of tripartite and multipartite bodies (the Supervisory Board of the National Social Security Institute, the National Council for Health and Safety at Work, the National Council for Professional Qualification etc.);

(c) Only representative trade union organizations are competent to conclude national, industry, branch and municipal collective agreements (Articles 51b and 51c of the Labour Code);

(d) Only representatives of the representative trade union organizations participate in the activities of the ILO bodies etc.

The trade union organizations' capacity of representativeness confers on them rights to represent all trade union organizations, including those that have not been recognized as representative, as well as the interests of all factory and office workers, including those that are not members of any trade union organization. In this sense, they perform functions of representation and defence of interests in respect of all factory and office workers and not just of the factory and office workers who are their members.

60. Bulgarian legislation does not know and does not impose any restrictions on the right of factory and office workers, including civil servants, to form or join trade unions (Article 33 of the Labour Code, Articles 43 to 46 of the Civil Servants Act). Restrictions are established only on the membership in the trade union organizations of the employees at the Ministry of Interior and at the Ministry of Defence (see below).

61. Just as in a number of European and non-European countries, in Bulgaria, too, the number of unionized factory and office workers has been declining over the last 18 years, including in the period under review, in conditions of freedom of trade-union association, of globalization and growing labour force mobility in the country. Comprehensive official statistics of this decline are unavailable, and besides this the trade unions are reluctant to disclose their membership size. Judging from the data for 2003 and the verification which was performed in the autumn of 2007 in connection with the periodic campaign for recognition of trade union organizations as representative, the following membership sizes were officially established for the country's two largest trade union organizations:

(a) Confederation of Independent Trade Unions in Bulgaria: 395,000 members in 2003 and 328,282 members at the end of 2007;

(b) Podkrepa Confederation of Labour: 105,000 members in 2003 and 91,738 members at the end of 2007.²⁴

The summed figures about the factory and office workers who were members of these two trade union organizations show that at the end of 2007 they had a combined membership of 420,000 factory and office workers, which represents some 12 per cent of all employees in the country. Certainly, the total number of unionized factory and officer workers is 1–2 per cent higher with the members of trade union organizations not recognized as representative are added: the Promyana Trade Union, the Edinstvo Trade Union etc. Official statistics about them are unavailable, but their number does not seem significant.

62. The right of trade union organizations to establish and join national federations and to form or join international trade-union organizations (Article 8 (1) (b) of the Covenant) is regulated in their constitutions and is freely exercised by them and by their governing bodies. The CITUB and the Podkrepa Confederation of Labour were members of the International Confederation of Free Trade Unions (ICFTU): Podkrepa since 1993 and the

²⁴ *Source of 2007 figures:* Ministry of Labour and Social Policy about the membership sizes of the country's two largest trade union organisations, established in a verification performed by the Ministry authorities in the autumn of 2008 with the participation of representatives of the trade union organizations. *Source of 2003 figures:* "One More Employers' Association to Bargain with Cabinet", editorial, *Trud* daily, 29 March 2004.

CITUB since 1995. After the merger of the ICFTU with the World Confederation of Labour (WCF) and the establishment, in the autumn of 2007, of the International Trade Union Confederation (ITUC), both Bulgarian national confederations of representative trade union organizations joined it. The CITUB and the Podkrepa Confederation of Labour are also affiliated to the European Trade Union Confederation (ETUC).

63. The functions of trade union organizations are defined in Article 49 (1) of the Constitution and Article 4 of the Labour Code: to represent and to defend the economic and social interests of the factory and office workers who are their members. In their day-to-day practical activities, they perform this function by participating in various bodies of tripartite cooperation and other advisory bodies, by sharing in the preparation and discussion of drafts of statutory instruments in the sphere of economic, social and cultural rights, of collective bargaining and the conclusion of collective agreements on improvement of working conditions, in the voluntary settlement of collective labour disputes, in organizing and holding strikes and other lawful actions (see below).

64. Collective bargaining has established itself as a key area of trade union activity and an important tool for improvement of the working conditions of factory and office workers. Collective agreements are concluded at the branch, industry and municipal level and, above all, at the enterprise level. The following numbers of collective agreements were concluded between 2005 and June 2008:

- (a) At enterprise level: 920 in 2005; 940 in 2006; 1,000 in 2007; and 1,100 in 2008;
- (b) At branch and industry level: 32 in 2005; 38 in 2006; 36 in 2007; and 42 in 2008;
- (c) At municipal level: 60 in 2005; 48 in 2006; 54 in 2007; 59 in 2008.

In 2007 collective agreements applied to 1,240,000 factory and office workers, which represents some 34 per cent of all employees in the country.

65. Participation in voluntary settlement of collective labour disputes. According to the Settlement of Collective Labour Disputes Act, the trade unions most often represent the factory and office workers in collective labour disputes which have arisen between them and the employers on issues concerning industrial and social-security relations and living standards. Such disputes most often arise over questions and grievances of factory and office workers for raising wages at the enterprise, for improvement of working conditions etc. Collective labour disputes also arise over pay grievances in entire branches and spheres of activity: in health care, in basic and secondary education etc. The trade unions are involved in these disputes through participation of their representatives in the direct negotiations with the employer and the state bodies on their voluntary settlement, in the conciliation and mediation procedures and as factory and office workers' representatives in the arbitration proceedings for voluntary settlement of collective labour disputes.

66. The right to strike is recognized as a fundamental right of factory and office workers in Article 50 of the Constitution. The exercise of this right is regulated in Articles 10 to 21 of the Settlement of Collective Labour Disputes Act of 1990. Since the presentation of the Third Report on the implementation of the Covenant in 1999, certain important changes have occurred in legislation and practice, marking an evolution in the development of the right to strike.

67. Two important amendments to the Settlement of Collective Labour Disputes Act were enacted in 2001 and 2006:

- (a) The amendments of 2001 supplemented and enhanced the mechanisms for voluntary settlement of collective labour disputes. Alongside direct negotiations, the

application of conciliation, mediation and voluntary labour arbitration were regulated in greater detail as methods for settlement of collective labour disputes in the cases where the parties have not reached agreement on voluntary settlement;

(b) A National Institute of Conciliation and Arbitration was established as a new national body which organizes the conciliation and arbitration effort when approached by the parties for assistance. The activity of the Institute has invigorated since 2003. In the spring of 2003, the Minister of Labour and Social Policy, acting on a proposal by the representative trade union and employers' organizations, endorsed 36 mediators and 36 arbitrators for voluntary settlement of collective labour disputes. In increasingly frequent cases, these arbitrators and mediators have been participating, on the initiative of the disputants, in settlement of collective labour disputes on which the parties themselves have failed to reach agreement on voluntary settlement. In 2007–2008 there were such disputes at the CEZ AD electricity distribution company, at the large iron and steel works Kremikovtzi AD etc.;

(c) Particularly important amendments were introduced in 2006. They lifted the pre-existing restrictions on the exercise of the right to strike of factory and office workers employed in the production, distribution and supply of electricity, in communications and in health care. In reality, those nearly 240,000 factory and office workers were denied the right to strike, because of the great significance of these activities for the needs of the general public. This provoked widespread discontent among those factory and office workers. In the middle of September 2005, the two representative trade unions started negotiations with the employers and the Government under the auspices of the Committee on Labour and Social Policy at the 40th National Assembly in connection with a bill to amend the Settlement of Collective Labour Disputes Act, laid before Parliament, and a repeal of the existing prohibition of the right to strike of these categories of employees. After difficult negotiations, interrupted on several occasions, the Government and the employers ultimately conceded and the negotiations were successfully completed with the parties reaching agreement on amending the law and lifting the ban on the exercise of the right to strike of the categories of workers concerned (*State Gazette* No. 87 of 2006);

(d) As a "compensatory mechanism" for the lifting of the ban on strikes in the power industry and health care and considering the major public relevance of the activities carried out in these branches, provisions were made for a special procedure for exercise of the right to strike of the factory and office workers employed there. According to the new wording adopted of Article 14 of the Settlement of Collective Labour Disputes Act, even while a strike in these branches is in progress, they must ensure the functioning of the so-called "minimum service." Minimum service must be determined by a written agreement between the employer and the striking workers at least three days in advance of the commencement of the strike called, so that the employer could organize its activity in the conditions of the forthcoming strike;

(e) If the parties fail to reach agreement regarding the types and volume of the minimum service which will continue to be provided during the strike, the Act provides that these types and volume be determined through compulsory labour arbitration by an individual arbitrator or a board of arbitration designated by the Director of the National Institute of Conciliation and Arbitration. Incidentally, this is the only case in which the law provides for compulsory labour arbitration in settlement of a collective labour dispute. The composition of the arbitration body must be designated within three working days, and this body has one week to pronounce on the type and volume of the minimum service. The short time limits and expedited actions required in such cases are prompted by the tense relations between the disputants. The arbitral award rendered according to this procedure is binding on the parties. A breach of the procedure for determining the minimum service, as well as a

failure to comply with the arbitral award by which this service is determined, renders the strike unlawful;

(f) Proceeding from its basic premise on a search for voluntary settlement of the collective labour dispute that has arisen between the parties and on resorting to strike action only upon exhaustion of the means for voluntary settlement of the collective dispute that has arisen between the parties, Article 15 of the Settlement of Collective Labour Disputes Act provides that even after the strike has commenced, “the parties shall make efforts for a final settlement of the dispute through direct negotiations, mediation or in another appropriate manner.” In practice, mutual agreement between the disputants is most often reached precisely while the strike is in progress.

68. There was a massive wave of strikes in Bulgaria at the onset of democratic changes, in the 1990s. Strikes were however called and staged on rare occasions in the period under review, 2000–2008. A large part of the collective labour disputes that arose during the period under review were settled voluntarily: through direct negotiations between the factory and office workers, of the one part, and the employer, of the other part. When the parties failed to reach agreement on voluntary settlement of the collective labour dispute at the enterprise, representatives of the superior trade union and employers’ organizations, as well as the National Institute of Conciliation and Arbitration through its mediators and arbitrators, joined the negotiations at the request of the disputants. This certainly does not imply that strikes are no longer staged. Albeit less frequently, strikes do take place at separate, incl. large enterprises and in entire branches. Over the last two years, such strikes were staged in healthcare services (by doctors and nurses), by trolley bus drivers in Sofia, the national teachers’ strike (September–October 2007) etc. The principal grievances expressed by the striking factory and office workers are related to remuneration: raising wages, paying it regularly etc. On the whole, as a result of the negotiations held even while they are in progress, the strikes end successfully. Thus, as a result of the strikes cited above, teachers’ salaries were increased by 50 per cent, the salaries of doctors and nurses by 40 per cent, the wages of trolley bus drivers by 60 per cent etc.

69. The effective legal framework of the right to strike and its exercise contains certain restrictions as well. They have been the subject of comments by the Committee of Experts on the Application of Conventions and Recommendations of the International Labour Organization. These restrictions refer to the following issues:

(a) According to Article 11 (2) of the Settlement of Collective Labour Disputes Act, “[t]he decision to call a strike shall be made by a simple majority of the workers in the enterprise or division concerned.” This threshold is considered to be too high, which is why it is seen as a restriction on the right to strike of the factory and office workers at the enterprise of its division;

(b) According to Article 11 (3) of the Settlement of Collective Labour Disputes Act, the workers or their representative are obligated to declare, among other things, the “duration of the strike” in the notification of a forthcoming strike given to the employer. Fixing the duration of a strike even before it has started is rather difficult, because at that point of time the striking workers cannot foresee the employer’s position, its participation in the ongoing negotiations while the strike is in progress, and the probability of reaching agreement and redressing the grievances over which the strike has been called etc.;

(c) Article 51 of the Railway Transport Act defines as “minimum service” to be provided by the striking workers while the strike is in progress “50 per cent of the volume of the activity carried out before the strike”. This volume of “minimum service” is considered to be unjustifiably large, which is why it is seen as a factor reducing the effect of the strike and diminishing the prospects of it achieving its goals;

(d) Article 47 of the Civil Servants Act does not recognize the right to effective strike of civil servants but allows only the so-called “token strike”, which consists in wearing or displaying outward signs, protest posters, ribbons, badges and other appropriate symbols but excludes discontinuance of the discharge of civil servants’ official duties, which is why this is not a strike proper, since work stoppage is the point of effective industrial action.²⁵

In response to these comments, Council of Ministers Decision of 11 September 2008 mandated the Prime Minister to issue an order designating an inter-agency working group tasked with drafting changes in legislation to bring it into conformity with the requirements of ILO Convention No. 87 of 1948 concerning Freedom of Association and Protection of the Right to Organise and Article 6, paragraph 4 of the European Social Charter.

70. Civil servants, too, have the right to freedom of trade-union association for the defence of their interests (Article 49 (1) and Article 116 (2) of the Constitution and Articles 43 and 44 of the Civil Servants Act). The trade union organizations represent and defend the interests of civil servants before the state bodies on matters concerning their civil-service and social-security relations by means of proposals, demands, participation in the preparation of drafts of internal regulations and ordinances concerning civil-service relations (Article 44 (3) of the Civil Servants Act). The state bodies facilitate the performance of the trade union organizations’ activity and, to this end, provide them gratuitously with premises and other physical conditions for the discharge of their functions.

71. The trade union organizations of civil servants are affiliated to the national Federation of Independent Trade Unions of the State Administration and Organizations. It was established in 2000 and comprises 14 sectoral (branch) trade union associations of employees in the state administration and in the state organizations. The Federation is affiliated to the Confederation of Independent Trade Unions in Bulgaria. Civil servants and employees under an employment relationship, who work in one and the same state government body or in one and the same state organization, are members of one and the same common trade union organization.

72. The right to organize into trade unions in the armed forces has certain peculiarities:

(a) According to Article 197 (1) and (2) of the Defence and Armed Forces Act, service persons may not participate in trade union organizations. Service persons are not entitled to take trade union action, either. Service persons who are doctors, dental practitioners and who practise their medical profession are, without restraint, members of the respective professional organizations: the doctors of the Bulgarian Medical Association and the dental practitioners of the Bulgarian Dental Association (Article 197a of the Defence and Armed Forces Act). In peacetime service persons may associate for implementation of activities of mutual interest provided this is done off duty and does not impair combat readiness, training, discipline and morale of the personnel and does not breach the established order and the unity of command in the armed forces. Such associations may participate in similar international organizations (Article 198 of the Defence and Armed Forces Act);

(b) Civilians, who are employed at the Ministry of Defence, in the Bulgarian Armed Forces and in the structures subordinated to the Minister of Defence, work as:

²⁵ These comments in the form of observations are contained in: Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 1A), International Labour Conference, 97th Session, 2008, International Labour Office, Geneva, p. 75–76.

