

# LEGISLATIVE AND ADMINISTRATIVE MEASURES FOR IMPLEMENTATION OF THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD IN THE REPUBLIC OF BULGARIA

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**Abstract:** *The United Nations Convention on the rights of the child is a part of the Bulgarian legislation since 1991. The main focus of the report is on the legislative measures for implementation of the standards established by the Convention in the legislation of the country. The assessment was made on the basis of regular reports on the fulfilment of the Convention obligations and on the recommendations of The Committee on the rights of the child. The national authority for child protection - The State agency on child protection - as well as its status and powers are introduced. Matters concerning the participation of the country in regional (European) initiatives concerning the rights of the child have also been discussed.*

**Keywords:** child protection, UN Convention on the rights of the child

## 1. Introduction

The United Nation Convention on the rights of the child (The Convention) is ratified with a decision of the Great National Assembly from 01.04.1991 and is in force for the Republic of Bulgaria from 03.07.1991. Bulgaria is constantly working for putting its legislation in accordance with the obligations accepted by signing the Convention and with the recommendations of the Committee on the rights of the child according to article 43 from the Convention.

The Optional Protocol on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography to the Convention on the Rights of the Child were also ratified later. The ratification of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure is also in preparation.

## 2. Legislation development

The first step was made in the year of 2000 when the Child protection Law was adopted.[1] Measurements for common protection have been stipulated such as regulations of the participation of children in court and in administrative procedures, measurements for protection in the family and accommodation of the child in relatives or in adoptive families, as well as some special measures for protecting children at risk, talented children, protection at public places and police protection.

In 2003 the Family Code was generally reformed as far as adoption was concerned. In 2009 a new Family Code was accepted which created a series of new regulations concerning the parental responsibility, including in case of a divorce of the parents.[2] The right of a minor over 14 years old to cease the court with disputes between the minor and his/her parents.

The right of the child to know his parents as well as the right of the child to raise the paternity presumption, the latter admitted for the first time, is guaranteed by the Family Code.

Unfortunately, the right of the child to raise the paternity presumption has been recently rejected by the Supreme Court as a result of the literal interpretation of the law – in the Declaratory Decision 2/2015 file 2/2014. The General Assembly of the Civil Chamber has agreed that the claim can be raised after the child completes the age of majority.

With the development of legal practice in this area, there are constant changes in the Child protection Law. The basic idea is that the child is not only an object of protection but a subject of rights as well. The Child protection Law was changed in 2009 in order to improve the coordination among the separate institutions of protection of child. Article 6a describes in detail the functions of all institutions of child protection. The term "the best interest of child" was defined.

Constant efforts in improving other laws concerning child status are being made. A bill of school and pre-school education is developed and presented to the National Assembly in 2014. The basic principles that are incorporated in the bill are equal access to education and anti-discrimination policy. The Health Law guarantees the rights of the patients, exercised by parents or by guardians when the child is under medical treatment. The health care institutions are obliged to signal the child care institution in case of a risk of abandonment or when there is suspicion of child abuse. In the last few years changes have also been introduced to The Law on Social Care, The Law on family child support, The Law on protection against domestic violence, the Penal Code as well as a number of other sub-legislative acts. For example in 2009 changes were introduced in the quality standards defined by the Act for criteria and standards of child social services accepted by the Council of

Ministers. The changes precise the quality standards for social services and are focused on providing qualified care and security and safety of children using different kinds of services.

In the National agency for child protection there is a bill for a new Child protection Law which stipulates a wide regulation of all questions concerning child interest.

### **3. Institutions for child protection**

The national child protection institution is the chairman of the National child protection agency, which is supported by the agency administration. His authorities are mainly in the field of administration, coordination and control. There is a consultative institution created as a part of the National child protection agency, called National council for child protection, where representatives of different departments and non-governmental organizations participate.

