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Bulgaria

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I. Methodology for the preparation of the national report

1. The present report has been prepared in compliance with the guidelines of the Human Rights Council resolution 5/1 and the General Guidelines for the preparation of information under the universal periodic review contained in document Decision 6/102, dated 27 September 2007.
2. The Ministry of Foreign Affairs has coordinated the reporting process with various ministries, state agencies, commissions, chief prosecutor and the Ombudsman of the Republic¹. They have been acquainted with the universal periodic review procedure. The contents of the different chapters of the draft report have been prepared by the respective ministries, agencies and commissions. The Ministry of Foreign Affairs has held a conference with non-governmental organizations involved in human rights promotion and protection, and has discussed with them in details the information which should constitute the contents of the draft report.
3. The Ministry of Foreign Affairs has established a web-site on its home page containing information on the UPR process and provided links to the relevant web-site of the UNOHCHR and to related reports of Bulgaria under the core international human rights instruments.
4. The material has been subsequently finalized and submitted to the Human Rights Council.

II. Introduction

5. Bulgaria is a Party to the core international instruments on human rights².
6. The present report contains all legislative provisions, judicial, administrative and other measures enacted and adopted since the democratic changes in the country in November 1989 followed by the adoption of a new Constitution in 1991.
7. The report presents the up-to-date developments in Bulgaria's national legislation and practice relevant to the implementation of the rights recognized by the UN human rights instruments.
8. Since the changes in 1989, there has been an ongoing process in Bulgaria aimed at improving further the democratic system. It involves domestic legislation, judiciary and administrative practices aimed at harmonizing the domestic legislation with the core international instruments on Human Rights as well as the Council of Europe (CE) conventions in the field of Human Rights and the relevant EU regulations and directives. Bulgaria withdrew all its reservations related to the international instruments on human rights.
9. Several parliamentary, presidential and local elections were held in this period. The international community and the Bulgarian citizens assessed them as free, democratic and fair.
10. Bulgaria has periodically reported to the UN treaty bodies as required by the respective treaties and has taken into account their recommendations and observations.
11. The recommendations taken by the UN international conferences on human rights, such as the Vienna World Conference on Human Rights and the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, have been given the closest of attention. The necessary steps have been taken to put them into effect.

III. Normative and institutional framework for the promotion and protection of human rights

A. The Constitution of Bulgaria

12. Under the Constitution, Bulgaria is a republic with a parliamentary form of government. The Constitution stipulates (Article 1) that the entire power of the state shall derive from the people. The latter shall exercise power directly and through the bodies established by the Constitution. No part of the people, no political party nor any other organization, state institution, or individual shall usurp the expression of the popular sovereignty.

13. Its Article 2 proclaims that “the Republic of Bulgaria is an integral state with local self-government.”

14. Article 4 says that “The Republic of Bulgaria shall guarantee the life, dignity, and rights of the individual and shall create conditions conducive to the free development of the individual and the civil society.”

15. Article 5 declares that it shall be the supreme law of the country, and no other law shall contravene it, and that the provisions of the Constitution shall apply directly.

16. The Constitution also makes it clear (Article 6) that “paragraph 1: All persons are born free and equal in dignity and rights; paragraph 2: All citizens shall be equal before the law. There shall be no privileges or restriction of rights on the grounds of race, nationality, ethnic self-identity, sex, origin, religion, education, opinion, political affiliation, personal or social status, or property status.”

17. Article 8 declares that the state’s political system is built on the separation of powers among the legislature, the executive, and the judiciary branches.

18. The Constitution is explicitly clear on one major point (Article 5, paragraph 4), namely, that “Any international instruments which have been ratified by the constitutionally established procedure, promulgated, and come into force with respect to the Republic of Bulgaria, shall be considered part of the domestic legislation of the country. They shall supersede any domestic legislation stipulating otherwise.”

19. Chapter Two of the Constitution, entitled “Citizens’ Fundamental Rights and Obligations” (Articles 25 to 57), lays down the fundamental political, civil, economic, social and cultural rights of citizens. The Constitution provides the required legal guarantees for the protection and enjoyment of human rights and fundamental freedoms.

20. Chapter Six defines the function of the judicial branch of government. All judicial power is exercised in the name of the people. The judicial branch shall safeguard the rights and legitimate interests of all citizens, legal entities, and the state. In the performance of their functions, all judges, jurors, prosecutors, and investigating magistrates shall be subservient only to the law.

21. According to the Constitution (Art. 119), justice is administered by the Supreme Court of Cassation, the Supreme Administrative Court, courts of appeal, courts-martial, district and regional courts. Specialized courts may be set up by virtue of a law. There shall be no extraordinary courts.

B. International obligations for protection of rights and freedoms

22. The legal system of Bulgaria is based on the core UN international instruments of human rights, in particular the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights, International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Elimination of All Forms of Discrimination against Women, Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment and Convention on the Rights of the Child.

23. Bulgaria is also a party to other UN human rights instruments³, and ILO Conventions on labour rights⁴.

24. Since 2006 Bulgaria is a party to UNCAC which is considered as an important instrument in the fight against corruption. The country's activities against corruption will be examined in 2010 by the Implementation Review Group.

25. As a member of the CE, Bulgaria is a High Contracting Party to 80 CE treaties⁵, in particular the Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols (Protocols No 1, 2, 3, 4, 5, 6, 7, 8, 11, 13 and 14), the Framework Convention for the Protection of National Minorities, the European Social Charter (revised) as well as the Council of Europe Convention on Action against Trafficking in Human Beings.

26. Bulgaria is a founding member of the CE Group of States against Corruption (GRECO).

27. Bulgaria is not a member of the Human Rights Council but has been very active in the UN bodies dealing with human rights, viz., the General Assembly, the Third Committee, the ECOSOC and its Social Committee, the former Commission on Human Rights, the Committee on the Elimination of All Forms of Racial Discrimination, the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the CEDAW, CAT. Bulgarian representatives have been elected chairmen of these bodies⁶.

C. Legislation

28. Since the Constitution proclaims the supremacy of international obligations over domestic legislation, there is compliance with the UN international human rights instruments and those of the CE. Article 24 (1) of the Constitution stipulates that "The Republic of Bulgaria shall conduct its foreign policy in accordance with the principles and norms of international law."

29. Bulgaria recognizes the compulsory jurisdiction of the International Court of Justice.

30. Bulgarian national legislation on human rights has incorporated the norms and principles of the international human rights treaties to which the country is a party. They form an inseparable part of Bulgaria's legislation. Besides the laws covering the civil and political rights, a number of other national laws on economic and social rights, such as 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 International Covenant.

31. New laws in the social sphere were adopted: Social Insurance Code of 2000, Economic and Social Council Act of 2002, Employment Promotion Act of 2002, Act on

Factory and Office Workers' Claims (guaranteed in the event of the employer's bankruptcy) of 2005, Health Act of 2005.

32. Important amendments were introduced in other social laws, such as the Labour Code, the Settlement of Collective Labour Disputes Act, and the Health and Safety at Work Act. The amendments aimed at bringing the laws into full conformity with the requirements of the International Covenant on Economic, Social and Cultural Rights, the ILO, the relevant Council of Europe conventions and the directives of the European Union.

D. Institutions for protection of human rights

33. The national institutional framework for the protection of human rights and fundamental freedoms rests with the administrative, legislative and judicial branches of power.

1. National Assembly and its Commissions

34. As far as law-making is concerned, the human rights issues are dealt with by the Parliamentary Commissions of the National Assembly, which include the Law Commission, the Commission on Human Rights and Religious Denominations, Citizens' Complaints and Petitions, the Commission to Combat Corruption and Conflict of Interests, the Commission on Culture, Civil Society and Media, the Commission on Education, Sciences, Children, Young People and Sport, the Commission on Labour and Social Policies.