(i) Civil servants under the Civil Servants Act. They are appointed and discharged according to the procedure established by the Civil Servants Act. They may form and join trade union organizations under the Civil Servants Act (Articles 271 and 274 of the Defence and Armed Forces Act);

(ii) Employees under an employment relationship. They have the right to form and join trade union organizations without restraint (Article 274 (1) of the Defence and Armed Forces Act). On this basis, two trade unions have been established and exist at the Ministry of Defence: a Federation of Independent Trade Union Organizations in the Bulgarian Armed Forces, which is affiliated to the Confederation of Independent Trade Unions in Bulgaria, and a Defence National Trade Union, which is affiliated to the Podkrepa Confederation of Labour. Collective agreements are concluded between the Ministry of Defence and the two trade union organizations. One such collective agreement was concluded for 2008 as well. It regulates specific issues of the industrial and social-security relations of the civilians working under an employment relationship at the Ministry of Defence;

(iii) The Ministry of Defence creates conditions and facilitates the performance of the trade union organizations' activity and, to this end, provides the trade union leaderships with timely, true and understandable information on the issues of industrial and social-security relations, on the economic and financial position. In the cases where the information is classified, it is provided under the Classified Information Protection Act;

(iv) A Branch Council for Social Cooperation at the Ministry of Defence is established for the creation of better conditions for social cooperation and harmonization of interests and control over the implementation of the collective agreement between the Ministry of Defence and the trade union organizations. The Branch Council is set up and functions within the framework of the National System for Tripartite Cooperation and in dialogue with the Confederation of Independent Trade Unions in Bulgaria and the Podkrepa Confederation of Labour.

73. Peculiarities also exist in the right to organize into trade unions of the employees at the Ministry of Interior. The right of the employees at the Ministry of Interior to organize into trade unions is recognized in Chapter Twenty of the Ministry of Interior Act. According to Article 257 (1) of the Ministry of Interior Act, "[t]he employees of the Ministry of Interior may organize for support and defence of their professional and socio-economic interests." According to their legal status, Ministry of Interior personnel are divided into two groups: (1) civil servants and (2) employees under an employment relationship. The legal status of these two categories of personnel is determined, respectively: for the civil servants, by the Ministry of Interior Act and, on matters unregulated in it, by the Civil Servants Act (Article 169 (2) and § 1a of the Supplementary Provisions of the Ministry of Interior Act), and for the employees under an employment relationship, by the Labour Code and the Ministry of Interior Act (Article 169 (3) of the Ministry of Interior Act). Their right to organize into trade unions is also contingent on this. There are three trade union organizations at the Ministry of Interior:

(a) Bulgarian Police Union (Natsionalen Politzeyski Syndicat, NPS), established on 12 May 1990 as an independent trade union organization of police officers. This trade union has 12,000 members in the principal structural units of the Ministry of Interior, organized into 87 police trade-union chapters countrywide. The Bulgarian Police Union is affiliated to the European Council of Police Unions (CESP). The Bulgarian Police Union is active in the defence of the professional and social rights of police officers, participation in the drafting of statutory instruments, personal protection and financial support for the members of the trade union, recreation, cultural and sports activities, international cooperation etc.;

(b) “Ogneborets” Bulgarian Firefighters’ National Trade Union. It was established in 2000. It has 4,475 firefighter members in 98 chapters. Basically, it works for defence of the individual and collective labour interests of firefighters;

(c) Trade Union of the Civilian Administration, established on 24 March 2000. It brings together the Ministry of Interior employees who work under an employment relationship. It has 7,210 members. The trade union is affiliated to the Federation of Independent Trade Unions of the State Administration and Organizations within the Confederation of Independent Trade Unions in Bulgaria. The trade union focuses its activity on defence of the individual and collective labour rights of its members. The trade union has concluded a collective agreement with the Ministry of Interior for 2007–2008.

74. A Social Partnership Council, chaired by the Minister of Interior, was established at the Ministry of Interior in 2001. Delegations of all trade union organizations at the Ministry of Interior participate in the Council. The trade union organizations of the employees under an employment relationship at the Ministry of Interior conclude collective agreements with the Ministry of Interior according to the procedure established by the Labour Code (Article 260 of the Ministry of Interior Act).

75. In addition to the Social Partnership Council, the three trade union organizations also participate in the Conditions of Work Council, in the conditions of work committees, the Central Housing Commission at the Ministry, as well in a number of international bodies. The relationships between the Ministry of Interior leadership and the trade union organizations are pursued in a spirit of constructive partnership and social dialogue as an essential form of interaction in addressing problems as they arise and implementing the agreements reached.

76. According to Item 6 of Article 16 of the Settlement of Collective Labour Disputes Act and Article 274 (1) of the Defence and Armed Forces Act, the employees of the Ministry of Defence and of the Ministry of Interior do not have the right to strike.

Article 9

77. At the end of May 2008, the Republic of Bulgaria ratified ILO Convention No. 102 of 1952 concerning Minimum Standards of Social Security (*State Gazette* No. 54 of 2008). Upon ratification, the Republic of Bulgaria, in pursuance of Article 2 (a) of the Convention, declared that it accepts the obligations of the Convention in respect of Parts I (General Provisions), 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 nine parts dealing with social security benefits, only the parts on unemployment benefits and the disability benefits were not accepted, owing to peculiarities in the procedure for their determination under Bulgarian social security legislation.

78. Citizens’ right to social security is recognized as their fundamental right in Article 51 (1) of the Constitution, according to which “[c]itizens shall have the right to social security ...”.

79. The exercise of this right is regulated in detail in the Social Insurance Code (*State Gazette* No. 110 of 1999, as amended and supplemented), which entered into force as from 1 January 2000. On the basis of the classification established in the Republic of Bulgaria by the Social Insurance Code, according to the type of social insurance provided for in the Code, it may be divided into two groups: (a) short-term compulsory social insurance; (b) long-term (retirement) social insurance. The two forms of social insurance will be presented below.

1. Short-term compulsory social insurance

80. The range of persons who are compulsorily insured against all short-term social insurance risks covered under the Social Insurance Code is listed exhaustively in Article 4 (1) of the Code and comprises:

- (a) Factory and office workers hired to work for more than five working days or 40 hours within a calendar month;
- (b) Civil servants;
- (c) The judges, prosecutors and investigating magistrates, the public enforcement agents, the recording magistrates and the judicial officers;
- (d) The career service persons under the Defence and Armed Forces of the Republic of Bulgaria Act, the civil servants under the Ministry of Interior Act and the Implementation of Penal Sanctions Act;
- (e) The members of manufacturers' cooperatives, who perform work at these cooperatives;
- (f) The persons who work under a second employment contract or under an additional employment contract;
- (g) The contractors under contracts for management and control of commercial corporations, the sole traders, the unincorporated associations, as well as the trustees in bankruptcy and the liquidators;
- (h) The holders of elective office, who perform work and receive income from it;
- (i) The ministers of religion holding a spiritual title within registered denominations under the Religious Denominations Act.

81. The idea of the law with the list cited above is to make all persons who perform work subject to short-term social insurance, regardless of the type and grounds of this work, as long as they receive income for its performance, and to insure them against loss of their income as a result of occurrence of the social insurance risks defined in the law.

82. The social insurance risks under the Social Insurance Code, against the occurrence of which those persons are insured, are listed in Item 1 of Article 1 of the Code and comprise: (a) risks whose occurrence leads to temporary disability: the risks of general sickness, employment injury and occupational disease; (b) the risk of maternity; (c) the risk of unemployment. They are recognized as covered social insurance risks.

83. The occurrence of the cited social insurance risks leads to a temporary loss of their earned income with which they can provide for themselves and for their family members. To offset this loss of income, the socially insured persons are subject to compulsory social insurance for the duration of this loss.

84. The activities concerning short-term social insurance are managed by a public institution: the National Social Security Institute (NSSI) which is managed by a Supervisory Board, a Governor and a Deputy Governor. The Supervisory Board is a collegial authority composed, on a tripartite basis, of representatives of the State and of the representative employers' and trade union organizations, serving a renewable four-year term of office. The NSSI Governor and Deputy Governor are single-person authorities who are elected by the National Assembly for a term of four years. They may be re-elected (Articles 35 to 39 of the Social Insurance Code).

85. Short-term social insurance is financed with resources raised through social insurance contributions from the social insurance contributors and the insured persons, as well as with State budget resources. The social insurance contributions are shared between

social insurance contributors and socially insured persons in a 60:40 ratio. The resources for financing short-term social insurance are determined annually for a calendar year in the Public Social Insurance Budget Acts adopted by the National Assembly (Article 6 (2) of the Social Insurance Code).

86. Social insurance against temporary disability through general sickness, employment injury and occupational disease:

(a) *Temporary disability through to general sickness* is determined by a medical certificate issued by the attending physician who specifies the type of the disease and the duration of the temporary disability. For the time of the temporary disability, the insured person is excused from discharge of his or her labour duties and for this time is granted a leave known as “sick leave”. During that time, the insured person does not receive a labour remuneration but a social insurance benefit to the amount of 80 per cent of his or her gross labour remuneration for the entire duration of the temporary disability (Article 41 (1) of the Social Insurance Code);

(b) *Temporary disability through employment injury*. Employment injury, as a covered social insurance risk, is regulated in Articles 55, 57 to 60 and 64 to 65 of the Social Insurance Code. Article 55 of the Social Insurance Code defines “employment injury” as “any sudden impairment of health which has occurred during and in connection with or because of the work performed, as well as during any work performed in the interest of the enterprise, where the said impairment has resulted in loss of working capacity or death”. Employment injury furthermore means any injury sustained by an insured person while customarily en route to or from the working place to:

- (i) The principal place of residence or to another additional place of residence of a permanent nature;
- (ii) The place where the insured person customarily takes his or her meals during the working day;
- (iii) The place where remuneration is received.

For the duration of the temporary disability, the socially insured person who has sustained an employment injury receives a cash benefit amounting to 90 per cent of his or her gross labour remuneration (Article 41 (1) of the Social Insurance Code). Over the last six years (2002–2007), the number of employment injuries in Bulgaria has been steadily decreasing. Here are the figures showing this decrease:

2002: 5,409
 2003: 4,876 (-533)
 2004: 4,405 (-471)
 2005: 4,311 (-94)
 2006: 3,919 (-392)
 2007: 3,706 (-213)²⁶

The bulk of employment injuries occur in 12 branches: 2,182 or 58.8 per cent of all employment injuries in Bulgaria in 2007. These branches include: Construction (386 employment injuries), Manufacture of machinery (218), Public administration and defence

²⁶ Source: General Labour Inspectorate Activity Report for 2007, op. cit., p. 68–69. The figures in brackets show the decrease in the number of employment injuries compared to the preceding year.

(204), Manufacture of food products (202), and Wholesale and retail trade (195).²⁷ These are the branches and activities in which the level of safety and health at work is seriously flawed and inadequate. Improvement of occupational safety and health is a constant concern of the competent state bodies, but the results are insufficient. The efforts for further improvement will continue. The other problem is that, against the background of the steady decline in the total number of employment injuries in Bulgaria, the number of fatal injuries has been showing an alarming rise over the last five years. Here are the figures:

2003: 98
 2004: 111
 2005: 104
 2006: 139
 2007: 157²⁸

Among the fatal employment injuries, the largest number occur on the roads: 73 in 2007.²⁹ This is a serious problem for the State, which is due to reckless and careless driving and to an inadequate road infrastructure.

(c) *Temporary disability through occupational disease.* An important innovation in the legal framework of occupational diseases, as a covered social insurance risk, is the adoption of the mixed system for their ascertainment by the Social Insurance Code. Article 56 of the Social Insurance Code defines “occupational disease” as “any sickness which has occurred exclusively or primarily under the impact of harmful factors of the working environment or of the working process on the human body and which is included in a List of Occupational Diseases issued by the Council of Ministers on a motion by the Minister of Health”. A sickness may be recognized as an occupational disease even if it is not included in the List of Occupational Diseases, where it is established that this sickness has been caused basically and directly by the customary working activity of the socially insured person and has resulted in permanent loss of working capacity or death of the socially insured person. Any aggravation and later consequences of an occupational disease are subsumed under them. The List of Occupational Diseases, endorsed by Council of Ministers Decree No. 80 of 29 March 2001 (promulgated in the State Gazette No. 33 of 2001, effective 5 July 2001), comprises 57 types of occupational diseases under Article 56 (1) of the Social Insurance Code. The occurrence of an occupational disease in each particular case under Article 56 (1) of the Social Insurance Code, as well as of an occupational disease under Article 56 (2) of the Social Insurance Code, is ascertained by a decision of the diagnostic medical commissions with the Territorial Medical Expert Board. The number of occupational diseases ascertained over the last three years (2005–2007) has been relatively stable:

2005: 29,000
 2006: 28,800
 2007: 28,780³⁰

Diseases of the respiratory system, polyneuropathy, pneumoconiosis, diseases of the musculoskeletal system, vibration sickness, etc., take up the largest share of the ascertained occupational diseases. The incidence of occupational diseases in Bulgaria is decreasing.

²⁷ *Ibid.*, p. 69.

²⁸ *Ibid.*, p. 69.

²⁹ *Ibid.*, p. 69.

³⁰ *Source:* National Social Security Institute.

The reasons for this are the restructuring of the economy and the gradual, albeit slow, improvement of working conditions. Over the last three years, the total number of ascertained occupational diseases has approximated 28,000–29,000. An annual average of 80–90 new cases of occupational diseases have been acknowledged over the last six years (2002–2007).³¹ Temporary disability through occupational disease is ascertained by a medical certificate issued by the attending physician and the medical consultation board. The benefit for temporary disability through occupational disease amounts to 90 per cent of the gross labour remuneration. This benefit is paid for the entire duration of the temporary disability (Article 42 (1) of the Social Insurance Code).

87. *Social insurance for maternity.* The Republic of Bulgaria has ratified ILO Convention No. 3 of 1919 concerning the Employment of Women before and after Childbirth and ILO Convention No. 183 of 2000 concerning the revision of the Maternity Protection Convention (Revised), 1952. Effective legislation ensures a high degree of maternity protection. According to Article 47 (2) of the Constitution, “[m]others shall enjoy special protection on the part of the State, which shall guarantee them paid leave before and after confinement, free obstetrical care, relaxed conditions of work and other types of social assistance”. Pregnant women are entitled to free-of-charge medical observation, care and assistance to ensure the normal development of the pregnancy. Working women, regardless of the grounds for their employment (employment relationship, civil-service relationship etc.), are entitled to a series of paid leaves: for pregnancy, child-birth and child-care, as follows:

(a) A pregnancy and child-birth leave of 315 calendar days, 45 calendar days of which before the confinement, and a child-care leave of 270 calendar days until the child’s attainment of the age of 9 months (Article 163 of the Labour Code). During the time of this leave, mothers receive a benefit amounting to 90 per cent of her gross wages (Article 49 (1) of the Social Insurance Code);

(b) After using the leave under Article 163 of the Labour Code, working mothers are entitled, and the employers are obligated to grant them, upon request, an additional child-care leave until the child’s attainment of the age of 2 years (Article 164 of the Labour Code). During the time of this leave, the mother receives a benefit of an amount fixed by the Public Social Insurance Budget Act (Article 164 (4) of the Labour Code and Article 53 (1) and (2) of the Social Insurance Code). For 2008, the monthly amount of this benefit is fixed at BGN 220 (Article 11 of the 2008 Public Social Insurance Budget Act). With the consent of the mother, this leave may alternatively be used by the child’s father or by one of the parents of the child’s mother or father (Article 164 (3) of the Labour Code);

(c) After using the above-mentioned leaves under Articles 163 and 164 of the Labour Code, each of the child’s parents (the mother and the father) is entitled to an unpaid child-care leave in the amount of six months until the child’s attainment of the age of 8 years (Article 167a of the Labour Code).

All maternity leaves are assimilated to the length of employment service.

88. *Unemployment.* Social insurance against unemployment is regulated in Articles 54a to 54i of the Social Insurance Code. Under Article 54a of the Social Insurance Code, entitlement to an unemployment benefit vests in persons:

(a) For whom social insurance contributions have been remitted or are due for at least nine months during the 15 months last preceding the termination of the relationship on

³¹ *Social Insurance in Bulgaria in 2007*, Sofia, 2008, p. 86–87.

the grounds of which the person was socially insured under Article 4 (1) of the Social Insurance Code;

(b) Who are registered as unemployed at the relevant local division of the National Employment Agency;

(c) Who do not receive a pension;

(d) Who do not perform work for which they are subject to compulsory social insurance against unemployment under Article 4 of the Social Insurance Code.

89. The cash unemployment benefit amounts to 60 per cent of the average monthly contributory income on which the social insurance contributions for the insured persons have been remitted over the last nine months. The minimum and the maximum amounts of the unemployment benefit are fixed annually by the Public Social Insurance Budget Act. These amounts were BGN 90 and BGN 180 for 2007 and BGN 100 and BGN 200 for 2008 (Article 11 of the Public Social Insurance Budget Act).

90. According to Article 54c (1) of the Social Insurance Code, the number of months during which the cash unemployment benefit is paid within the limits under Article 54a of the Social Insurance Code varies by the length of the contributory service in years as follows:

<i>Contributory service (years)</i>	<i>Period of payment of benefit (months)</i>
Up to 3	4
From 3 to 5	6
From 5 to 10	8
From 10 to 15	9
From 15 to 20	10
From 20 to 25	11
Over 25	12

91. The amount of the cash unemployment benefit is 60 per cent of the average monthly contributory income on which the person has been insured over the last nine months but may not be less than the minimum and greater than the maximum amount of the unemployment benefit (Article 54b (1) of the Social Insurance Code). The minimum and the maximum amounts of the unemployment benefit are fixed annually by the Public Social Insurance Budget Act. These amounts are BGN 100 and BGN 200 for 2008. On the whole, this amount is low.

92. The Social Insurance Code was supplemented in 2006 (promulgated in the State Gazette No. 105 of 2006, effective 1 January 2007), inserting Article 54i, which provided for a new benefit entitlement for the long-term unemployed (persons who are registered as unemployed and have remained unemployed for more than 12 months). This benefit is at the minimum monthly amount (BGN 100 for 2008). It may be paid for a period not exceeding 30 months (Article 54i (3) of the Social Insurance Code).

2. Long-term (retirement) insurance

93. According to the Social Insurance Code, since 2000 retirement insurance in Bulgaria has been implemented according to the so-called “three-pillar structure”. It comprises:

(a) Principal compulsory public social insurance (Articles 68 to 106 of the Social Insurance Code);

(b) Supplementary compulsory retirement insurance (Articles 120a to 203 of the Social Insurance Code);

(c) Supplementary voluntary retirement insurance (Articles 209 to 259 of the Social Insurance Code).

They will be presented in brief below.

3. Principal compulsory retirement insurance

94. The principal compulsory retirement insurance comprises retirement insurance against the risks of old age, disablement and death. It is implemented by the National Social Security Institute and consists in granting contributory-service and retirement-age pensions, invalidity pensions and survivor pensions (granted to the insured persons' surviving family members who were his or her dependants while he or she was alive). The principal compulsory retirement insurance applies to all socially insured persons who perform work, regardless of the grounds and type of such work: persons working as factory and office workers, civil servants and public employees in general, sole traders, practitioners of a liberal profession and other socially insured persons covered under Article 4 of the Social Insurance Code.

95. *Contributory-service and retirement-age pensions* are the principal type of pension granted under the principal compulsory retirement insurance. Owing to the severe demographic problems that Bulgaria has been experiencing in the transition period, the decline of birth rates and population aging, the number of these pensions and of their recipients in Bulgaria is large and represents some 70–75 per cent of all pensions. The number of these pensions in recent years has been as follows:

2001: 1 879 381	2005: 1 682 006
2002: 1 844 405	2006: 1 652 143
2003: 1 796 930	2007: 1 633 076
2004: 1 742 254	2008 (first half): 1 621 663 ³²

96. Contributory-service and retirement-age pensions are the principal type of pension granted upon occurrence of the covered social insurance risk of old age. Entitlement to such a pension is acquired when two prerequisites are in place: (a) attainment of a specified age: 63 years for men and 60 years for women; (b) accrual of a specified "points total". The points total refers to the sum total of the number of years of age attained by the socially insured person and the number of years of contributory service. Contributory service is measured by the number of years during which the socially insured person performed work and during which time social insurance contributions were remitted or were due. The minimum points total required for acquisition of an entitlement to pension is 100 for men (e.g. 63 years of age and 37 years of contributory service) and 94 for women (e.g. 60 years of age and 34 years of contributory service).

97. The amount of contributory-service and retirement-age pensions is determined on the basis of the points total and the amount of the contributory income on which the social insurance contributions have been remitted for the socially insured person.

98. The public social insurance budget resources, spent on payment of contributory-service and retirement-age pensions, represent the bulk of the public social insurance expenditures and account for some 80 per cent of the public social insurance budget.

³² Source: National Social Security Institute.

99. The average monthly amount of contributory-service and retirement-age pensions has doubled over the last seven years as follows:

2001: BGN 95.33	2005: BGN 138.75
2002: BGN 105.51	2006: BGN 156.70
2003: BGN 114.13	2007: BGN 177.23
2004: BGN 128.57	2008 (first half): BGN 190.64 ³³

100. *Invalidity pensions.* They are granted for disablement caused by general sickness, employment injury or occupational disease (Articles 71 to 78 of the Social Insurance Code). The disablement for which invalidity pensions are granted means loss of working capacity to an extent equal to or exceeding 50 per cent (Article 72 of the Social Insurance Code). It is ascertained by the working capacity evaluation authorities: the Territorial Medical Expert Board and the National Medical Expert Board. Depending on the extent of loss of working capacity, disablement is divided into three groups:

- (a) Between 50 and 70.99 per cent loss of working capacity;
- (b) Between 71 and 90 per cent loss of working capacity;
- (c) Over 90 per cent loss of working capacity.

101. General-sickness invalidity pensions are granted upon loss of working capacity to the extents referred to above and provided the following minimum length of contributory service has been logged:

- (a) For persons who have not attained the age of 20 years and for persons blind by birth and those who have become blind before entering employment: no contributory service is required;
- (b) For insured persons who have not attained the age of 25 years: one year of contributory service;
- (c) For insured persons who have not attained the age of 30 years: three years of contributory service;
- (d) For insured persons who have attained the age of 30 years: five years of contributory service.

No contributory service is required for granting of employment-injury and occupational-disease invalidity pensions.

102. The amount of the pension is determined depending on the extent of the loss of working capacity (see paragraph 99 above), the length of contributory service logged by the socially insured person and the amount of the contributory income on which the social insurance contributions were made or were due (Article 79 of the Social Insurance Code).

103. The total number of invalidity pensioners during the period under review is as follows:

2001: 239 247	2005: 422 123
2002: 268 025	2006: 432 905

³³ Source: National Social Security Institute.

2003: 313 597
2004: 366 171

2007: 429 731
2008 (first half): 425 536³⁴

104. The average amount of invalidity pensions varies by the cause of disablement: general sickness or employment injury and occupational disease. The average amount of employment-injury and occupational-disease pensions is substantially larger, owing to the occupational nature of these risks. In the 2001–2007 period the average monthly amount of invalidity pensions increased as follows:

	<i>General-sickness</i>	<i>Employment-injury and occupational-disease</i>
2001	BGN 68.49	BGN 88.59
2002	BGN 78.31	BGN 97.94
2003	BGN 87.57	BGN 105.76
2004	BGN 98.57	BGN 114.85
2005	BGN 109.87	BGN 123.59
2006	BGN 125.87	BGN 139.69
2007	BGN 140.69	BGN 158.37
2008 (first half)	BGN 149.07	BGN 169.60 ³⁵

As evident from the figures above, the amount of general-sickness invalidity pensions increased by 220 per cent and the amount of employment-injury and occupational-disease invalidity pensions increased by 195 per cent in the 2001–2007 period.

105. *Survivor pensions.* They are regulated in Article 80 to 84 of the Social Insurance Code. Survivor pensions are a retirement benefit upon occurrence of the covered social insurance risk of death of the insured person.

106. Under effective law, personal contributory-service and retirement-age pensions and personal invalidity pensions may be transformed into survivor pensions. According to Article 82 of the Social Insurance Code, entitlement to a survivor pension vests in:

(a) The children of a deceased socially insured person: until attainment of the age of 18 years, and if they pursue their studies, until completion of education but not later than the attainment of the age of 26 years;

(b) The surviving spouse of a deceased socially insured person: five years earlier than attainment of retirement age (63 years for men and 60 years for women), if the person has lost his or her working capacity;

(c) The parents of a deceased socially insured person: provided they have attained retirement age and do not receive a personal pension.

107. The survivor pension is determined as a percentage of the personal pension to which the deceased socially insured person is entitled as follows:

- (a) In case of one survivor: 50 per cent;
- (b) In case of two survivors: 75 per cent;
- (c) In case of three and more survivors: 100 per cent.

³⁴ Source: National Social Security Institute.

³⁵ Source: National Social Security Institute.

The survivor pension is granted as an aggregate amount to all persons entitled to this pension and is divided equally among them. The minimum amount of the survivor pension may not be less than 75 per cent of the minimum amount of the personal contributory-service and retirement-age pension, i.e. BGN 84.16 monthly for 2008 (75 per cent of BGN 112.62 as fixed by Article 9 of the 2008 Public Social Insurance Budget Act).

108. The main problem of retirement insurance in the Republic of Bulgaria is the low amount of all types of pensions. Following the reform of retirement insurance in the country with the repeal of the Pensions Act, the amounts of all types of pensions were abruptly decreased. A very low level of all types of pensions was introduced. The amount of pensions has been increasing during the period under review (January 2001–June 2008). This increase has been particularly tangible in 2007–2008 (see paragraph 104 above). Still, despite these efforts and the nominally increased amounts of the pensions, because of the low starting amount of their increase in 2001, the amount of the pensions remained low and many pensioners in Bulgaria continued to live in difficult financial circumstances.

Article 10

109. The Republic of Bulgaria is a party to:

- (a) The International Covenant on Civil and Political Rights;
- (b) The Convention on the Rights of the Child;
- (c) The Convention on the Elimination of All Forms of Discrimination against Women.

It is also party to the following ILO conventions on the protection of children and young people in employment, such as:

- (a) The Maternity Protection Convention, 1919 (No. 3);
- (b) The Night Work of Young Persons (Industry) Convention, 1919 (No. 6);
- (c) The Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16);
- (d) The Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77);
- (e) The Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78);
- (f) The Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79);
- (g) The Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124);
- (h) The Minimum Age Convention, 1973 (No. 138);
- (i) The Worst Forms of Child Labour Convention, 1999 (No. 182);
- (j) The Maternity Protection Convention, 2000 (No. 183).

110. The Constitution of the Republic of Bulgaria of 1991 accords particular importance to the family. Article 14 of the Constitution defines the attitude of the State to the family by providing that “[t]he family, motherhood and children shall enjoy the protection of the State”. The very fact that these three values are regulated in a single constitutional provision shows that the Basic Law perceives them as closely interconnected, with the family as their unifying factor as the normal social environment in which motherhood is

realized and in which children are born and bred. Building on this fundamental idea of the Constitution regarding the family, Article 46 of the Constitution regulates marriage as a traditional foundation of the family which is particularly strongly expressed in Bulgarian historical traditions and originates in the remote historical past. It states:

- “1. Matrimony shall be a voluntary union between a man and a woman. No marriage other than civil marriage shall have legal effect.
2. Spouses shall have equal rights and obligations in matrimony and within the family.
3. The form of marriage, the terms and procedure for the contracting and termination of marriage, and the interspousal relations *in personam* and *in rem* shall be established by statute.”