2. Constitutional Court

35. The Constitutional Court is a public authority, which is independent from the legislative and executive authorities. Its basic function is to ensure the consistency of the domestic legislation in force with the Constitution. It is vested with the powers, in each case it is seized of, to interpret the Constitution itself, to control the constitutionality of the laws and other acts taken by the National Assembly, as well as the acts by the President of the Republic, to pronounce itself on the consistency of any international treaties signed by the Republic of Bulgaria with the Constitution prior to their ratification, as well as on the consistency of any domestic laws with the universally recognized standards of international law.

36. Applying strictly and consistently the provisions of the Constitution, the Court guarantees the continuation of the democratic process in Bulgaria. This is certified by the Court's decisions in defence of human rights and legal interests of the Bulgarian citizens, separation of powers, inviolability of private property, freedom for economic initiatives, independence of the mass media and prohibition of any censorship.

37. The Court's competences also include taking decisions concerning disputes on competence between the National Assembly, the President of the Republic, and the Council of Ministers.

3. Courts

38. Under Article 117 of the Constitution the judiciary shall protect the rights and legitimate interests of citizens, legal persons and State. Article 10 of the Judiciary Act states that civil and penal judicial proceedings are conducted by a three-stage system (first instance, appeal and cassation). There is a dual system of administrative judicial proceedings.

39. The Bulgarian court system comprises Regional Courts, District Courts, Appellate Courts, and Supreme Courts (Supreme Court of Cassation and Supreme Administrative Court).

40. Courts of Appeal hear appeals against decisions handed down by District Courts, while District Courts hear appeals against resolutions handed down by Regional Courts. The Supreme Court of Cassation hears appeals against second instance judgments.

41. Claims in respect of administrative acts (e.g. tax matters, licenses, residence permits, real estate matters, disputes with local and central administration) are brought before the Administrative Courts, which act as courts of first instance. The decisions of the Administrative Courts may be appealed before the Supreme Administrative Court.

42. The Supreme Court of Cassation and the Supreme Administrative Court are entitled to issue interpretative decisions aimed at providing final solutions where disputes as to the application of certain statutory provisions arise, and at eliminating and preventing inconsistencies and contradictions in the judicial practice.

4. Public Prosecutor's Office

43. Public Prosecutor's Office of Bulgaria is part of Judiciary and its structure is in compliance with that of the courts. It oversees the rule of law and administrates criminal investigations. Prosecutors have the right to initiate criminal proceedings on their own initiative in case of committed offences or crimes.

44. The Prosecutor General supervises legality and provides methodological guidance of activity of all prosecutors and may approach the Constitutional Court.

5. Ombudsman of the Republic of Bulgaria

45. The institution was created under the Ombudsman Act⁷ passed by the National Assembly on 16 September 2003, with the mandate of being public defender as an additional form for protection of citizens' rights and freedoms. Under the 2006 amendments to the Constitution, the status of the Ombudsman was raised to a constitutional level thereby further strengthening his/her independence. The amendments expanded also the Ombudsman's possibilities for effective defence of citizens. The Ombudsman was empowered to contact directly the Constitutional Court on matters concerning laws in contravention and violation of basic human rights and freedoms and request it to establish their unconstitutionality.

46. The Ombudsman shall be elected by the National Assembly.

47. The Ombudsman is independent in his/her activities and is accountable only to the Constitution, the laws and the international treaties ratified by the Republic of Bulgaria.

48. The Ombudsman shall consider and investigate complaints and signals about violations of rights and freedoms by state and municipal organs and persons authorized to perform public functions or render public service; take actions in such cases when his/her involvement is indispensable in defence of human rights and freedoms; inform the prosecutor's office of results in investigations which contain data for committed crimes; propose legal changes to the National Assembly President and the Prime Minister concerning certain provisions where investigations of complaints and signals have proved enough grounds for violations of human rights and freedoms; express positions and opinions about respect for human rights and freedoms, including the Ombudsman's right to be heard by the National Assembly; request interpretative opinions by the General Assembly of the colleges of the Supreme Court of Cassation and the Supreme Administrative Court; submit annual reports to the National Assembly, as well as special reports on specific cases.

49. The Ombudsman shall also mediate between administrative bodies and the persons concerned with a view to remedy and remove violations. Complaints to the Ombudsman may be presented by any physical person irrespective of his/her citizenship, sex, political affiliation or religion.

50. The Ombudsman's activities focus on several main directions, namely, investigation of individual complaints and signals by citizens⁸, investigation of cases which cause wide public reaction⁹, maintaining systematic watch on and control over the respect for and observance of human rights within the penitentiary system.

51. The Ombudsman's institution has established itself as an active factor in the protection of citizens' rights, and as a proponent for improving administrative practices as well.

6. Commission for Protection against Discrimination

52. The Commission for Protection against Discrimination was established under the Protection against Discrimination Act¹⁰.

53. The Commission comprises 9 members with at least four of them shall be jurists¹¹. The National Assembly shall elect five of the members, including the Commission's Chairperson and Deputy Chairperson. The President of the Republic shall appoint four of the members. The mandate of the Commission members is five years. In the process of election or appointment of Commission members, the principles of balanced participation of women and men and participation of persons belonging to ethnic minorities shall be respected. The present membership of the Commission consists of five women and four men. Four of the members belong to other than Bulgarian ethnicity.

54. According to the Act, the Commission shall perform as an independent specialized state organ for prevention of discrimination, protection against discrimination and ensuring equal opportunities. The Commission shall exercise control over the implementation and compliance with the Act and other laws regulating equality of treatment.

55. The mandate of the Commission includes establishing violations of the Act or other laws regulating equality of treatment; issuing decree measures for prevention; imposing sanctions and applying administrative compulsory measures; issuing obligatory prescriptions for compliance with the Act and other relevant laws; appealing against administrative acts, which are in contravention to the Act and other laws; initiating claims before the court and making proposals and recommendations to state and municipal authorities to terminate discriminatory practices and repeal their acts issued in contravention to the Act; commenting on draft normative acts; providing independent assistance to victims of discrimination by submitting complaints about discrimination; conducting surveys.

56. Article 4 of the Act lists 19 grounds of discrimination, viz. gender, race, nationality, ethnic origin, citizenship, origin, religion or belief, education, opinion, political affiliation, personal or public status, disability, age, sexual orientation, marital status, property status and human genome. The list is non-exhaustive because the same article also stipulates that "...any other grounds, established by the law, or by international treaties to which the Republic of Bulgaria is a Party" shall be taken into account.

57. Proceedings before the Commission can be initiated on the basis of a complaint by a victim of discrimination, or by a signal from natural persons or legal entities, or by the Commission itself¹². The proceedings before the Commission are free of charge. An important step in the process of establishment of the violation is the reversed burden of proof, introduced by this act.

7. State Agency for Child Protection

58. The State Agency for Child Protection was established in 2000 under the Law on Child Protection (LCP) by Council of Ministers Decree No. 226/30.10.2000. In accordance with the LCP the Agency is a specialized body of the Council of Ministers for guiding, coordinating and monitoring the implementation of the state policy for child protection. There is also a National Council on the Child Protection headed by the Agency's Chairperson. (see Chapter III. Section D below).

8. National Council on Gender Equality

59. The Council has been created within the Council of Ministers with consultative functions. It is headed by the Minister of Labour and Social Policy and its members are deputy ministers, heads of agencies and representatives of the social partners. NGOs, working in the field of gender equality, are also included (see Chapter III, Section C below).