111. The two constitutional provisions cited (Article 14 and Article 46) establish the constitutional foundations of the protection and assistance accorded to the family by the State. On this basis, the Family Code of 1985 regulates in detail the relations in connection with the establishment of the family, its functions and protection, interspousal relations, the relations between parents and children, the entry into and dissolution of marriage etc. At the same time, within the context of the changes in social relations, the draft of a new Family Code has been drafted and was debated in Parliament.

112. The purposes of the legal framework of marriage and the family according to the Family Code are expressly stated in its Article 2: to protect and consolidate the family; to accord comprehensive protection to children and their upbringing; to promote mutual assistance, attachment and respect among all family members and cultivating in them a sense of responsibility to the family and society. The entire ensuing legal framework in the Family Code is geared to the attainment of these purposes.

113. Above all, marriage is contracted between a man and a woman with their freely expressed mutual consent, stated personally and simultaneously before a civil-status registrar. As Article 46 (1) of the Constitution expressly stipulates, no marriage other than civil marriage has legal effect, i.e. solely a contracted civil marriage gives rise to legal consequences (see also Articles 6 to 11 of the Family Code). Still, neither the Constitution nor the Family Code prohibits religious marriage (church wedding). Over the last 20 years, in the conditions of ongoing democratic changes in Bulgaria, spouses routinely opt for the performance of a church ceremony as well. The normal age of consent for contracting a marriage is the attainment of 18 years by both spouses, when physical and mental maturity is achieved. By exception, where there are compelling reasons for this, marriage may also be entered into by a person who has not attained the age of 16 years by authorization of the president of the regional court exercising jurisdiction over the place of residence of the person (Article 12 of the Family Code).

114. Relations between spouses are built on the basis of equality and mutuality between them. They have equal rights and obligations in matrimony, based on mutual respect, shared care of the family, understanding and faithfulness (Article 14–18 of the Family Code). The property acquired by the spouses during the marriage as a result of their common contribution belongs jointly to both spouses irrespective of the fact in whose name such property has been acquired and constitutes their matrimonial community property (Article 19 of the Family Code).

115. Relations between parents and children are built on the basis of personal emotional attachment and mutual obligations. Parents are duty-bound to take care of their children and to bring them up, and children are duty-bound to respect and to help their parents (Articles 68 to 73 of the Family Code).

116. After a decline at the end of the 1990s, the number of marriages contracted and children born has been edging up in recent years:

<i>Year</i>	<i>Marriages contracted</i>	<i>Children born</i>
2001	24 466	48 567
2002	23 085	47 779
2003	24 543	48 597
2004	24 857	50 390
2005	26 658	52 280
2006	26 159	55 043
2007	27 048	56 084 ³⁶

117. A marriage is dissolved by divorce with the mutual consent of the two spouses or on a motion of either spouse where the marriage has suffered a deep and irrevocable breakdown. The dissolution of a marriage by divorce is effected by the court according to a special judicial proceeding provided for in the Code of Civil Procedure. In recent years, with the establishment of genuine equality in interspousal relations, women's liberation and their becoming economically autonomous and independent from men, the number of divorces has been growing, but remains within acceptable proportions, as evident from the following figures about the number of divorces over the last four years:

2004: 13,024

2005: 13,948

2006: 14,828

2007: 15,946³⁷

118. The number of *de facto* cohabitations between men and women without contraction of a civil marriage increased during the period under review. In such cohabitations, the man and the woman live together, share a household, have and bring up children, but refrain from entering into marriage. This is a matter of their personal choice. At present, *de facto* cohabitation is not legally regulated. It is not subject to registration, either, which explains the unavailability of statistics about the number of *de facto* cohabitations. The draft of a new Family Code, which is debated in Parliament, provides for a regulatory framework of *de facto* cohabitation, its registration and its legal consequences. Part of the population, especially senior citizens have certain reservations about *de facto* cohabitation, but the younger generation, which is most concerned about this matter, accepts it and practises it frequently.

Motherhood protection

119. The fundamentals of motherhood protection are contained in Article 47 (2) of the Constitution, according to which “[m]others shall enjoy special protection on the part of the State, which shall guarantee them paid leave before and after confinement, free obstetrical care, relaxed conditions of work, and other types of social assistance”. Part of motherhood protection, which concerns the right of mothers to a leave before and after childbirth and to free obstetrical care and other types of social assistance, i.e. motherhood protection

³⁶ Source: *Statistical Yearbook of the Republic of Bulgaria 2007*, op. cit., p. 64.

³⁷ Source: *Statistical Yearbook of the Republic of Bulgaria 2007*, op. cit., p. 86.

accorded by social insurance, was discussed in the presentation under Article 9 of the Covenant (see above). The presentation below deals with the other aspects of motherhood protection (see paragraphs 120 to 122 below).

120. Effective legislation also regulates the “special protection” which “should be accorded to mothers during a reasonable period before and after childbirth” according to Article 19, paragraph 2 of the Covenant. This protection is presented below.

121. This protection is guaranteed by Article 47 (2) of the Constitution by providing for “relaxed conditions of work” for mothers. The “relaxed conditions of work”, referred to in Article 47 (2) of the Constitution, are interpreted broadly to include, apart from the creation of more alleviated and favourable working conditions upon performance of the work assigned, also a greater legal job security on the eve of the forthcoming birth (“before confinement”) and after the birth, when the woman, now in the new capacity of a mother, devotes herself to care of her baby.

122. Bulgarian legislation provides for three arrangements in this area:

(a) According to Article 308 of the Labour Code, any employer who employs 20 or more women is obligated to furnish rooms for personal hygiene of women and rooms for rest of pregnant women according to a procedure established by the Minister of Health. Ordinance No. 11 of 2 March 1987 on the Rooms for Personal Hygiene of Women and for Rest of Pregnant Women (*State Gazette* No. 57 of 1987, as amended and supplemented) provides for the provision of furnishings and maintenance of such rooms suitable for the rest of pregnant women;

(b) Occupational rehabilitation of pregnant and breast-feeding women. According to Article 309 of the Labour Code, where a pregnant woman or a breast-feeding woman performs work unsuitable for her condition, the employer, acting on a prescription of the health authorities, is obligated to transfer her to another suitable job. Pending compliance with the prescription for transfer, the female worker is excused from the duty to perform the work unsuitable for her condition, and the employer must pay her compensation in the amount of the gross wages that she receives;

(c) A pregnant female factory or office worker may be dismissed only on a small number of specified grounds when the employer finds himself unable to continue the employment relationship: upon closure of the enterprise; upon relocation of the enterprise to another settlement, if the female factory or office worker refuses to follow the relocating enterprise; where the female worker occupies a position to which a wrongfully dismissed factory or office worker must be reinstated and she has to be dismissed to vacate this position; where performance of the employment contract is objectively impossible; as well as where the female worker is dismissed by reason of a grave breach of discipline. In the last-mentioned case, however, the employer must request and obtain a written permission from the labour inspectorate (Article 333 (5) of the Labour Code).

While using pregnancy and childbirth leave under Article 163 of the Labour Code (in the amount of 315 calendar days, of which 45 days before confinement and 270 calendar days after the confinement – see above), a female factory or office worker may be dismissed only upon closure of the enterprise (Article 333 (6) of the Labour Code). Finally, according to Item 1 of Article 333 (1) of the Labour Code, a female factory or office worker, who is the mother of a child under the age of 3 years, may be dismissed with notice upon closure of part of the enterprise or downsizing of personnel, upon reduction in the volume of work, where the worker lacks the capacity for efficient execution of the work assigned, upon change of the requirements for occupation of the position which the worker does not satisfy, as well as by reason of breach of discipline, solely with the advance permission of the labour inspectorate. Non-compliance with this requirement renders the

dismissal wrongful and the female factory or office worker is reinstated to the previous work (Article 344 of the Labour Code).

1. Protection and support of children and young persons

123. According to Article 14 of the Constitution, children enjoy the protection of the State. Their rearing and upbringing until attainment of majority (18 years of age) is a right and an obligation of their parents, but is assisted by the State (Article 47 (1) of the Constitution).

124. In pursuance of these constitutional provisions and of the Convention on the Rights of the Child, to which the Republic of Bulgaria is a party since 1991, a Child Protection Act was adopted in 2001 (*State Gazette* No. 48 of 2000, as amended and supplemented). It regulates the rights of the child, the principles and the measures for child protection, the state and municipal bodies and their interaction upon implementation of their child protection activities, as well as the participation of not-for-profit legal entities and natural persons in these activities. The state policy for child protection is determined by the Council of Ministers, which adopted a National Programme for Child Protection in 2003.

125. The State Agency for Child Protection is a specialized government body in charge of the direction, coordination and control upon application of the Child Protection Act and implementation of the National Programme for Child Protection (Articles 1 to 9, 17 to 43 of the Child Protection Act).

126. Child protection activities are financed from the state budget and the municipal budgets, national and international programmes, donations, funds and other sources (Articles 44 and 44a of the Child Protection Act).

127. Crèches (for children aged up to 3 years) and kindergartens (for children aged from 3 to 7 years) are established and maintained for the rearing of children aged up to 7 years whose parents are not in a position to care for them on a 24-hour basis, as well as medical and social child care homes for children aged up to 7 years who have been surrendered to public care.

Crèches and medical and social child care homes

	2003	2004	2005	2006	2007
Crèches	637	638	641	668	671
Capacity	21 542	21 850	22 094	23 478	24 409
Enrolment	21 029	22 155	22 993	25 040	26 669
Medical and social child care homes					
Capacity	4 072	4 066	4 045	3 988	3 882
Enrolment	2 907	2 888	2 960	3 063	3 020

Kindergartens: number

2003/04	2004/05	2005/06	2006/07	2007/08
3 278	3 304	3 331	2 470	2 456

Kindergartens: teaching staff

2003/04	2004/05	2005/06	2006/07	2007/08
18 675	18 893	19 254	19 305	19 456

Kindergartens: enrolment

2003/04	2004/05	2005/06	2006/07	2007/08
201 245	202 803	206 243	206 745	207 682 ³⁸

128. Owing to the intensified migration to the large cities, in recent years there has been a shortage of kindergartens and kindergarten capacity in these cities and especially in Sofia. These problems are above all a concern for the municipalities, which are addressed by opening new kindergartens and increasing the teaching staff there. This problem, however, has not yet been completely solved in these cities and sometimes gives rise to tensions, especially on the eve of the new school year, when new children are admitted to the kindergartens.

129. Children aged between 7 and 18 continue their studies at the basic and secondary schools of Bulgaria. These schools will be discussed further on, in the presentation on the implementation of Article 13 of the Covenant.

130. The State accords special care to children at risk (Article 5 (1) of the Child Protection Act). "Child at risk" is defined in Item 6 of § 1 of the Supplementary Provision of the Child Protection Act. According to this definition, "child at risk" is a child:

- (a) Who does not have parents or has been permanently deprived of their care;
- (b) Who is a victim of abuse, violence, exploitation or any other inhuman or degrading treatment or punishment inside or outside his or her family;
- (c) Who is in danger of sustaining damage to his or her physical, mental, moral or social development;
- (d) Who suffers from disabilities, as well as from difficult-to-treat illnesses.

131. With the reform in child protection since 2003, the stress has been placed on child protection as living in a family environment and as reducing and preventing the placement of children at specialized institutions (care homes) and accelerating their deinstitutionalization. Over the last five years, the institutionalization of children has been perceived only as a protection measure, a last resort after all possibilities for rearing the children and their placement in a family environment have been exhausted. Therefore, since 2003 the number of specialized institutions for rearing children at risk has decreased substantially and their referral to foster families, including to "professional foster families", has been prioritized.

132. Still, children with disabilities aged between 4 and 18 are placed at such specialized institutions. There are two types of such institutions: care homes for mentally retarded children and care homes for children and adolescents with physical disabilities but with preserved intelligence. Below are the figures for 2001–2007.

2. Care homes for mentally retarded children and adolescents

	2001	2002	2003	2004	2005	2006	2007
Number	31	31	30	30	28	27	26
Children	1 083	1 773	1 742	1 763	1 251	1 138	1 053

³⁸ Source: *Statistical Reference Book 2007*, op. cit., p. 37; *Statistical Reference Book 2008*, op. cit., p. 35.

Care homes for disabled children and adolescents with preserved intelligence³⁹

	2001	2002	2003	2004	2005	2006	2007
Number	1	1	1	1	1	1	1
Children	98	81	76	72	59	55	62 ⁴⁰

133. There has been a substantial increase in the number of children placed with extended family members, where they feel in a real family environment and enjoy emotional warmth. The number of these children has been growing:

2005: 3,988 children

2006: 5,536 children

2007: 5,829 children

The number of children placed with foster families is on the increase as well:

2005: 47 children

2006: 75 children

2007: 135 children

134. Child adoption is a constant concern of the State not only by means of improving the legal framework for adoption in the Family Code, but also through measures for its practical implementation. The number of child adoptions has been steadily growing over the last three years:

2005: 1,070 adoptions

2006: 1,598 adoptions

2007: 1,660 adoptions

135. A new problem, unknown in the recent past, has emerged in recent years: the group of children victims of physical, mental and sexual violence or neglect, children with dependences, with anti-social behaviour and children with disabilities in the care of central and local government institutions. Over the last three years, their number has changed as follows:

Children victims of physical and mental violence or neglect:

2005: 1,429 children

2006: 1,742 children

2007: 1,593 children

Children victims of sexual violence:

2006: 76 children

2007: 74 children

Children with dependencies:

2006: 33 children

³⁹ *Source:* Report on the Activities of the State Agency for Child Protection for 2007, p. 28.

⁴⁰ *Source:* Report on the Activities of the State Agency for Child Protection for 2007, p. 28.

2007: 26 children

Children with anti-social behaviour:

2005: 2,752 children

2006: 2,173 children

2007: 2,085 children⁴¹

Children with disabilities:

2005: 5,595

2006: 8,348

2007: 8,828

136. Employment is an important aspect of the care of children up to the age of 18 years. The minimum age for employment is 16 years (Article 301 (1) of the Labour Code). Persons younger than 16 years may be employed only as an exception in two cases:

(a) For performance of light work and work which is not hazardous or harmful to their health and to their proper physical, mental and moral development and which would not be detrimental to their regular attendance at school or to their participation in vocational guidance or training programmes. A non-exhaustive list of the types of work prohibited for persons aged between 15 and 16 years is contained in Ordinance No. 6 of the Minister of Labour and Social Policy of 2006 (*State Gazette* No. 64 of 2006). Such is work in an ionizing radiation environment, manufacture of explosives, hot metal working etc. Some 280 types of work are listed;

(b) Girls who have attained the age of 14 years and boys who have attained the age of 13 years may be appointed to apprentice positions at circuses (Article 301 (3) of the Labour Code).

Persons who have not attained the age of 16 years are employed after a thorough medical examination and a medical conclusion that they are fit to perform the respective work and that this work will not impair their health and will not impede their proper physical and mental development. Such persons are employed by permission of the labour inspectorate in each particular case (Article 302 of the Labour Code). Persons aged between 16 and 18 may not be employed in work which is hard, hazardous or harmful to their health and to their proper physical, mental and moral development. Examples of work prohibited for employment of persons aged between 16 and 18 are indicated in Ordinance No. 6 of the Minister of Labour and Social Affairs of 2006 (promulgated in the *State Gazette* No. 64 of 2006). A total of 120 types of work are listed there. Persons aged between 16 and 18, too, are employed after a thorough pre-employment medical examination and a medical conclusion which must establish their fitness to perform the respective specified work and after obtaining advance permission from the labour inspectorate for each particular case (Article 303 of the Labour Code).

137. Article 304 of the Labour Code prohibits all minors (persons who have not attained the age of 18 years) from engaging in work which: is beyond their physical or psychological capacity; involves exposure to a harmful physical, biological or chemical impact, and in particular to toxic agents, carcinogens and agents causing hereditary genetic or intrauterine damage; involves hazards which have a sustained adverse effect on human health in any other way whatsoever; involves exposure to radiation; involves the risk of

⁴¹ *Source:* Report on the Activities of the State Agency for Child Protection for 2007, p. 32.

employment injury which persons who have not attained the age of 18 years are unable to realize or assess.

138. When minors (persons who have not attained the age of 18 years) perform work, the employer is obligated to take special care of them, by providing alleviated working conditions and opportunities for attainment of professional qualification and for its upgrading. The employer is obligated to inform the parents of the underage of the potential risks of employment injury posed by the work they perform (Article 305 (2) of the Labour Code). The working time of persons who have not attained the age of 18 years is seven hours daily and 35 hours weekly in conditions of a five-day working week. They are entitled to paid annual leave of at least 26 working days (Article 305 (3) and (4) of the Labour Code).

139. Between 48,000 and 50,000 children (persons under 18 years of age) have been working according to the procedure and under the terms provided for in the Labour Code (see paragraphs 134–136 above) over the last three years:

2005: 50,048

2006: 49,246

2007: 48,342⁴²

140. Where violations in the employment of children aged under 18 are detected, the labour inspectors declare the employment contracts concluded void, and the employers are liable to an administrative sanction: a fine ranging from BGN 1,500 to 5,000 under Article 414 (1) of the Labour Code. In 2007 the labour inspectorate detected 1,340 violations of the special labour protection of persons under 18 established in labour legislation.⁴³

Article 11

141. The Third Report of the Government on Article 11 of the Covenant, considered by the Committee on Economic, Social and Cultural Rights in 1999, provided a detailed presentation on the implementation of Article 11 of the Covenant, and we refer to it. The presentation below focuses on the intervening changes in the 2001–2007 period. They concern the overall policy of the Government for improvement of the general standard of living of the population and the new developments in the sphere of two essential components of the right to an adequate standard of living, viz. the right to adequate food and the right to housing.

142. The Government's overall policy for improvement of the standard of living of the population is confirmed by several key indicators:

(a) Annual growth of the per capita gross domestic product. The last five years have been particularly indicative in this respect;

	2003	2004	2005	2006	2007
BGN	4 426	4 989	5 529	6 376	7 341

⁴² *Source:* Report on the Activities of the State Agency for Child Protection, op. cit: for 2005, p. 22; for 2006: p. 24; for 2007: p. 26.

⁴³ *Source:* Report on the Activities of the State Agency for Child Protection for 2007, op. cit., p. 34.

	2003	2004	2005	2006	2007
USD	2 554	3 168	3 513	4 088	5 136
BGN/USD exchange rate	1.733	1.575	1.574	1.560	1.429 ⁴⁴

(b) Growth of the average annual wage for all sectors (BGN);

2004	2005	2006	2007
4 400	4 841	5 265	6 754

Average annual wage in the public sector (BGN)

2004	2005	2006	2007
4 400	4 811	5 265	6 754 ⁴⁵

Average annual wage in the private sector (BGN)

2004	2005	2006	2007
3 049	3 461	3 917	4 762 ⁴⁶

(c) For the average annual wage of persons hired under an employment and civil-service relationship by economic activity in the 2004–2007, we refer to the presentation in this Report on Article 7 of the Covenant (see paragraph 43 above);

(d) Minimum monthly wage (BGN);

2001	2002	2003	2004
85	100	100	120

2005	2006	2007	2008
150	160	180	220 ⁴⁷

143. The figures given in the tables above indicate a gradual increase of citizens' earned income. It bears witness to the sustained policy of the Government in this important and sensitive sphere of living standards.

144. These measures are an obvious step forward regarding the provision of an adequate standard of living, as required by Article 11 of the Covenant. Some Bulgarian citizens, however, continue to experience difficulties in satisfying their and their family members' vital necessities. Fourteen per cent of the country's total population live below the poverty threshold. Also, the poor in Bulgaria are poorer than the average European poor.

⁴⁴ *Statistical Reference Book 2007*, op. cit., p. 214; *Statistical Reference Book 2008*, op. cit., p. 214.

⁴⁵ *Statistical Reference Book 2007*, op. cit., p. 78–79; *Statistical Reference Book 2008*, op. cit., p. 79–81.

⁴⁶ *Statistical Reference Book 2007*, op. cit., p. 82–83; *Statistical Reference Book 2008*, op. cit., p. 79–80.

⁴⁷ *Statistical Reference Book 2008*, op. cit., p. 82.

1. Right to adequate food

145. A Foods Act was adopted at the end of 1999 (*State Gazette* No. 90 of 1999, as amended and supplemented). The Act regulates the requirements for foods, the measures and terms for nutritional value and food safety, food packaging, labelling and presentation, including food advertising, for food manufacture, processing, distribution and trade, official control over food manufacturing and trade, the establishment and functions of the organization of food manufacturers etc. The purpose of the Act is to establish and guarantee compliance of food manufacture and trade with the statutory requirements in order to protect consumer health and interests and to ensure the application of the standards of the European Union in the fields of foods and food safety.

146. According to Article 3 of the Foods Act, only foods which comply with the requirements of the Act, which have a nutritional value not less than the value inherent to their approved composition and which are safe for human health may be offered on the market. The Council of Ministers determines the requirements for bottled mineral water intended for drinking, and the Minister of Health endorses by an order the list of the recognized natural mineral waters which meet the requirements endorsed by the Council of Ministers (Article 4b of the Foods Act). The Minister of Health, in consultation with the Minister of Agriculture, determines the maximum permissible levels for contaminants and pesticide residues (Article 5 (1) of the Foods Act).

147. Novel foods, novel food ingredients and genetically modified foods are placed on the market by the Minister of Health on a proposal by a Commission on Novel and Genetically Modified Foods, expressly set up under that Minister, composed of 15 academic degree-holding scientists in the field of medicine, biotechnology, toxicology, molecular biology, molecular genetics, nutrition, food technologies, agronomy, animal husbandry and ecology (Articles 23a to 23h of the Foods Act). Only foods that comply with the requirements of the law and the standards of the European Union may be imported into Bulgaria (Articles 24 to 25a of the Foods Act).

148. Official food control is exercised by the specialized state health authorities under the Health Act, the state veterinary control authorities under the Veterinary Practices Act, and the state phytosanitary control authorities under the Plant Protection Act. Official control is exercised over all foods and covers all facilities for food manufacture, processing, packaging, storage and transport, including imported and exported foods (Articles 28 to 37 of the Foods Act).

149. The Foods Act also regulates the activities of the professional organizations of food manufacturers and their rights. These organizations develop branch Good Practice Manuals and guidelines for the introduction of hazard analysis and critical control points (HACCP) systems in food manufacture, elaborate codes of ethics in the food industry etc. The professional organizations of food manufacturers have an umbrella body: the Bulgarian Association of Food and Beverage Industry, which is a non-governmental organization and a not-for-profit legal entity (Articles 37a to 37e of the Foods Act).

150. The National Statistical Institute and the Ministry of Health conduct annual surveys of food consumption, intended to assess the tendencies in eating a healthy diet. In recent years, these surveys have been detecting both positive and negative dietary tendencies.

151. The positive tendencies emerge in the following areas:

(a) Reduction of added fat, at the expense of the intake of butter (about four-fold) and lard (about five-fold), 52 per cent increase in the use of margarine in the 2000–2007 period;

(b) Two-fold increase in the consumption of beans, lentils and wholemeal and other types of bread;

(c) Halving the intake of sugar, 80 per cent decrease in the intake of salt, and 62 per cent reduction of the intake of carbonated soft drinks.

152. The negative tendencies during the period emerged in the following areas:

(a) Decrease in the intake of meat and meat preparations. The daily consumption of meat dropped from 100 g in 1990 to 73 g in 2007, and the daily intake of meat preparations declined from 49 g in 1990 to 39 g in 2007;

(b) Declining consumption of milk and dairy products: the daily intake of yoghurt, which is a traditional Bulgarian food, dropped by a factor of 2.25 in the transition period (1990–2007), from 175 g to 64 g, the consumption of liquid milk decreased by 40 per cent, and of dairy products by 20 per cent;

(c) Tendencies in the consumption of fruits and vegetables were not clearly identifiable in the 1990–2007 period. Only the seasonal differential in the intake of fruits and vegetables narrowed down;

(d) Fish consumption remains low, at 8–10 g daily in 2000–2006, edging up to 12 g in 2007. The reasons are in the lack of a national tradition of eating fish on a regular basis.⁴⁸

153. In 2005 the Council of Ministers adopted a National Action Plan: Foods and Diet 2005–2010, designed to achieve positive changes in the national dietary model so as to reduce the shortage of wholesome ingredients and the incidence of diet-related chronic diseases, paying special attention to physical exercise. The Ministry of Health is the leading institution in implementation of the National Action Plan. A National Coordination Council for Implementation of the National Action Plan: Foods and Diet 2005–2010 was set up in 2006, consisting of representatives of all ministries and central-government departments. Activities under the Plan include:

(a) Conducting of monitoring of the diet and of the dietary status of the population and of vulnerable groups (breast-feeding women, children, pregnant women);

(b) Development of physiological dietary standards;

(c) Development of standards for physical development of children;

(d) Training of medical specialists in nutrition and of qualified staff on nutrition in the kindergartens and crèches;

(e) Training food and beverage manufacturers on the manufacture of wholesome foods and beverages.⁴⁹

154. Bulgaria has joined the initiatives of the World Health Organization and of the European Union, launched in 2008, for:

(a) European monitoring of child obesity;

(b) Reduction of the intake of salt;

(c) Easing the market pressure in the offering of high energy foods, rich in fat, sugar and salt, addressed to children.

⁴⁸ Source: Ministry of Health.

⁴⁹ Source: Petrova S, Angelova K (2006) *Food-Based Dietary Guidelines for Bulgarian Adults – Scientific Background for Development and Formulation*. *Advances in Bulgarian Science* 4: 19–33.

2. Right to housing

155. To improve the extent to which citizens' demand for housing is met, a National Housing Strategy of the Republic of Bulgaria was adopted by a Council of Ministers Decision on 14 May 2004. The Strategy defines the principal objectives of housing policy and outlines the areas of governance activity for improvement of the condition of the housing stock and of the housing environment in the country. The principal objective of the Government's housing policy is defined as follows: "Establishment of a balanced, adequately developing and sustainable housing system through the provision of conditions for access to dwellings of good quality (owned and rented) that would meet the demand of Bulgarian citizens." This requires halting the processes of deterioration of the condition of the existing housing stock and developing a working mechanism for the provision of new affordable dwellings (for purchase or rental).

156. Housing supply improved during the period under review. Housing construction made rapid progress in the period. Housing supply stood at 486 dwellings per 1,000 population in 2007, up 5 per cent from 2006. The administrative regions of Pernik and Sofia had the highest level of housing supply, 705 and 705 dwellings per 1,000 population, respectively, and the level was the lowest in Blagoevgrad Region, 434 per 1,000 population. Housing supply in rural areas was 609 dwellings per 1,000 population.

157. At the end of 2007, the occupancy rate per dwelling was 2.06 persons (2.30 in urban areas and 1.64 in rural areas). Dwelling occupancy was unevenly distributed, being the highest in Blagoevgrad Region (2.50 per cents per dwelling) and the lowest in Pernik and Sofia Regions (1.42 and 1.44 persons, respectively). The useful floor area of dwellings in Bulgaria totals 232,642,628 sq m, the average living floor space per dwelling is 64 sq m, and the useful floor space per capita is 30.95 sq m (28.05 sq m in urban areas and 37.93 sq m in rural areas).

158. The average living floorspace per capita is one of the key indicators of housing supply. In 2007 it stood at 19.01 sq m (17.49 sq m in urban areas and 25.73 sq m in rural areas).

159. The number of new dwellings finished has been growing rapidly over the last seven years. In terms of ownership, private housing construction dominates. It now accounts for some 99 per cent of all newly constructed dwellings, whereas in 1992 76.3 per cent of the finished dwellings were in the public sector and just 23.7 per cent in the private sector. The boom of private housing construction is consistent with Bulgarians' national traditions, as they prefer to own the dwelling which they occupy.

The ratio between public and private housing construction has changed over the last seven years as follows.

	<i>Total number of dwellings finished</i>	<i>Public</i>	<i>Private</i>
2001	6 153	725	5 428
2002	6 296	657	5 639
2003	8 267	216	8 051
2004	12 059	61	11 998
2005	12 059	61	11 998

	<i>Total number of dwellings finished</i>	<i>Public</i>	<i>Private</i>
2006	16 850	250	16 600
2007	18 456	240	18 216 ⁵⁰

160. New housing construction in urban areas has far outpaced construction in rural areas in recent years. There are two reasons for this: on the one hand, internal rural-urban migration, which intensified dramatically during the last 18 years, with a large part of the population moving to the cities (usually the geographically nearest ones) and; on the other hand, the better chances of finding work in the city than in the countryside and the better living conditions in urban areas than in rural areas. Here are the statistics about urban and rural housing construction over the last five years.