9. National Commission to Combat Trafficking in Human Beings

60. The National Commission to Combat Trafficking in Human Beings was established by virtue of the Combating Trafficking in Human Beings Act. The Commission is a collective body with the Council of Ministers. The Commission is chaired by a deputy prime minister. The main responsibilities of the Commission are to develop, manage, coordinate and supervise the implementation of the national policy and strategy; to organize and coordinate the interaction among various ministries and organizations in applying the law; to analyze and record statistical data on human trafficking; to conduct information, awareness and educational campaigns; to protect and reintegrate the victims of human trafficking; to suggest legal measures. Every year the Commission prepares a national programme, adopted by the Council of Ministers. Under the Commission there are five local commissions, two shelters for temporary accommodation of victims of trafficking and three informational centres.

61. Bulgaria has ratified all relevant international conventions on combating trafficking in human beings. The national legislation is fully synchronised with international requirements. This includes an amendment to the Penal Code in April 2009 harmonising Section IX "Trafficking in Human Beings" with Article 19 of the Council of Europe Convention against Trafficking in Human Beings.

62. Bulgaria has set up a national referral mechanism for victims of trafficking as well as a transnational referral mechanism to refer victims across countries. In cases of child trafficking there is a coordination mechanism for referral of minors.

10. National Council for Cooperation on Ethnic and Demographic Issues (NCCEDI)

63. The Council of Ministers created the NCCEDI as a consultative body headed by a Deputy Prime Minister. Its role is to support the formation of a stable and consistent policy aimed at resolving the basic problems of Bulgarian citizens belonging to ethnic communities, ensuring interrelation and coordination between the policies of integration. Particular attention is focused on the Roma.

64. The National Council is also involved in promoting Bulgaria's participation in international cooperation for the protection of the rights of persons belonging to minorities, including in the preparation of periodic reports to which Bulgaria is a Party as well as in the elaboration of international instruments, etc.

65. The NCCEDI members include representatives of all ministries at the level of deputy minister, some governmental institutions represented by their chairpersons, as well

as the head of National Statistical Institute, representative of Bulgarian Academy of Sciences and National Association of Municipalities in Bulgaria. A number of NGOs, created by citizens belonging to ethnic minorities (Roma, Turkish, Jewish, Vlach, Armenian, Karakachan, Tatar and Aromanian) or working in favour of integration of ethnic minorities, are also among the NCCEDI members.

IV. Protection and promotion of human rights in practice

A. Protection against all forms of discrimination

66. The protection against all forms of discrimination, racism, racial and ethnic discrimination, extremism and xenophobia, are among the top priorities of Bulgaria's legislative and administrative policies and state institutions. As a party to the core UN human rights treaties, and the CE conventions, Bulgaria is determined to combat all forms and manifestations of racism and racial discrimination. It has periodically submitted its reports to the respective UN and CE treaty bodies¹³.

67. As already mentioned, the Constitution guarantees that all citizens shall be equal before the law, and that there shall be no privileges or restriction of rights on any grounds.

68. The Bulgarian Protection against Discrimination Act defines the legal framework for the observance of the principle and norm of equal treatment. It is a basic systematic instrument to combat and reduce the above-mentioned negative phenomena in society. The Act shall protect from discrimination all individuals on the territory of Bulgaria. Associations of individuals, as well as legal entities, shall have the rights provided for under the Act.

69. All direct or indirect discrimination on grounds of sex, race, ethnicity, nationality, origin, religion or faith, education, beliefs, political affiliation, personal or public status, disability, age, sexual orientation, family status, property status, or any other grounds provided for by law or international treaties, ratified by the Republic of Bulgaria, shall be prohibited.

70. Under the Act, direct discrimination shall constitute treating a person less favourably than other persons are treated in comparable circumstances. Indirect discrimination shall constitute putting a person at a disadvantage compared with other persons by a seemingly neutral provision, criterion or practice.

71. The Act also provides protection in exercising the right to work and in exercising the right to education and training as well.

72. There are additional provisions, which, for the purpose of the Act, constitute that "harassment" shall be any unwanted conduct on the grounds referred to in Article 4, Paragraph 1, expressed in a physical, verbal or any other manner, which has the purpose or effect of violating the person's dignity or creating a hostile, degrading, humiliating or intimidating environment, attitude or practice.

73. "Sexual harassment" shall be any unwanted conduct of sexual character expressed physically, verbally or in any other manner, which violates the dignity or honour or creates hostile, degrading, humiliating or intimidating environment and, in particular when the refusal to accept such conduct or the compulsion thereto could influence the taking of decisions, affecting the person.

74. "Persecution" ("victimisation") shall constitute any less favourable treatment of a person, who has undertaken or is supposed to have undertaken, or will undertake, any action for his/her defence against discrimination.

75. “Actions for protection against discrimination” may include submission of a petition or a signal, filing of a claim or witnessing in a proceedings on protection against discrimination.
76. “Instigation to discrimination” shall constitute any direct and purposeful encouragement, instruction, and exertion of pressure or prevailing upon someone to discriminate when the instigator is in a position to influence the instigated.
77. “Racial segregation” shall constitute any act, committed or intended, which leads to compulsory separation, differentiation or disassociation of persons based on their race, ethnicity or skin colour.
78. “Less favourable treatment” shall constitute any act, action or lack of action, affecting directly or indirectly rights or legal interests.
79. “Sexual orientation” shall mean heterosexual, homosexual or bisexual orientation.
80. “Multiple discrimination” shall be discrimination on grounds referred to in the Act (Article 4).
81. The Penal Code (Articles 162 and 163)¹⁴ contains explicit provisions penalizing acts of discrimination.

B. Freedom of conscience and religion

82. The Bulgarian Constitution guarantees the right of everyone to practice freely his or her religion¹⁵. The Constitution also makes it perfectly clear that the freedom of conscience, thought and the choice of religion or whatever beliefs shall be inviolable¹⁶.
83. Churches and other religious communities shall be separated from the State¹⁷ and free to organise themselves and to perform their ceremonies and worship. Religious institutions and communities, as well as religious beliefs shall not be used for political purposes¹⁸.
84. Under the Constitution, the State as a guarantor of the rights and freedoms of citizens shall ensure the freedom and unrestricted practicing of the right of the individual to exercise his/her religion or belief.
85. The Eastern Orthodox Christianity is considered as the traditional religion in Bulgaria¹⁹.
86. Islam is the second religion in popularity in Bulgaria. There are other religious denominates such as Catholicism, Protestantism, Judaism, etc.
87. All religious denominations are equally treated. The Grand Mufti, together with the Patriarch of the Bulgarian Orthodox Church, attends the inauguration ceremony of Parliament, as well as commemorations of official holidays etc.
88. In December of 2002, the National Assembly passed a new Act on Religious Denominations thus rendering null and void the 1949 Act on Religious Beliefs. The new Act is consistent with the International Covenant on Civil and Political Rights and the European Conventions for the Protection of Human Rights and Fundamental Freedoms.
89. Under the new Act, the registration of religious communities as legal entities is entrusted to the Sofia City Court. The latter keeps a public register of all the denominations.
90. Religion was introduced as a separate subject in school curricula in 1997–1999. Islam was included as a separate subject in 1999–2000.

91. The Penal Code criminalizes acts against freedom of religion and beliefs (Art. 164 and 165)²⁰.

92. The Directorate of Religious Affairs is a specialized administration with the Council of Ministers. It coordinates the relations of the executive branch of government with the religious denominations. It also assists the Council of Ministers in the implementation of the state policy of maintaining tolerance and mutual respect among various religious denominations.

93. The Directorate investigates signals and complaints about alleged violations of the right to freedom of religion and ensures that officials respect religious rights and freedoms.