	<i>Total number of dwellings finished</i>	<i>Urban</i>	<i>Rural</i>
2002	6 153	6 055	98
2003	6 136	6 136	160
2004	8 267	7 569	698
2005	12 059	8 873	3 186
2006	13 270	12 112	1 158 ⁵¹

Article 12

161. Citizens' health is a paramount value in society. Protecting citizens' health is a prime concern of the State, and citizens' right to the enjoyment of health is a fundamental civil right. It is recognized in Article 52 (1) and (2) of the Constitution which states:

“(1) Citizens shall have the right to health insurance guaranteeing them affordable medical care, and to use at no charge medical services under terms and according to a procedure established by a law. (2) The health care of citizens shall be financed from the state budget, by employers, through personal and collective health insurance contributions, and from other sources under terms and according to a procedure established by a law.”

162. The implementation of Article 12 of the Covenant was presented in detail in the Third Report of the Government, submitted to and considered by the Committee on Economic, Social and Cultural Rights in November 1999, to which we refer. The presentation below focuses on the new developments in the implementation of Article 12 of the Covenant in the January 2000–June 2008 period.

163. During the period under review, the health policy of the Republic of Bulgaria continued to target the maintenance and promotion of public health. This policy seeks to create conditions guaranteeing the availability of a healthy lifestyle to the population of Bulgaria.

164. As evident from Article 51 (1) and (2) of the Constitution (see above), citizens' right to the enjoyment of health is realized through:

(a) Compulsory health insurance, which is regulated by the Health Insurance Act of 1998 (*State Gazette* No. 70 of 19 June 1998, as amended and supplemented). This type

⁵⁰ Source: *Statistical Yearbook 2007*, op. cit., p. 337.

⁵¹ Source: *Statistical Yearbook 2007*, op. cit., p. 337.

of health insurance covers all citizens of the Republic of Bulgaria from their birth until the end of their life, nationals of the Member States of the European Union, nationals of the States which are Contracting Parties to the Agreement on the European Economic Area and of Switzerland, the foreign citizens and the stateless persons who are permanently resident in the Republic of Bulgaria, and the persons who have been recognized refugee status or humanitarian status or who have been afforded a right of asylum. This principal form in which the citizens' right to the enjoyment of health is realized is implemented by a National Health Insurance Fund (NHIF), a public institution governed by: a 37-member Meeting of Representatives, in which the health insured, the employers, the municipalities and the State are represented and which is elected for a term of three years; a Governing Board; a Review Board; and a Director, who is appointed on the basis of a competitive examination procedure for a term of three years. Compulsory health insurance is financed from the budget of the National Health Insurance Fund, which is adopted annually by the National Assembly in the form of a law. The principal source of NHIF budget revenue are the health insurance contributions of the health insured persons and of the employers, who are health insurance contributors for the health insured persons working for them. Resources from the NHIF budget are spent mainly to pay for the medical services provided by the medical care providers: the medical-treatment facilities and the doctors. The relations between the NHIF and the medical care providers are determined in contracts concluded between them (Articles 6 to 69 of the Health Insurance Act);

(b) Free medical care, which includes emergency health care, obstetric care of all women without health insurance, psychiatric care, provision of blood and blood products, organ, tissue and cell transplantation, mandatory treatment, expert evaluation of working capacity, medical transport etc. (Article 82 of the Health Act).

165. Supplementary voluntary health insurance has been available in Bulgaria since the beginning of 2000. It is provided by health insurance companies through expense reimbursement or through subscriber service. The health insurance companies are commercial corporations, joint-stock companies whose formation, objects, operation and dissolution are regulated in the Health Insurance Act and in the Commerce Act. Thirteen health insurance companies were established in Bulgaria by the end of 2007: Zakrila, Doverie, Medico-21, Zdrave etc. Supplementary health insurance is regulated in Articles 81 to 99 of the Health Insurance Act.

166. During the period under review, the problems of health care in Bulgaria were also addressed within the context of the accession of the Republic of Bulgaria to the European Union, and the state health policy continues to be brought into conformity with EU standards and requirements.

167. Three major developments characterized health policy during the period under review: the adoption of the Health Act, of the new National Health Strategy, and of the new National Health Map and provision of financing for compulsory health insurance and for free medical care under Article 51 (1) and (2) of the Constitution (see below).

168. The new Health Act was adopted in 2004 (*State Gazette* No. 70 of 2004, as amended and supplemented). It obligates the State, the municipalities, the natural and legal persons to ensure a healthy living environment and to protect it against the impact of biological, chemical, physical and social factors which are harmful to human health. To this end, the Council of Ministers and the competent ministers: of health, of regional development and public works and other, establish health requirements. Control over compliance with these requirements is exercised by state health control (Articles 31 to 46 of the Health Act).

169. The Act establishes specific health requirements to the manufacture and use of cosmetic products as a particular activity hazardous to public health and details activities intended to impact health risk factors, such as containment of tobacco smoking and alcohol

abuse, prevention of the use of narcotic drugs, special control of infectious diseases, protection against ionizing radiation, use of resorts and resort resources etc. (Articles 29 to 86 of the Health Act).

170. Medical services figure prominently in the Act: provision of accessible and timely medical care of high quality, patient's rights and obligations, emergency health care, expert medical evaluation of working capacity, medical support in disasters, accidents and catastrophes and other such (Articles 79 to 116 of the Health Act). Provisions are also made for enhanced health protection of particular population groups like children, for reproductive health, assisted reproduction, genetic health and genetic tests, mental health, mandatory placement and treatment, application of non-conventional methods of treatment etc. (Articles 117 to 208 of the Health Act).

171. The new National Health Strategy, elaborated by the Ministry of Health, responds to the new realities and challenges. Its principal objectives are to ensure conditions for health promotion; to guarantee health services of improved quality and accessibility; to restructure and effectively manage hospital care; to procure medicines and medical products; to improve non-hospital medical care and to ensure financial stability of health care.

172. The adoption of the new National Health Map marks an important stage in the optimization of the functioning of the health system. The Map provides for a restructuring of the medical-treatment facilities according to the actual needs of the population so as to enhance the effectiveness and efficiency of the health system and ensure accessible, timely, high-quality and adequate medical care on the basis of the six economic planning regions in Bulgaria. One of the highlights of the National Health Map is its reckoning with the demographic indicators, the health status of citizens and road infrastructure and communications which ensure accessibility of medical care to the citizens who need it.

173. Both in the period under review and in the preceding years, the health policy of the State was implemented in close cooperation and with the active international assistance of the World Health Organization (WHO), of which Bulgaria is a founding member, and of the WHO Regional Office for Europe in Copenhagen, with a view to achieving conformity with its requirements and standards. Since 2002, the WHO and Bulgaria have been concluding two-year cooperation agreements for the 2002–2003, 2004–2005, 2006–2007 and 2008–2009 periods, which specify the principal areas of international cooperation and assistance in key areas such as: health policy, health care financing systems, resource generation methods for the health system, provision of health services.

174. Bulgaria's national health policy applies the primary health care approach in accordance with the policy of the World Health Organization. Since 2000, primary health care has been provided by general medical practitioners or general dental practitioners in individual or group practices. Primary care providers carry out therapeutic, diagnostic, preventive and promotion activities. A free choice of a doctor and a dentist is guaranteed in Bulgaria.

175. Here are the statistics about the medical-treatment facilities for primary medical care (PMC) and primary dental care (PDC) for the last four years.

	2004	2005	2006	2007
Individual practices	5 897	5 186	5 725	5 614

	2004	2005	2006	2007
Group practices (PMC)	224	216	230	241
Individual practices (PDC)	142	146	181	216 ⁵²

176. Adequate financing of health care in the country and of medical services is essential for the realization of citizens' right to the enjoyment of health and for satisfying the growing needs of the population. Health care in Bulgaria is financed by two principal sources: direct subsidies from the state budget, which are allocated to the Ministry of Health for provision of the free medical care, and the budget of the National Health Insurance Fund, which finances the operation of compulsory health insurance under the Health Insurance Act (see above).

177. As a result of the consistently implementation of the policy of shifting the financing responsibilities between direct state budget subsidies and the NHIF budget, the financial resources and the forms of their reallocation have been substantially restructured in recent years. While the state budget-allocated resources from the Ministry of Health predominated in the 2000–2002 period, the share of financing by the NHIF has been increasing appreciably since 2003, and in 2007 it reached 66 per cent of the total spending on health care or BGN 1,469.9 million. This has been achieved as a result of a 100 per cent financing of hospital care by the NHIF.⁵³

178. The Ministry of Health shares directly in the financing of the health system in respect of public health promotion, prevention and control (preventive care, infectious disease surveillance, drug prevention and drug-demand reduction etc.), diagnostic and treatment policy, policy in the area of medicines and medical products. Using state budget resources, in 2004–2007 the Ministry of Health financed the operation of 28 Regional Inspectorates for Public Health Protection and Control, 28 Regional Health Centres, 12 mental hospitals, 32 medical and social child care homes, 28 emergency health care centres, 4 regional centres for haemotransfusiology, etc.⁵⁴

179. The share of the direct state subsidy from the Ministry of Health in the consolidated state health care budget has been steadily decreasing over the last eight years: 29 per cent in 2000; 38 per cent in 2001; 37 per cent in 2002; 35 per cent in 2003; 36 per cent in 2004; 32 per cent in 2005; 23 per cent in 2006; 20 per cent in 2007.⁵⁵

180. At the same time, the share contributed by the NHIS has been growing: 13 per cent in 2000; 35 per cent in 2001; 40 per cent in 2002; 46 per cent in 2003; 50 per cent in 2004; 55 per cent in 2005; 68 per cent in 2006; 71 per cent in 2007.⁵⁶

181. State budget spending on health care varied from 3.7 to 4.8 per cent of the country's gross domestic product in the 2000–2008 period as follows: 3.7 per cent for 2000; 4.0 per cent for 2001; 4.5 per cent for 2002; 4.8 per cent for 2003; 4.0 per cent for 2004; 4.2 per cent for 2005; 4.4 per cent for 2006; 4.3 per cent for 2007; 4.5 per cent for 2008.⁵⁷

182. These resources are not entirely sufficient, which is one of the problems of present-day health care in Bulgaria. The relatively low amount of the resources for health care

⁵² Source: Ministry of Health.

⁵³ Source: Ministry of Health.

⁵⁴ Source: Ministry of Health.

⁵⁵ Source: Ministry of Health.

⁵⁶ Source: Ministry of Health.

⁵⁷ Source: Ministry of Health.

allocated in the state budget leads to an increase of the direct payments on the part of patients at the time of use of medical care.

183. During the period under review, the State continued its efforts to improve health services and medical care provided to citizens. These efforts are reflected by two key developments:

(a) Retention and, in some cases, depending on the needs, even increase in the number of medical-treatment facilities despite the decrease of the country's population compared to the preceding period. This is illustrated by the statistics for 2005, 2006 and 2007:

Medical treatment facilities 2005–2007

	2005		2006		2007	
	Facilities	Beds	Facilities	Beds	Facilities	Beds
Hospital care facilities:	308	49 626	317	48 375	334	48 774
Hospitals	262	45 537	271	44 301	288	44 665
Dispensaries	46	4 089	46	4 074	46	4 069
Non-hospital care facilities	1 554	819	1 572	838	1 659	1 369
Sanatorial facilities	2	740	2	650	2	740
Other medical treatment facilities (emergency health care etc.)	160	4 332	161	4 369	164	4 097 ⁵⁸

(b) Gradual increase in the number of medical specialists employed in the health network:

184. Medical specialists in the health network 2005–2007.

	2005	2006	2007
Doctors	28 197	28 111	28 394
Dental practitioners	6 434	6 493	6 452
Health care professionals (nurses etc.)	31 235	31 599	28 052 ⁵⁹

185. The shortage of nurses, owing to the intensified emigration of nurses to other European countries and mainly to Britain, Germany and other Member States of the European Union, has been a tangible problem in health care over the last two years. The reason is the low labour remuneration they receive in Bulgaria and the better working conditions they are offered in the EU countries.⁶⁰

186. The availability of doctors' and dental practitioners' services to the public remained steady in 2006 and 2007 despite the decrease in the country's population subject to medical services owing to the adverse demographic tendencies over the last 15 years and the emigration of medical specialists. This is corroborated by the statistics of the number of

⁵⁸ *Statistical Yearbook 2007*, op. cit., p. 25–26; *Statistical Yearbook 2008*, op. cit., p. 23–24.

⁵⁹ *Statistical Reference Book 2008*, op. cit., p. 25.

⁶⁰ St. Savov, "30,000 Nurses in Short Supply", *Klassa* daily, 22 August 2008.

people serviced by one doctor and dental practitioner by planning region and by administrative region.

Availability of doctors', dental practitioners' and health care professionals' services to the public at 31 December 2004–31 December 2007

	2004	2005	2006	2007
Doctors	27 423	28 197	28 111	28 394
Dental practitioners	6 491	6 493	6 512	6 452
Health care professionals	46 037	47 657	48 112	43 957
Of whom nurses	29 769	31 235	31 599	28 052 ⁶¹

187. Availability of doctors' and dental practitioners' services to the public at 31 December 2007 by planning region and administrative region.

Planning regions/Administrative regions	Populations per	
	Doctor	Dental practitioner
Country total	269	1 184
Northern Bulgaria	299	1 509
North-West Planning Region	314	1 542
Vidin	291	1 024
Vratsa	310	2 027
Montana	336	1 628
North Central Planning Region	296	1 466
Veliko Tarnovo	338	1 437
Gabrovo	295	1 211
Lovech	263	1 285
Pleven	246	1 637
Ruse	365	1 622
North-East Planning Region	297	1 537
Varna	221	1 143
Dobrich	364	1 638
Razgrad	420	1 944
Silistra	402	2 111
Targovishte	360	2 177
Shumen	337	1 966
Southern Bulgaria	277	1 083
South-West Planning Region	239	1 005
Blagoevgrad	385	1 372
Kyustendil	316	1 184
Pernik	273	1 051

⁶¹ *Statistical Reference Book 2008*, op. cit., p. 25.

<i>Planning regions/Administrative regions</i>	<i>Populations per</i>	
	<i>Doctor</i>	<i>Dental practitioner</i>
Sofia Region	283	2 004
Sofia City	203	840
South Central Planning Region	294	1 052
Kardzhali	387	1 478
Pazardzhik	378	1 414
Plovdiv	251	782
Smolyan	351	1 135
Stara Zagora	256	1 289
Haskovo	362	1 296
South-East Planning Region	1 511	390
Burgas	383	1 544
Sliven	393	1 517
Yambol	408	1 411 ⁶²

188. Life expectancy at birth.

<i>Periods</i>	<i>Total</i>	<i>Male</i>	<i>Female</i>
2000–2002	71.80	68.50	75.20
2003–2005	72.60	69.00	76.30
2004–2006	72.60	69.10	76.30
2005–2007	72.70	69.20	76.30 ⁶³

<i>Year</i>	<i>Urban</i>			<i>Rural</i>		
	<i>Total</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>	<i>Male</i>	<i>Female</i>
2002	72.34	68.99	75.77	70.68	67.33	74.55
2005	72.85	69.32	75.56	71.66	68.09	75.67
2007	73.00	69.46	76.56	71.50	67.90	75.62 ⁶⁴

189. Infant mortality is tending down. Here are the official statistics for the period from 1999 to 2006:

Infant mortality (per 1,000 live births)

	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>
Infant mortality	14.6	13.3	14.4	13.3	12.3	11.6	10.4	9.7
Perinatal	12.9	12.2	12.3	12.6	12.5	12.2	12.0	10.7

⁶² *Statistical Reference Book 2008*, op. cit., p. 25.

⁶³ *Source*: National Statistical Institute.

⁶⁴ *Source*: Ministry of Health.

	1999	2000	2001	2002	2003	2004	2005	2006
Neonatal	8.3	7.5	7.8	7.3	6.8	6.6	6.2	5.4
Postneonatal	6.4	5.9	6.3	6.1	5.5	5.1	4.4	4.2 ⁶⁵

190. Immunizations in Bulgaria are carried out on a regular basis according to an Immunization Calendar as follows:

Age	Vaccines						
	BCG	Hep. B	IPV	DTwP	MMR	DT	Td
At birth	+	+					
1 month		+					
2 months			+	+			
3 months			+	+			
4 months			+	+			
6 months		+					
7 months	+						
13 months			+				
14 months			+				
24 months				+			
7 years	+			+		+	
11 years					+		+
12 years					+	+	+
17 years	+						+
25 and every 10 years	+						+ ⁶⁶

191. Owing to a deterioration of the living standard of broad social strata in the years of transition, despite the measures taken to improve living standards over the last four years, the incidence of recorded malignant neoplasms has increased.

192. See below for recorded malignant neoplasms.⁶⁷

	2004	2005	2006	2007
Total	232 030	237 607	248 602	255 120
Urban	162 032	168 537	248 607	178 897
Rural	69 987	69 070	71 087	76 223
Of which newly detected:	29 815	29 354	30 277	31 706
Urban				
Rural	9 064	8 899	9 182	9 527
Of the total number: children aged 0 to 17				

⁶⁵ *Statistical Yearbook 2007*, op. cit., p. 52.

⁶⁶ *Source*: Ministry of Health.

⁶⁷ *Statistical Reference Book 2008*, op. cit., p. 27.

	2004	2005	2006	2007
Total	972	1 082	156	165
Of which newly detected	138	148	156	165

Per 100,000 population

Total	2 980	3 070	3 229	3 331
Of which newly detected	383	379	393	414 ⁶⁸

193. See below for infectious diseases:

<i>Disease</i>	2002	2003	2004	2005	2006
Scarlet fever	3 544	4 253	4 250	5 073	4 708
Measles	1	-	-	3	1
Whooping cough	82	180	222	242	335
Rubella	85	252	474	1 968	247
Chickenpox	22 843	2 510	35 915	24 695	30 315
Epidemic parotitis	334	107	91	608	911
Influenza	2 265	1 069	-	-	-
Meningococcal meningitis	27	53	36	34	39
Q fever	275	80	267	49	27
Crimean hemorrhagic fever (CHF Congo virus)	54	19	18	14	7
Malaria	18	12	10	12	13
Dysentery	1 258	911	1 238	1 638	879
Anthrax	2	2	1	1	2
Bacterial meningitis	193	217	953	979	620
Viral meningitis	2	2	-	2	4 ⁶⁹

Article 13

194. According to Article 53 of the Constitution, the right to education is a fundamental right. In Bulgaria primary and secondary education is regulated in the Public Education Act of 1991, and tertiary education in the Higher Education Act of 1995. The realization of the right to education in the Republic of Bulgaria is a prime concern of the State and society.

195. In Bulgaria, education is divided into three levels: basic, secondary, and tertiary leading to a bachelor's and master's degree.

196. Basic education is compulsory up to the age of 16 years (Article 53 (2) of the Constitution). It comprehends attendance at primary (1st to 4th grade, ISCED-1) and lower secondary (5th to 8th grade, ISCED-2A) schools. Secondary education comprehends attendance at upper secondary schools (9th to 12th grade, ISCED-3A, 3C): general schools,

⁶⁸ Source: *Statistical Reference Book 2008*, op. cit., p. 27.

⁶⁹ *Statistical Yearbook 2007*, op. cit., p. 388.

vocational schools and art schools. Secondary education at public schools is free of charge. Owing to the adverse demographic tendencies in the country over the last 20 years, the number of primary (1st to 4th grade) and basic (1st to 8th grade) schools continued to decrease during the period under review due to a reduction in the number of school-age children and, accordingly, a reduction of the teaching staff at these schools. Albeit to a lesser extent, this affects secondary schools as well. Below are the statistics for the last four years:

Primary, basic and secondary schools, including vocational and art schools

	2004/05	2005/06	2006/07	2007/08
Primary (1st–4th grade)	285	279	245	220
Basic (1st–8th grade)	1 722	1 713	1 651	1 591
Secondary:				
General	590	582	582	580
Vocational	435	424	424	417
Art schools	25	24	23	23

Enrolment of pupils

	2004/05	2005/06	2006/07	2007/08
Primary (1st–4th grade)	29 529	26 961	26 219	25 445
Basic (1st–8th grade)	339 855	321 979	305 181	289 368
Secondary:				
General	365 370	355 570	345 128	344 409
Vocational	182 431	175 238	168 345	152 468
Art schools	6 841	6 194	6 042	6 100

Teaching staff

	2004/05	2005/06	2006/07	2007/08
Primary	21 191	20 010	19 224	18 534
Basic	27 327	26 761	25 532	24 327
Secondary:				
General	29 834	28 238	27 764	26 543
Vocational	16 840	16 536	16 025	15 468
Art schools	1 436	1 358	1 162	1 159 ⁷⁰

Graduates of comprehensive schools in Bulgaria

	2004/05	2005/06	2006/07	2007/08
Basic education	77 600	76 877	70 948	63 702
Secondary education	33 021	35 139	35 960	37 460 ⁷¹

⁷⁰ Source: Ministry of Education and Science.

⁷¹ Statistical Reference Book 2008, op. cit., p. 36.

Special schools for children with disabilities

	2004/05	2005/06	2006/07	2007/08
Schools	79	78	65	61
Enrolment	9 161	8 637	7 128	6 403
Teaching staff	1 652	1 686	1 330	1 226 ⁷²

Rehabilitation schools

	2004/05	2005/06	2006/07	2007/08
Schools	75	72	62	59
Enrolment	9 154	7 884	6 250	5 679
Staff	129	223	635	883 ⁷³

197. In 2008 the dwindling birth rate (see above) and internal migration to larger nucleated settlements continued to condition the closure of schools and the redundancy of teachers and auxiliary school personnel, especially in the villages which lack a sufficient number of pupils to maintain a primary or a basic school in the 2008/2009 school year. The mayoralties and municipalities organize the free daily bussing of pupils who used to attend the closed schools to the nearest settlement with a school and their return home after the end of classes.

198. Teachers' labour remuneration also presents problems. In October–November 2007 the trade unions organized and held a five-week-long national teachers' strike with pay rise as the principal grievance. As a result of the strike and the negotiations conducted between the trade unions and the Ministry of Education and Science, an agreement was reached on a 25 per cent pay rise for teachers. This agreement was implemented in stages, starting 1 January 2008, and concluding with the introduction of the new salaries for teachers as from 1 July 2008.

Schools, teachers and pupils in the 2007/08 school year: by planning region and administrative region

<i>Planning regions and administrative regions</i>	<i>Schools</i>	<i>Teachers</i>	<i>Pupils</i>
Country total	3 066	73 299	860 042
North-West Planning Region	244	4 690	53 667
Vidin	49	1 000	11 523
Vratsa	111	2 068	23 756
Montana	84	1 622	18 386
North Central Planning Region	467	10 426	120 010
Veliko Turnovo	120	2 590	20 295
Gabrovo	45	1 062	12 929
Lovech	75	1 492	17 337
Pleven	138	3 001	33 617

⁷² Source: Ministry of Education and Science.

⁷³ Source: Ministry of Education and Science.

<i>Planning regions and administrative regions</i>	<i>Schools</i>	<i>Teachers</i>	<i>Pupils</i>
Ruse	89	2 281	26 932
North-East Planning Region	558	12 435	148 345
Varna	152	4 213	59 191
Dobrich	98	2 035	23 647
Razgrad	74	1 474	17 186
Silistra	62	1 270	14 075
Targovishte	69	1 345	16 070
Shumen	103	22 098	24 174
South-West Planning Region	689	19 997	230 526
Blagoevgrad	158	3 594	41 450
Kyustendil	61	1 316	15 155
Pernik	51	1 261	14 490
Sofia Region	119	22 513	27 999
Sofia City	300	131 432	131 432
South Central Planning Region	796	18 524	216 966
Kardzhali	105	1 920	19 863
Pazardzhik	139	2 971	35 030
Plovdiv	227	6 268	78 450
Smolyan	79	1 487	14 748
Stara Zagora	142	3 387	39 957
Haskovo	104	2 491	28 910
South-East Planning Region	312	7 227	90 530
Burgas	162	3 904	48 899
Sliven	91	1 994	26 444
Yambol	59	1 329	16 167

199. Tertiary education continues to evolve against payment of reasonable tuition fees by the students, fixed by the academic councils of the higher educational establishments depending on the nature of the course. The higher educational establishments enjoy autonomy in their management. The number of higher schools in Bulgaria, of the students they enrol and of their teaching staff is growing, as evident from the following statistics for the last four years:

Number of higher schools

	<i>2003/04</i>	<i>2004/05</i>	<i>2005/06</i>	<i>2006/07</i>	<i>2007/08</i>
Total	49	51	51	51	51
Public	37	37	37	37	37
Private	2	4	4	4	4

Enrolment of students

	2004/05	2005/06	2006/07	2007/08
Total	238 301	253 876	260 110	232 830

Graduates of higher educational establishments

	2004	2005	2006	2007
Total	45 565	45 510	44 770	48 544
Bachelors and Masters	41 721	41 476	39 991	43 446
Bachelors	3 884	4 034	4 779	5 098

Number of colleges

	2003/04	2004/05	2005/06	2006/07	2007/08
Total	50	50	50	46	41
Public	43	43	40	36	31
Private	7	7	10	10	10

Enrolment of students and teaching staff at colleges

	2003/04	2004/05	2005/06	2006/07	2007/08
Students	16 294	18 432	23 608	26 953	26 169
Teaching staff	2 314	2 476	2 399	2 136	1 882 ⁷⁴

200. In compliance with Item 7 of Article 9 (3) of the Higher Education Act, the Council of Ministers endorses annually the tuition fees charged from undergraduates and doctoral candidates on a proposal by the Minister of Education and Science, prepared on the basis of the proposals of the higher schools. These fees may not exceed the double amount of the average monthly wage in Bulgaria. For 2008, according to figures of the National Statistical Institute as at 1 January 2008, this amount was BGN 480, i.e. the aggregate tuition fee may not exceed BGN 960 (approximately EUR 480). The amount of the fee varies by educational degree (bachelor or master), form of instruction (full-time or extramural) and by profile of study according to the Classifier of Higher Education Fields, endorsed by Council of Ministers Decree No. 125 of 24 June 2002.

201. According to Council of Ministers Decree No. 207 of 3 October 1994, after completion of basic education the pupils with low-income parents as well as the pupils with excellent marks in the basic and secondary schools irrespective of their parents' income receive a monthly study grant to the amount of BGN 21. This amount of the pupils' study grant in the basic and secondary schools is very low, and the Council of Ministers is contemplating its increase as from the beginning of 2009.

According to Council of Ministers Decree No. 90 of 26 May 2000, a study grant of BGN 120 monthly is allocated to students with low-income parents as well as to students with excellent marks irrespective of their parents' income.

⁷⁴ Source: Ministry of Education and Science and *Statistical Reference Book 2008*, op. cit., p. 47.

202. Instruction at the public educational establishments is financed with state and municipal budget resources. The amount of state budget spending on education and its share in the gross domestic product over the last five years is presented in the table below:

State budget spending on education in 2004–2008 (BGN million)

	2004	2005	2006	2007	2008
Total spending on education	1 654.2	1 814.8	1 941.1	2 179.2	2 607.7
% of GDP	4.3%	4.3%	4.0%	3.9%	4.2%

203. The resources for education allocated over the last five years, albeit not exceeding 4 per cent of the gross domestic product, have been increasing in amount, albeit at a slower pace, owing to the overall increase of budget revenue and expenditures as a result of the country's steady economic growth since 2003. These amounts, however, are insufficient to meet the growing needs of improvement of educational establishments' physical assets: buildings, technical equipment and computer training of pupils from the earliest age, as well as for an increase of the pay of the teaching and auxiliary administrative staff at the schools. The dire consequences of the underestimation and neglect of education in the early years of the transition have not yet been overcome, despite the efforts made over the last five years.

Article 14

204. For a number of decades now, Bulgaria has recognized and implemented compulsory primary education free of charge for all, which is why Article 14 of the Covenant is inapplicable to this country.