C. Gender equality

94. In addition to the Constitution, there are legal guarantees for gender equality provided for in the Protection Against Discrimination Act, the Combating Trafficking in Human Beings Act, the Protection against Domestic Violence Act, the Law on Ombudsman, the Labour Code, the Employment Promotion Act, the Social Assistance Act, the Civil Service Act, the Social Security Code, the Civil Procedure Code, the Penal Code, the Penal Procedure Code, the Execution of Penalties Act, the Public Education Act, the Higher Education Act, the Safety and Health at Work Act, the Protection of the Child Act.

95. As mentioned in Chapter II, point 8, there exists a National Council on Equality between Women and Men within the Council of Ministers. It is engaged in the preparation of annual national plans aimed at encouraging gender equality. The Council's main tasks are: awareness raising on gender equality issues, human rights training and achieving equal opportunities for women and men in all spheres of socio-economic life, especially in the decision-making process.

96. The Ministry of Labour and Social Policy is responsible for the policy of equal treatment for women and men. A separate unit has been set up, designed to develop, coordinate, implement and monitor the gender policy, viz. the Equal Opportunities for Women and Men.

97. The state policy guarantees prevention and removal of discrimination on grounds of sex. It also guarantees equal access to the labour market and economic activities, suitable measures for combining professional and family life. Particular attention is given to education, healthcare, domestic violence and trafficking in human beings.

98. The national gender equality policy is implemented through national action plans. A National Strategy for Promotion of Gender Equality was adopted for 2009–2015.

99. Both the election laws and the Political Parties Law do not provide any quotas for women in electoral positions. More than 40 per cent of the members of the Central Election Commission (appointed for the respective elections) are women. Several of the Commission's consecutive panels have been chaired by a woman. One of its three speakers is also a woman (the 2009 parliamentary elections). Women traditionally and in large scale are represented as members or chairwomen of regional and section election commissions. Thus at the 2009 parliamentary elections 10 out of 31 regional and section election commissions have been chaired by a woman. The number of women elected as members of the National Assembly has increased at the end of the 1990s to over 50 out of 240 in the last three mandates of the National Assemblies (2001–2005, 2005–2009 and 2009–2013). The proportion of women compared to men is respectively 28 to 72 per cent, 21 to 79 per cent and 22 to 78 per cent. During the July 2009 elections 26 per cent of the total elected majority candidates were women. Much stronger is the representation of women elected as Members of the European Parliament during the June 2009 elections – 47 per cent out of a

total 17 of representatives of the Republic of Bulgaria. The President of the current National Assembly is a woman. Three of the ministers in the government are women, namely Justice, Health, and Environment and Water. One-third of all the Deputy-ministers are women as well. Similarly, most of the Directors and Heads of units in the executive power, except for the Ministries of Defense, Interior, Foreign Affairs and Culture, are women. Women participate actively in the local Administration – 30 per cent of the municipal councilors. Two-thirds of the magistrates in all the national courts and at all levels are women. 43 per cent of the public prosecutors are women and as of 2009 one of the Deputy Chief Prosecutors is a woman.

100. In its first report on the Millennium Goals, Bulgaria set the following aims (to be met by 2015): gender equality in economic and social fields, in professional and family duties, in decision-making, in development and in the sphere of security, as well as eliminating violence on grounds of sex and trafficking in human beings and overcoming still existing social stereotypes.

101. An Employment Strategy for 2004–2010, based on the priorities of the European Employment Strategy, was also put into effect. It qualified women as a risk group on the labour market. This prompted taking measures aimed at encouraging women's economic activities.

D. Rights of the child

102. Bulgaria is a party to all core international instruments on the protection of the rights of the child.

103. With the ratification of the Convention on the Rights of the Child and the Optional Protocols thereto, Bulgaria adopted a consistent policy of aligning its domestic legislation with those fundamental international instruments. The Committee on the Rights of the Child considered the second periodic report of Bulgaria on 21 May 2008 and adopted the concluding recommendations to Bulgaria at its 1342nd meeting, held on 6 June 2008.

104. In 2000 the National Assembly passed the Child Protection Act, which created conditions for carrying out a reform in the sphere of the care of all children in Bulgaria by creating a new institutional framework, which includes a central authority, namely, the State Agency for Child Protection, established in 2000²¹.

105. The other protection authorities implementing the state policy in the sphere of child protection, are as follows: Minister of Labour and Social Policy, Minister of the Interior, Minister of Education, Youth and Science, Minister of Justice, Minister of Foreign Affairs, Minister of Culture, Minister of Health, and the municipality mayors²².

106. The state policy for child protection is implemented on the basis of a National Strategy for Children 2008–2018²³, adopted by the National Assembly on a proposal by the Council of Ministers. The Strategy is a basis for the development of integrated policies aimed at guaranteeing the rights of the child in conformity with the established international standards.

107. In implementing this Strategy, the Council of Ministers approves annually a National Programme for Child Protection, which specifies the obligations of all state institutions to ensure respect for and protection of the rights of the child in Bulgaria in the best interests of the child. Protecting children against all forms of abuse, violence and exploitation, including protection from the worst forms of child labour, and reducing the number of institutionalized children, invariably figure among the main activities envisaged in all National Programmes, with provisions for specific implementing measures.

108. According to the Child Protection Act, the Chairperson of the State Agency for Child Protection is in charge of the direction, coordination and control of child protection. In this respect, the Agency Chairperson implements monitoring and control of respect for the rights of the child, as well as compliance with the effective standards for child protection. The Chairperson is also in charge of the coordination among state institutions in the implementation of the state policy for children.

109. A National Council for Child Protection has been set up with the State Agency for Child Protection. It is chaired by the Agency Chairperson and performs mainly consultative and coordinating functions. The National Council also represents one of the principal forms of cooperation between state institutions and the non-governmental sector in the development of effective policies for child protection.

110. A Council of Children has been set up with the State Agency for Child Protection since 2003. It consists of 35 representatives of children from the country's all 28 administrative regions and non-governmental organizations for disadvantaged children. The Council presents the children's viewpoint on issues related to child development.

111. A fundamentally new approach to the deinstitutionalization of child care was adopted at the end of 2009. A policy document entitled "Vision for Children's Deinstitutionalization in the Republic of Bulgaria" was adopted. The document is consistent with the Guidelines for the Alternative Care of Children, adopted by the UN Committee on the Rights of the Child and approved by the UN General Assembly. The policy document is in line with the best interest of the child. It solicits support for families to create the best conditions for the development of children and promotion of their full potential.

112. The document sets a clear and categorical objective: closure of all child-care institutions within 15 years following the adoption of the document and prevention of placing and raising children up to 3 years of age in residential care, once the reform is completed. The foremost priority in implementing the document shall be the deinstitutionalization of children with disabilities, placed in special care homes, and of children with disabilities aged over 3, placed in medical and social care homes. The goal will be reached through the adoption of an Action Plan 2010–2020, listing specific measures.

E. Right to education

113. The Constitution guarantees the right to education of everybody in Bulgaria, which includes compulsory school education until the age of 16. Primary and secondary education in public schools is free of charge. In principle, education in state universities is free of charge as well. The state encourages education by creating and financing schools, assisting talented pupils and students, and creating conditions for professional training and qualification.

114. According to article 54, paragraph 1 of the Constitution everyone is entitled to avail himself/herself of the national and human cultural values, and to develop his/her culture in conformity with his/her ethnic belonging.

115. Article 36, paragraph 2, of the Constitution provides the guarantee that "citizens whose mother tongue is not Bulgarian shall be entitled to learn their own language and to use it alongside the study of Bulgarian." The state shall provide the required protection and control.

116. The National Education Act contains the following principles: citizens are entitled to education; they can constantly improve their education and qualification; there shall be no

limitations or privileges on grounds of race, nationality, sex, ethnic or social origin, religion and social status.

117. Pupils in municipal schools whose mother tongue is not Bulgarian are entitled to study their mother tongues in addition to the compulsory study of the Bulgarian²⁴.

118. Turkish is being studied as a mother tongue, on the basis of school programmes, text books and dictionaries, approved by the Ministry of Education and Sciences for all classes from the first to the eighth grades. Turkish is studied in private secondary Muslim and other schools as well. A number of universities educate teachers in Turkish. Armenian, Hebrew are also studied as mother tongues in Bulgarian schools in several cities and towns.

119. Romani as a mother tongue has not been taught and studied systematically. Teaching Romani began in some municipal schools in 1992. Despite the efforts undertaken in past years by state institutions and universities, there are not many qualified teachers and necessary text books for the primary and secondary levels and also for specialized philological education.

120. Romanian and Greek are studied in schools upon request of parents if the required number of pupils is available.

121. In addition to public schools, there are a lot of private schools where those and other languages are studied.

122. Pupils and students from foreign countries legally residing in Bulgaria are entitled under the National Education Act, the Higher Education Act and the Asylum and Refugees Act to receive free education in Bulgarian in state and municipal schools and universities.

123. An important objective of the educational system is to educate and train Bulgarian citizens to respect and observe the rights of others, their mother tongue, religions and cultures.

124. Legislation ensures equal access to education and training of children and pupils with special educational needs, including mentally retarded and disabled children. Practical measures are directed at integrating education and reconstructing the network of special schools by shutting down some of them and reforming the activities of the rest 42. Until January 2010 there were 8305 children and pupils with special educational needs in kindergartens and schools. The normative requirements for the integrated education at such institutions are laid down in the National Education Act and its Regulations, the National Plan, the Integration of Retarded and Disabled Persons Act.

125. There is also the National Education and Youth Policies Development Programme for 2009–2013. It sets out the strategic priorities of the Ministry of Education, Youth and Sciences aimed at ensuring equal access to education and an open educational system.

126. The educational system in Bulgaria also makes extensive use of the UN documents on education. The Human Rights Education in Bulgaria is part of regular curricula in Bulgaria, under Ordinance No2, dated 18 May 2000. Civic education, which is a compulsory cross-curricular element of the general school education and training, ensures plenty of other possibilities for teaching and learning human rights.

F. Right to work

127. The right to work is guaranteed to every Bulgarian citizen by the Constitution²⁵. The government shall take the necessary measures to create conditions for the realization of this right.

128. The Constitution guarantees to every citizen, the freedom to choose his/her profession and place of work. No one shall be compelled to forced labour. There shall be no direct or indirect discrimination²⁶ on grounds of nationality, origin, sex, sexual orientation, race, skin colour, age, political and religious convictions, membership in trade union and other public organizations and movements, family and material status, mental and physical disabilities. No one shall abuse and misuse these rights and obligations to the detriment of others. No one shall be prosecuted or punished if he/she files a complaint in court seeking defence of their rights against another person, employer or office.

129. The Labour Code²⁷ explicitly guarantees that men and women shall be entitled to equal pay for equal or equitable work. Chapter XV provides for specialized protection for working women. There are also a number of measures protecting working expectant mothers. The Bulgarian labour legislation provides for maternity leave and leave for fathers, payment of maternity benefits, additional leaves for taking care of children under two years of age. There are special protection mechanisms against the dismissal of pregnant employed women. More protection for the right of employment in the labour legislation is given to persons with reduced working capability – temporary or permanent – during the employment, and regarding its termination as well.

Vulnerable groups and employment

130. In implementing the state policy the Ministry of Labour and Social Policy and the Employment Agency provide different services for employment promotion while observing the right of equal access and the principle of non-discrimination, direct or indirect, on the grounds of ethnicity, origin, sex, age, religion or others.

131. The programmes and measures on the labour market have a substantial effect on extending the access to employment of unemployed from the vulnerable groups. The support in this field is based on an individual approach. Professional orientation, consultations, motivation, vocational training aimed at achieving employment are available to all persons registered in the Labour Offices.

G. Prohibition of torture and cruel, inhuman or degrading treatment/abolishment of death penalty

132. The Constitution states that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment, or to forced assimilation”²⁸. Bulgaria is a party to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment as well as the European Convention on Human Rights. Their principles have been incorporated in the Bulgarian Penal Code (*Prom. SG. 26/2 Apr 1968, corr. SG. 29/12 Apr 1968, last amend. SG. 32/27 Apr 2010*) and in the Law on Execution of Penalties and Detention (*In force from 01.06.2009 Prom. SG. 25/3 Apr 2009, last amend. SG. 82/16 Oct 2009*). The Penal Code contains *inter alia* provisions concerning kidnapping and illegal deprivation of liberty, as well as provisions prohibiting infliction of bodily harm. The Law on Execution of Penalties and Detention provides full protection to persons serving jail sentences from torture, inhuman or degrading treatment. Under the Law, a Council on Serving Jail Sentences has been set as a body of the Ministry of Justice. It is charged with organizing and conducting research, providing methodological instructions, preparing normative acts in connection with serving jail sentences and organizing courses for improving professional qualifications of officers.

133. In order to ensure the rights of persons detained within the structures of the Ministry of Interior, the latter has issued an Instruction about equipping the premises intended for

such purposes. This administrative act has taken into account the recommendations of the UN Committee against Torture during the consideration of Bulgaria's periodic report.

134. Bulgaria intends to sign and ratify the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) soon. To this end the relevant procedure has already started.

135. Bulgaria signed the International Convention for the Protection of All Persons from Enforced Disappearance in 2008 and intends to ratify it as soon as possible.

136. The death penalty for all crimes was abolished in Bulgaria on 10 December 1998. The abolition bill was voted by an overwhelming majority in the Bulgarian Parliament. The death penalty was replaced by a non-commutable sentence of life imprisonment not applicable to persons under 20 years of age and women who are pregnant at the time of the offence or the judgment.

H. Rights of patients

137. Access to medical aid for all Bulgarian citizens is guaranteed by the Constitution²⁹ and is regulated by the Health Act, the Health Insurance Act and the subsequent normative acts.

138. Access to medical aid must be adequate and equal, with priority accorded to children, pregnant women and mothers with children up to one year.

139. The rights of patients are guaranteed and protected under the Health Act³⁰.

140. Patients are liable to health care, irrespective of age, sex, origin, language, ethnic, racial or political affiliation, education, convictions, cultural level, sexual orientation, personal, public or material status, disability and the type and reason of the illness. In 2009 an Executive Agency for medical audit was established to the Minister of Health for monitoring respect and observance of patients' rights and providing quality medical care - services in accordance with relevant medical standards.

141. The Ministry of Health has recognized two organizations as patients' official national representatives. These organizations are entitled to receive information concerning the rights of patients and to inform the competent authorities whenever these rights are violated. The two organizations have their representatives in consultative bodies of the Ministry of Health.

142. There is a compulsory health insurance, with the rights of patients thus insured and being protected by Health Insurance Act³¹.

143. Chapter Five of the Health Act regulates the healthcare for mentally retarded and their protection.

144. The Minister of Health issued a decree on 11 December 2009, based on the Health Act, dealing with the conditions and procedure in research, notification and control of HIV (AIDES) patients, their hospitalization and out-patient treatment with all expenses being covered by the state budget. The Ministry of Health is also actively involved in implementing a National Programme for HIV (AIDES) Prevention and Control and Sexually Transmitted Infections for 2008–2015, as well as the Agreement for rendering free of charge aid and assistance to the "HIV (AIDES) Prevention and Control Programme in Bulgaria" between the Global Fund to fight Aides, Tuberculosis and Malaria and the Ministry of Health.