Article 15

205. According to Article 54 of the Constitution, everyone has the right to benefit from the national and universal human cultural values, as well as to develop their own culture in accordance with their ethnic identification, and this right is recognized and guaranteed by the law. Science and culture evolve on the basis of the freedom of artistic, scientific and technological creativity.

206. On the basis of this constitutional provision, a system of separate laws has been adopted to encourage and guarantee free artistic, scientific and technological expression and the free enjoyment of national and universal values. These laws are: the Protection and Promotion of Culture Act, the Bulgarian Academy of Sciences Act, the Scientific Research Promotion Act, the Industrial Design Act, the Copyright and Neighbouring Rights Act, the Patents Act, the People's *Chitalishte* Act, the Monuments of Culture and Museums Act, the Artistic Creativity Funds Act, the Motion Picture Industry Act etc. The vast majority of these laws (with the exception of the Scientific Research Promotion Act and the Motion Picture Industry Act) were adopted before 2000 and remain in effect, as amended and supplemented. These laws create a solid legal infrastructure for the exercise and guaranteeing of the right under Article 15 of the Covenant, enshrined in Article 54 of the Constitution.

207. The grave economic difficulties which Bulgaria experienced during the transition period affected adversely the development of culture. This is due to two main reasons:

- (a) A reduction of state subsidies for the development of culture;

(b) The impoverishment of a large part of the population, because of which personal and family spending on meeting citizens' cultural needs and interests and the money was reallocated to satisfying essential vital necessities. This was noted in the Third Report on the implementation of the Covenant in 1999.

208. In a positive change since 2003, as a result of the accelerated economic development and its stabilization, cultural life has visibly revived and, to a certain extent, has restored its vigour of the near past. This has found expression in a comeback of the audience to concert halls and cinema auditoriums. This is evidenced by the statistics on essential cultural institutions with long-standing traditions in Bulgarian culture, like theatre and film. Below are these statistics:

Theatres

	1999	2000	2005	2007
Theatres: number	81	75	75	78
Seating capacity	30 500	30 300	30 100	29 800
Performances	12 500	10 500	10 800	11 000
Attendances	1 600 000	1 300 000	1 500 000	1 600 000

Cinemas

	2000	2003	2006	2007
Cinemas: number	179	149	66	62
Urban	158	130	59	54
Rural	21	19	7	8
Shows: number	103 876	136 422	157 247	140 182
Urban: number	103 488	136 145	157 154	139 971
Rural: number	388	277	93	211
Admissions	1 860 000	3 531 000	2 580 000	2 627 000
Urban	1 845 000	3 508 000	2 578 000	2 627 000
Rural	15 000	23 000	2 000	4 000

Films made

	2000	2003	2006	2007
Films made	79	86	125	70
Of which television	62	76	106	59
Full-length	13	12	23	19
Feature	4	8	13	12
Popular science		2		
Other				
Short and medium-length	66	74	102	51
Feature	26	16	26	4

	2000	2003	2006	2007
Documentary and educational	31	43	60	40
Animated	2	14	15 ⁷⁵	7
Other	7	1	1	

209. The territory on which present-day Bulgaria has been situated for 1,300 years has been home to a rich material and spiritual culture in the course of millennia, a place where the ancient Thracian, Greek, Roman, Byzantine and, since the establishment of the Bulgarian State in AD 681, Bulgarian civilizations have flourished. The abundant archaeological finds in the not yet fully explored Bulgarian lands form the core of ample displays of artefacts from the cultural heritage of ages past, which create favourable conditions for the promotion of museology in this country and for the constant enrichment of the museums with new exhibits. The economic recovery made it possible to activate archaeological excavations and has led to the discovery of further valuable historical finds which have enhanced the collections of Bulgarian museums. Along with the favourable natural and climatic factors, the historical and cultural heritage is instrumental in attracting cultural tourism to Bulgaria. Below are the statistics about the development of museology in the country:

Museums

	2000	2002	2005	2007
Museums: number	224	220	229	227
Exhibits	5 542 000	5 767 000	7 112 000	6 986 000
Visits	3 938 000	3 555 000	3 925 000	4 060 000
Personnel, total	2 226	2 220	2 531	2 573
Of whom research associates and curators	864	857	906	939 ⁷⁶

210. People's *chitalishtes* are a specific form of cultural life in Bulgaria, which emerged spontaneously in the early 19th century and which is typical of cities and towns as well as villages. Alongside schools, *chitalishtes* are particularly important cultural community centres. Their functions, purposes and activities are regulated in an express law, the People's *Chitalishte* Act of 1996 (*State Gazette* No. 89 of 1996, as amended and supplemented). *Chitalishtes* are traditional, self-governing Bulgarian cultural and educational associations in the settlements, which also perform state cultural and educational functions. All natural persons, regardless of age and sex, political and religious views and ethnic self-identification, are free to join *chitalishte* activities. *Chitalishtes* are not-for-profit legal entities. They seek to promote and assert cultural life, to preserve the customs and traditions of the Bulgarian people, to broaden individuals' knowledge and to familiarize them with the valuable achievements of science, arts and culture, to cultivate and consolidate national self-identification. A *chitalishte* usually includes a library, a reading room, an auditorium for theatre performances, film shows and other cultural events with seating for 200–300 spectators, and more recently an Internet club. *Chitalishtes* offer courses and schools in dancing, ballet, musical instruments playing and other cultural and artistic pursuits. Despite the financial difficulties over the last two decades, *chitalishtes*

⁷⁵ *Statistical Reference Book 2008*, op. cit., p. 49–50.

⁷⁶ *Statistical Reference Book 2008*, op. cit., p. 50.

have preserved their functions and continue to carry out vibrant cultural activities. The table below provides statistics about *chitalishtes* and their activities in recent years:

Chitalishtes

	1999	2000	2005	2007
<i>Chitalishtes</i> : number	3 056	3 027	2 838	2 895
Urban	510	511	539	548
Rural	2 546	2 516	2 299	2 347
Members	180 000	170 000	164 000	168 000
Urban	81 000	74 000	68 000	67 000
Rural	99 000	96 000	96 000	101 000 ⁷⁷

211. State cultural institutions are financed by:

- (a) The Ministry of Culture, using state budget resources;
- (b) Co-financing from the municipalities;
- (c) Donations.

Not always sufficient as they are, the allocations from these sources have been tending slowly but steadily increasing over the last five years. This is evident from the table below:

Financing of State cultural institutions (BGN million)

	2003	2004	2005	2006	2007
Total spending	64 936	72 855	89 989	92 318	115 053
Co-financing from municipalities	1 773	1 884	2 094	2 293	2 897
Donations	680	648	862	817	778 ⁷⁸

212. The progress of publishing activity and libraries in the country is an important indicator of cultural life and the enjoyment of the advances of science and culture by citizens. They form an important part of the local cultural landscape and are essential for the realization of the human right to benefit from cultural values in society. Publishing activity has been making steady progress:

Publishing activity

	2005	2006	2007
Books			
Titles: number	6 029	6 562	6 648
Print run: total	3 900 000	4 100 000	4 800 000
Magazines			
Titles: number	746	778	805

⁷⁷ *Statistical Reference Book 2008*, op. cit., p. 51.

⁷⁸ Source: Ministry of Culture.

	2005	2006	2007
Annual circulation: total	13 700 000	22 200 000	22 900 000
Newspapers			
Titles: number	423	446	452
Annual circulation: total	325 700 000	332 600 000	310 000 000

Libraries with a stock of under 200,000 items

	2002	2004	2006	2007
Libraries: number	49	50	48	49
Library stock items held:	34 677	35 143	34 966	35 422
Of which books	18 644	18 902	18 562	1 885
Library stock item loans:	8 395 000	7 788 000	7 437 000	7 428 000
Of which books	5 967 000	5 347 000	5 229 000	5 245 000
Readers	319 000	321 000	286 000	267 000

Libraries with a stock of over 200,000 items in 2007

Libraries: number	47
Library stock items held	35 422 000
Readers	267 000
Library stock item loans	7 428 000 ⁷⁹

213. The electronic media: radio and television stations, have long become part of Bulgarian citizens' everyday life. Most of these media are now privately owned. They operate freely and enjoy the confidence of their listeners and viewers. They have been proliferating in conditions of freedom of speech and guaranteed right to information, which is evident from the tables below:

Radio and television stations

	2002	2003	2006	2007
Radio stations: number	67	89	95	106
Programmes: hours	493 376	525 511	591 834	810 978
Television stations: number	86	98	102	109
Programmes: hours	395 369	498 091	599 135	668 336 ⁸⁰

214. Science and scientific research are an essential part of the country's intellectual life. Research is carried out at a number of specialized scientific institutions, such as:

(a) The Bulgarian Academy of Science. Established in 1869, it is structured into 52 self-contained research institutes in all scientific disciplines, 16 stand-alone research

⁷⁹ Source on publishing activities and libraries: *Statistical Reference Book 2008*, op. cit., p. 52–53.

⁸⁰ *Statistical Reference Book 2008*, op. cit., p. 54.

laboratories and centres, a National Museum of Natural History, a National Archaeological Museum and a National Ethnographic Museum. The Academy employs 3,600 scientists;

(b) The Agricultural Academy under the Ministry of Agriculture and Food. It comprises 36 institutes and regional applied-research stations and centres. A total of 692 scientists work at the Agricultural Academy;

(c) Science in higher education. At present, there are 51 higher schools in Bulgaria (37 public and 14 private) with 13,000 researchers;

(d) Additionally, there is a large number of research institutes with various executive agencies and ministries, fulfilling their specific tasks;

(e) Specialized non-governmental organizations and innovative small and medium-sized enterprises are also involved in scientific research.⁸¹

215. Here are some further summarized statistics about the development of science and the personnel engaged in scientific research:

Researchers by scientific discipline at 31 December

<i>Scientific discipline</i>	<i>2004</i>	<i>2005</i>	<i>2007</i>
Total	21 154	20 874	20 829
Natural sciences	4 461	4 476	4 474
Technical sciences	4 695	4 455	4 376
Medical sciences	3 490	3 451	3 314
Agricultural sciences	1 164	1 147	1 179
Social sciences	3 579	3 561	3 675
Humanities	3 765	3 784	3 811

Researchers by academic rank and degree at 31 December

<i>Academic rank and degree</i>	<i>2004</i>	<i>2005</i>	<i>2007</i>
Total	21 154	20 874	20 829
By academic rank:			
Academicians	41	39	35
Corresponding members	53	52	45
Professors	1 194	1 192	1 298
Associate professors	4 918	5 005	5 205
Senior research associates	2 755	2 700	2 686
Assistant professors	7 597	7 482	7 238
Research associates	3 288	3 138	3 065
Holding academic degrees, of the total number of researchers:			
Doctors of Science	1 345	1 305	1 391
Doctors	10 143	10 163	10 540 ⁸²

⁸¹ Source: Ministry of Science and Education.

⁸² *Statistical Reference Book 2008*, op. cit., p. 48.

216. Financing of science is a problem which poses difficulties to the advancement of scientific research in Bulgaria. During the harrowing economic transition which the country experienced, insufficient resources have been allocated for science and for remuneration of the work of researchers.

217. Science is financed from the following sources:

(a) The state budget, as a percentage of the gross domestic product. The budget subsidy is determined according to the specific scientific or artistic activity of the research organization concerned;

(b) Spending on science from the National Science Fund. This Fund promotes and supports activities, programmes and projects. Promotion is provided by priority and area in conformity with the EU funds and framework programmes for research and other specialized initiatives, trans-European programmes for scientific research and innovation;

(c) Own income from scientific research and contracts, earned by the specialized research institutions.

218. The resources spent on science from the first two sources (see above) are shown in the two tables below:⁸³

State budget spending on science, 2004–2008 (BGN million)

	2004	2005	2006	2007	2008
Total spending on science	129.7	133.8	147.5	155.7	268.8
% of gross domestic product	0.3	0.3	0.3	0.4	0.3 ⁸⁴

219. The National Science Fund supports activities, programmes and projects promoting scientific research in the Republic of Bulgaria. Scientific research is promoted by priority and areas in conformity with the national pre-accession funds and the EU Framework Programmes for Research, Technological Development and Demonstration, as well other programmes for scientific research and innovation.

State budget allocations for the National Science Fund in 2004–2008 (BGN million)

	2004	2005	2006	2007	2008
Total allocated	2.4	5.2	8.5	15.9	60.0 ⁸⁵

220. Own income is generated from scientific research at the research institutes and the higher educational establishments. This represents an important part of the resources on maintenance of the personnel employed in science. Thus, the country's oldest national research organization, the Bulgarian Academy of Science, received a state budget subsidy of BGN 68 million and earned own income of some BGN 30 million in 2007, which accounts for some 45 per cent of its total revenues.⁸⁶ This own income is from scientific research primarily at the Academy's technical science institutes: the Institute of Metal Science, the Institute of Nuclear Research and Nuclear Energetics etc. This "own income"

⁸³ Source: Ministry of Education and Science.

⁸⁴ Source: Ministry of Education and Science.

⁸⁵ Source: Ministry of Education and Science.

⁸⁶ *Annual Report of the Bulgarian Academy of Sciences 2007*, Sofia, Bulgarian Academy of Sciences Press, 2008, p. 104–105.

is insufficient to provide simultaneously for decent pay for those employed at the Academy's institutes and to finance the development of scientific research.

221. Another important problem arising from the underfunding of scientific research and from the low remuneration of researchers is the emigration of highly qualified research personnel, especially in natural and technical sciences, to the industrialized countries of Europe, the US and Japan, where conditions are better. As a result, the country's overall research personnel is diminishing. Thus, the Bulgarian Academy of Sciences employed 5,039 researchers in 1990 and 3,675 at the end of 2007, or 27 per cent less.⁸⁷

222. The Government is fully aware of the gravity of the problems related to the insufficient pay for the work of those employed in higher education and science and measures are taken to address these problems. The 2009 draft state budget provides for an increase of the budget subsidies for higher education and science. A draft providing for a dramatic 100 per cent raise of the salaries of those employed in higher education and in scientific research has been laid before the Council of Ministers.⁸⁸

⁸⁷ *Annual Report of the Bulgarian Academy of Sciences 2007*, op. cit., p. 103.

⁸⁸ V. Hristova, "Scientists Offered Double Salaries", *Duma* daily, 28 October 2008.