I. Rights of vulnerable groups (persons with disabilities/elderly people)

145. The Health Act³² regulates the protection of mental health including the hospitalization and treatment of mentally retarded persons. The Act provides for minimal limitation of personal freedom and respect for patients setting up a wide-scale of specialized institutions for outpatient mental health cases, helping families and society, keeping humanitarian principles and norms in the process of treatment and social adaptation, specialized education and training, professional preparation and re-qualification of mentally retarded persons.

146. The Council of Ministers has adopted a Mental Health Policy 2004–2012 and a National Action Plan to implement this policy.

147. The Minister of Health issued a number of instructions in 2004, 2005 and 2007 aimed at setting up a “Psychiatry” medical standard, the procedures in treatment of mentally retarded persons.

148. In April 2010, the Council of Ministers adopted a two-year plan on the equal opportunities of people with disabilities envisaging measures aimed at ensuring accessible environment for them. The measures are to be provided by the ministries of regional development and urbanization, sports, culture, education, youth and sciences, mayors and municipalities as well as non-governmental organizations. These measures are aimed at resolving problems involving access to cultural and sports facilities, schools, and public buildings. The Ministry of Transport shall ensure improved access to railway, air and sea transport. Mayors shall introduce adapted city transport. The Ministry of Labour and Social Policy, mayors, municipalities and non-governmental organizations shall open new social services for the people with disabilities. Integrated education of children requiring special educational requirements is currently underway.

149. The latest amendments and additions to the Integration of People with Disabilities Act of 26 March 2010 include a mechanism for implementation and control of medical equipment to such persons, providing them with specialized help and assistance (under the Social Assistance Act), a monthly financial assistance for disabled children as part of the family assistance, more active participation of civil society in helping and assisting retarded and disabled persons.

150. Bulgaria’s policy concerning people with disabilities is aimed at improving quality of their life, non-discrimination on the ground of “disability”, ensuring equal opportunities as well as full and active participation in community life.

151. The policy for integration of people with disabilities is in compliance with the Strategy for Equal Opportunities for People with Disabilities 2008–2015, adopted by the Council of Ministers in 2007. The Strategy outlines all necessary directions aimed at removing obstacles (psychological, educational, social, cultural, professional, financial and architectural) barring the social inclusion of people with disabilities. The Strategy was adopted in implementation of the relevant Council of Europe recommendations and the good practices of the EU member states.

152. One of the priorities for integration of people with disabilities is the employment promotion by creating integrated and specialized working environment. The Ministry of Labour and Social Policy implements a National Programme for Employment and Vocational Training of People with Permanent Disabilities. Government’s policies and attention continue to be focused on improving the situation of people with disabilities’ in all fields of public life on the basis of the respective legislation, policies and measures.

153. The aging of population in Bulgaria is a part of the European trend of aging. It is considered to be one of the major challenges for Bulgaria and its society. Some of the

administrative and legislative measures taken in order to respond to that challenge are as follows:

- National Strategy (2006–2020) for Demographic Development - aimed at promotion life-long learning, prolongation of active working life in good health condition, active economic and social participation after retirement;
- The Employment Act provides for subsidies for employers in employing elderly people;
- A National Programme is in effect to obtain the required number of years for retirement;
- Another National Programme “Social Services in Family Environment” provides qualified social services to elderly people and people with disabilities in family environment;
- There are 39 daily centers providing social services to elderly persons and 53 centers for social rehabilitation and integration of children as well as 94 protected/community based/ homes for elderly. All of them are financed by the State.

J. Rights of persons belonging to minorities

154. Bulgaria follows strictly the position of the United Nations on the rights of persons belonging to national or ethnic, religious and linguistic minorities as stated in Article 27 of the ICCPR³³ and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities³⁴.

155. Bulgaria is also a party to the Council of Europe Framework Convention for the Protection of National Minorities.

156. The Constitution and domestic legislation guarantee all the rights and freedoms of Bulgarian citizens and their full equality, irrespective of their ethnic origin.

157. Everyone is free to declare openly his/her belonging to minorities. Regular population censuses show the free will of Bulgarians to identify with one or another ethnic, religious and linguistic community.

158. The Constitution contains a number of provisions directly related to the general integration policy.

159. Bulgarian legislation contains explicit guarantees prohibiting discrimination and creating equal opportunities as pre-requisites for social integration. Similar guarantees are also provided by the laws on child protection, civil service, national education, higher education, protection and promotion of culture, radio and television, copyright and neighbouring rights, protection during unemployment and encouraging employment, social assistance, sports, consumers and commercial rules, and the Code on mandatory social insurance. Under the law and normative acts, there shall be no restrictions to education for persons belonging to minorities, including the Roma.

160. *The Protection and Development of Culture Act* provides the basic framework of Bulgaria’s cultural policy. Its Article 2 outlines the main priorities of this policy, i.e. “promotion of the cultural diversity and preservation of the unity of national culture”.

161. The Ministry of Culture offers financial support to various projects of cultural organizations of persons belonging to minorities, such as the Roma Cultural and Information Centre, the Roma Musical Theatre, etc. Also, in early 2003, two state cultural institutes were founded in regions with large Turkish communities: the Kadrie Lyatifova

Institute in Kurdjali and the Nazim Hikmet Institute in Razgrad. Their mission is to create and stage musical, dance and theatre productions; to preserve and promote intercultural tolerance and dialogue.

162. In order to prohibit “hate speech” the Radio and Television Act³⁵ requires that mass media shall not allow any broadcast inciting towards hatred based on racial, ethnic, religious or gender criteria.

163. The NCCEDI receives annual funding from the Council of Minister's budget, to support relevant projects elaborated by organisations representing the interests of persons belonging to minority groups. The following types of projects are eligible for funding:

- cultural events such as arts festivals, exhibitions (fine arts, applied arts and crafts);
 - artistic groups and their activities such as theatres, choirs, dance performances, art schools, etc;
 - celebrations of historical and traditional holidays;
 - organisation of seminars and conferences;
 - educational projects;
 - extra-curricular education programmes for children and students;
 - printing and distribution of poetry, collections of folk tales, songs, proverbs; and
 - audio and video productions.
- Culture plays a key role in the Bulgarian National Action Plan on the Roma Inclusion Decade (2005–2015).

164. Support to local cultural organisations and strengthening their capacity to act as local factors for mutual understanding and promoters of cultural diversity, is a tradition in Bulgaria.

165. Bulgaria has public and private-owned radio stations and television networks which have numerous programmes for persons belonging to minority cultural groups in their mother tongue. The Bulgarian National Television has daily news broadcasts in Turkish.

166. All printed media in Bulgaria are private. There are a number of news papers and magazines in Turkish, Armenian, Romani and Hebrew.

The situation of Roma

167. The Government had adopted a number of strategic documents on Roma integration such as:

- **Framework Programme for Equal Integration of Roma in Bulgarian Society, approved by the Council of Ministers in 1999.** Its strategic aim is to overcome unequal treatment of Roma in society;
- Two National Plans (2003–2004 and 2006) of Action for further implementation of the Framework Programme for Equal Integration of Roma in Bulgarian Society constitute the mechanism for putting into effect a number of specific programmes for social integration of Roma. A number of projects have been started to lower unemployment among Roma and to increase their professional qualifications on the labour market. Special efforts were taken to achieve full integration in education of Roma children, to facilitate Roma access to health care services, etc. The Framework Programme also provides measures to ensure labour employment of Roma, reorganize the so-called Roma schools and react to cases of racist manifestations at school. There are also programmes for literacy and professional

training of Roma grown-ups, protection of specific Roma identity and culture in Bulgaria, participation of Roma in national media, equality of Roma women, urban regulation of Roma communities etc;

- The new **Framework Programme for Integration of Roma in Bulgarian Society (2010-2020)**, approved by the Council of Ministers on 12 May 2010, considers the Roma population as a community with large economic and social potential which may contribute to the development of Bulgarian society as a whole. It is a strategic document in compliance with the political framework of the EU for observing the principle of equal opportunities and non - discrimination for all citizens. The Programme coordinates activities of all state bodies for Roma integration as part of the overall national policy aiming at increasing the standard of living and guaranteeing equal opportunities for all.

Decade of Roma Inclusion 2005-2015; National Action Plan

168. The Ceremonial Opening of the Roma Decade in Sofia in 2005 bears witness to the Bulgarian Government's involvement and commitment to resolve problems of Roma communities. A National Action Plan of the Decade of Roma Inclusion was subsequently adopted by the Government in 2005. This is a long-term plan of action for Equal Integration of Roma in Bulgarian Society. The plan contains six priorities, namely, the four priorities which are relevant for all states-members of the Decade - education, health care, employment and improving housing conditions, and two additional priorities for Bulgaria – culture and protection against discrimination and ensuring equal opportunities. A number of projects were started to lower Roma unemployment and increase their professional qualifications. Special efforts were taken to achieve full integration in education of Roma children, facilitate Roma access to health care services, housing, preservation and development of Roma culture, etc.

National Programme for Improving the Housing Conditions of Roma (2005–2015)

169. The Programme is adopted by the Council of Ministers in March 2006 and is implemented according to action plans. This Programme is aimed at improving living conditions by upgrading existing public technical and social infrastructure in Roma neighbourhoods and supporting new housing. It also has a positive impact on health, security and, employment of Roma. The National Programme engages directly local communities and applies the partnership principle between various stakeholders –local and national administration, communities, civic and business –organizations etc.

Health Strategy for Disadvantaged Persons Belonging to Ethnic Minorities (2005–2015)

170. This Strategy was adopted by the Government in 2005 and is implemented according to action plans. The Health Strategy main objectives are overcoming negative tendencies in the health status of disadvantaged ethnic minorities; ensuring equal access to health care services; increasing health insurance of ethnic communities; reducing infant and maternal mortality. There are also mobile medical services (so called “health mediators” - 105 in 2010), which are funded from the state budget and implemented by municipalities.

171. **Strategy for Educational Integration of Children and Pupils from Ethnic Minorities** This strategy was approved in 2004 as part of the national educational system reform aimed at higher quality education for all children.

172. **The updated Strategy for Educational Integration** was approved in March 2010.

173. A *Centre for Educational Integration of Children and Pupils from Ethnic Minorities* was established by a Council of Ministers' Decree in 2005, supporting the implementation

of the Educational Integration Strategy. The Center develops finances and supports projects, focusing on the equal access to quality education and upbringing of ethnic minority children and pupils. It also aims at preserving and developing cultural identity of ethnic minority children and pupils, respect and cooperation in a common educational environment.

174. In cooperation with the relevant ministries the NCCEDI is coordinating and monitoring the implementation of all common strategic and of some sectoral documents: Framework Programme for integration of Roma in Bulgarian Society 2010–2020, National Action Plan of the Decade of Roma Inclusion 2005–2015, National Programme for Improving the Housing Conditions of Roma (2005–2015) etc.

K. Rights of LGBT

175. The Protection against Discrimination Act explicitly refers to the protection of the rights of gays, lesbians and bisexuals. The Act postulates that “Sexual orientation” shall mean heterosexual, homosexual or bisexual orientation. The Act qualifies “harassment” as meaning any unwanted conduct expressed in a physical, verbal or any other manner, which has the purpose or effect of violating the person’s dignity or creating a hostile, degrading, humiliating or intimidating environment, attitude or practice.

176. There are non-governmental organizations in Bulgaria which are very active in the field of protecting human rights of LGBT.

L. Protection of rights of foreign national/migrants/asylum-seekers and refugees

177. The Foreigners Act in Bulgaria³⁶ lays down the conditions and order, under which foreigners can enter, stay and leave Bulgaria. It incorporates the European *acquis* in the field of migration. Foreigners legally residing in Bulgaria shall enjoy all rights and obligations under Bulgarian laws and the international agreements to which Bulgaria is a party, except those for which Bulgarian citizenship is required.

178. In all issues pertaining to migration Bulgaria closely cooperates with the UNHCR and IOM.

179. In case of illegal entry of migrants, there is a procedure permitting their stationing in special centres. It may be contested before a court of law. There is a Memorandum between the Interior Ministry and the IOM on voluntary return to and reintegration of migrants in countries of origin. The latest amendments to the Act provide for voluntary return within 7 to 30 days.

180. Bulgaria is a party to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. Bulgaria has been making steady progress in its efforts to develop fully its capacity and assume its role as a host country for refugees. Under the 2002 Asylum and Refugees Act, a State Agency for Refugees was established succeeding the former National Asylum Bureau of 1992. Persons with recognized refugee status have all the rights and obligations of Bulgarian citizens, except those for which Bulgarian citizenship is required.

181. The number of those persons seeking refugee status in Bulgaria in 2009 was 853, an increase by 12 per cent compared to 2008.

182. The Asylum and Refugees Act was amended in 2007 incorporating the EU legal norms concerning refugee status. In particular, there is a National Program for Integration of Refugees providing free education in Bulgarian as well as teaching in mother tongue at

schools of migrant children. There is a special school programme for learning the Bulgarian language as well as vocational training.

V. Challenges and limitations

183. Despite Government's efforts the situation of Roma continues to be vulnerable, involving cases of discrimination, poverty and social exclusion. The integration policy is part of the national policy on raising quality of life, ensuring quality education and equal opportunities in all spheres. Roma integration is a long term challenge before the government and society. It requires a coordinated implementation of consistent, targeted, active and effective policies, mobilization of the relevant responsible institutions and the civil society.

184. Bulgaria still faces challenges in combating trafficking in human beings. Identification of victims is still a difficult process. Criminal proceedings face major challenges in collecting evidence and persuading victims to testify.

185. Despite the efforts by the Government to improve the situation of disabled persons there are still problems related to the need of elaborating and adopting a long-term strategy aimed at resolving issues related to effective implementation of the policy of non – discrimination and inclusion, access to justice, employment, education, participation in political and community life and de-institutionalization.

186. For the reasons mentioned above Bulgaria has not yet ratified the UN Convention on the Rights of People with Disabilities and its Optional Protocol which it signed in 2007 and 2008 respectively.

VI. Contribution to the report by Bulgarian non-governmental organisations

187. The Government attaches great importance to the co-operation in the field of Human Rights with the NGOs. As referred at the beginning they were invited by the Ministry of Foreign Affairs and were acquainted with the UPR procedure and were requested for comments and suggestions. Many of them commented orally and some in writing. Their comments and suggestions were given a most close consideration. However, due to the procedural space limitations it is not possible to include or comment all of them. Yet, they will be taken into consideration in the long run by the respective authorities.

Notes

¹ The Ministries of the Interior, Regional Development and Urbanization, Health, Justice, Labour and Social Policy, Education, Youth and Sport, Finances, State Agency for Refugees, National Commission to Combat Trafficking in Human Beings, National Council for Cooperation on Ethnic and Demographic Questions, Religions and Denominations Directorate with the Council of Ministers, Commission for Protection against Discrimination, Council for Electronic Media, Chief Prosecutor of the Republic of Bulgaria, Ombudsman of the Republic of Bulgaria.

² The International Covenant on Civil and Political Rights and its two Optional Protocols, International Covenant on Economic, Social and Cultural Rights, International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, Convention on the Rights of the Child and its two Optional Protocols, UN Convention on Transnational Organized Crime and its two Protocols: Protocol against

- Smuggling of Migrants by Land, Sea and Air and Protocol on Prevention, Suppression and Punishment of Human Trafficking, especially of Women and Children, UN Convention against Corruption (UNCAC) etc.
- ³ Convention for the Protection and Punishment of the Crime of Genocide (ratified in 1950), Convention on the Suppression and Punishment of the Crime of Apartheid (ratified in 1984), Convention against Apartheid in Sports (ratified in 1987), Convention Related to the Status of Refugees (rat 1993).
 - ⁴ The eight fundamental ILO conventions: Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (*State Gazette No. 19 of 1959*); Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (*State Gazette No. 19 of 1959*); Forced Labour Convention, 1930 (No. 29) (*State Gazette No. 91 of 1932*); Abolition of Forced Labour Convention, 1957 (No. 105) (*State Gazette No. 79 of 1998*); Minimum Age Convention, 1973 (No. 138) (*State Gazette No. 13 of 1980*); Worst Forms of Child Labour Convention, 1999 (No. 182) (*State Gazette No. 54 of 2000*); Equal Remuneration Convention, 1951 (No. 100) (*State Gazette No. 54 of 1955*); Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (*State Gazette No. 46 of 1960*), and Workers with Family Responsibilities Convention, 1981 (No. 156) (*State Gazette No. 9 of 2006*); Private Employment Agencies Convention, 1997 (No. 181) (*State Gazette No. 10 of 2005*); Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173) (*State Gazette No. 58 of 2004*); Maternity Protection Convention (Revised), 2000 (No. 183) (*State Gazette No. 85 of 2001*); Minimum Standards of Social Security Convention, 1952 (No. 102) (*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) and recently the Maritime Labour Convention, 2006 (*State Gazette No. 42 of 2009*) etc.
 - ⁵ Bulgaria is a High Contracting Party to 80 Council of Europe Treaties and in particular the Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols (Protocols No 1, 2, 3, 4, 5, 6, 7, 8, 11, 13 and 14), the European Cultural Convention, the European Convention on Extradition and its additional protocol, the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, the European Social Charter (Revised), the European Convention for the Prevention of Torture and Inhuman or degrading Treatment or Punishment and its protocols No 1 and 2, the Framework Convention for the Protection of National Minorities, the Convention for the Protection of human rights and dignity of the human being with regard to the application of biology and medicine: Convention on Human Rights and Biomedicine, the Convention on Action against Trafficking in Human Beings, Criminal Law Convention on Corruption and its Additional Protocol, Civil Law Convention on Corruption, CE Partial Agreement GRECO (Group of States against Corruption) etc.
 - ⁶ General Assembly (1992), General Assembly Third Committee (1980), Commission on Human Rights (1982), ECOSOC Social Committee (1985), Committee on the Elimination of Racial Discrimination (CERD) (1995–1996).
 - ⁷ The Act was passed by the National Assembly on 9 May 2003 and entered into force on 1 January, 2004; the National Assembly elected Mr. Ginyu Ganev, member of the National Assembly, as the first Ombudsman of the Republic of Bulgaria.
 - ⁸ By December 2009 there were 11 366 complaints registered with the Ombudsman's office.
 - ⁹ More than 30 investigations have been carried out in connection with complaints about mass violations by heating and electricity companies, the rights of patients, the freedom of expression in the internet, etc.
 - ¹⁰ The Act was passed on 7 May, 2003, and the Commission for Protection against Discrimination began functioning in April 2005, when the National Assembly elected five of its members, and the President of the Republic appointed the other four in May the same year.
 - ¹¹ The present members of the Commission respectively were elected on April 13, 2005 and appointed on May 16, 2005.
 - ¹² Since the establishment of the Commission in 2005 until January 2010 there have been 2797 complaints and communications brought to its attention.
 - ¹³ UN Committee on the Elimination of Racial Discrimination (CERD), UN Human Rights Committee, UN Committee on Economic, Social and Cultural Rights (CESCR), UN Committee on the Rights of the Child (CRC), UN Committee against Torture (CAT), UN Committee against Discrimination of Women (CEDAW), CE Advisory Committee on National Minorities (ACNM) and CE Commission

against Racism and Intolerance (ECRI).

¹⁴ Article 162, Paragraph (1): “Any person, who preaches or incites to racial, national or ethnic animosity or hatred, or to racial discrimination, by means of speech, through the press or other mass communication media, through electronic information systems or in another way, shall be punished by deprivation of liberty for up to four years and by a fine of BGN 5,000 or exceeding this amount but not exceeding BGN 10,000, as well as by public censure.”

Article 162, Paragraph (2): “Any person, who applies violence against another or who damages his property on account of his nationality, race, religion, or on account of his political convictions, shall be punished by deprivation of liberty for up to four years and by a fine of BGN 5,000 or exceeding this amount but not exceeding BGN 10,000, as well as by public censure”.

Article 163, Paragraph (1): “Any persons, who form part of a crowd rallied to attack population groups, individual citizens or properties thereof in connection with their national, ethnic or racial identity, shall be punished by deprivation of liberty for up to five years (applicable to the abettors and the leaders) and to deprivation of liberty for up to one year or by probation (applicable to all the rest).”

¹⁵ Articles 13 (1) and 37 of the Constitution.

¹⁶ Article 37 of the Constitution.

¹⁷ Article 13 (2) of the Constitution.

¹⁸ Article 13 (4) of the Constitution.

¹⁹ Article 13 (3) of the Constitution.

²⁰ Section II of the Criminal Code:

Article 164 (as amended, State Gazette 27/09):

(1) Who propagates hatred on religious grounds through speeches, press or other means for mass information, through electronic information systems or in any other way shall be punished by imprisonment of up to four years or by probation, as well as by fine from five thousand to ten thousand levs.

(2) Whoever desecrates, destroys or damages a religious temple, a home of prayer, sanctuary or a building adjacent to them, their symbols or gravestones shall be punished by imprisonment of up to three years or by probation, as well as by a fine from three thousand to ten thousand levs.

Article 165:

(1) Who, by force or threat obstructs the citizens to profess their faith or carry out their rituals and services which do not violate the laws of the country, the public peace and the good morals shall be punished by imprisonment of up to one year.

(2) The same punishment shall be imposed on those who, in the same way, compels another to participate in religious rituals and services.

(3) For the acts under art. 163 committed against groups of the population, individual citizens or their property in connection with their religious belonging shall apply the punishments stipulated by it.

²¹ Chapter II, D, 7

²² Article 6 § 3 of the Child Protection Act

²³ Adopted by the National Assembly on a proposal by the Council of Ministers.

²⁴ Article 8, paragraph 2, the Law on National Education.

²⁵ Article 43 of the Constitution

²⁶ Article 8 of the Labour Code

²⁷ Article 243 of Labour Code

²⁸ Article 29, paragraph 1 of the Constitution.

²⁹ Article 52 of the Constitution

³⁰ Articles 81, 84–98 of the Health Act

³¹ Articles 33–39 of the Health Insurance Act

³² Article 148 of the Health Act

³³ Article 27 of the International Covenant on Civil and Political Rights: “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.”

³⁴ Adopted at 92nd plenary meeting of the UN General Assembly on 18 December 1992, as resolution 47/135.

³⁵ Article 10 of Radio and Television Act

³⁶ Promulgated on 13 December 1998, latest amendments on 6 April 2007.