The main practical activity is realized by the Departments of Social assistance, which are municipal structural divisions of the Social assistance Agency. In the Departments there are sections for child protection. They make social studies and apply the exact protection measurements. As institutions for determination of proper adopters, Councils of Adoption as part of the Departments of Social assistance are created.

More institutions with special authorities concerning child protection are: the Minister of labor and social policy, the Minister of the internal affairs, the Minister of education, science and youth, the Minister of justice, the Minister of culture, the Minister of Healthcare, and the municipality mayors. Moreover, when there is need of appointment of guardianship or a conservatorship of a child, the competent institution is the institution for guardianship and conservatorship in coordination with the Department of Social assistance. In case a minor commits a legal wrong, the competent commission against minors' delinquency takes the responsive measures.

### **4. Policies for child protection**

With a Decision of the National Assembly

from 31.01.2008 a National Child Strategy 2008-2018, was accepted. The Council of Ministers accepts every year a National program for child protection proposed by the Minister of Labor and social policy and by the chairman of the National child protection Agency. In the National program all state institutions declare their planned activities for the next year which are correspondent to their obligations and their duty to guarantee children's rights in The Republic of Bulgaria in accordance with their best interest.

At the moment the Strategic plan of the National Assembly for the period 2014-2016 is in force.

#### ***4.1. Knowledge about the rights in the Convention***

One of the actual problems is that there is no systematical and consistent approach to the Convention in order to make the principles of the Convention widely known and comprehensible for adults and children. The Child protection Agency is challenged with the task to undertake a systematical education and a training program for children, parents and all professional groups working for and with children. An example can be given with the education of persons and technical employees in Bulgarian Embassies abroad which has begun since 2012, organized by the Ministry of external affairs on the following subjects: "Convention on the rights of the child" and "Child Protection" for preparation of people working with children victims of child traffic with sexual purpose or with purpose for labor exploitation. In all programs for education of police officers working with children is incorporated the main principle for respect a guarantee of the rights and freedom of citizens and their dignity.

#### ***4.2. Reducing child poverty and social involvement***

A basic priority in the Strategic plan for the period 2014 – 2016 is reducing child poverty and creating conditions for social involvement of children. Child poverty is distinguished as a grave problem in

Bulgaria. In spite of the financial crisis, which deepened in Bulgaria in 2014, the State takes measures for supporting parents with low income. The basic target group, are the families whose children are endangered from social exemption such as sole parents, parents with children with disabilities, large families, families with unemployed parents, etc.

#### ***4.3. Equal access to qualified education. Deinstitutionalization***

Another priority incorporated in the strategic plan of Child protection Agency is guaranteeing an equal access to qualified education of all children. There are still obstacles concerning the integration of children with disabilities and children from gipsy minorities – not only their involvement in educational process but also the problem with children quitting the educational system before reaching the age of 16 years, which is why national plans concerning the integration have been developed. In order to provide equal access to education as well as to reduce the risks of violent acts in 2010 a National strategy "Vision of deinstitutionalization of children in the Republic of Bulgaria" was accepted. Its main purpose is all children institutions to be closed in 15 years.[3] The main idea is to return children in their biological families, to house them in a family of relatives, to provide them with a host family, adoptive family or place them in a social home of a resident type. The resident type service was introduced to the legislation in the year of 2009 and is mainly focused on children leaving the institutions to prepare themselves for an independent life and practicing a profession.

#### ***4.4. Improvement of child health***

There is an approved plan for realization of the national strategy against drugs. In 2012 smoking at public spaces was totally prohibited in Bulgaria. The Health Care Ministry puts into practice the National program for HIV and AIDS protection.

A special protection for children with disabilities has been provided by atification

of the Convention on rights of persons with disabilities in 2012. The control upon the institutions where children with special needs are accommodated is increased. The figure of health mediators in gypsy communities is created with the purpose to overcome cultural barriers in communication between the gypsy population and the medical personnel in some areas. Concerning the early creation of family (under the age of 16 years) and abandonment of children, in 2010 there is realized a co project "Prevention of early/forced marriages" amongst some traditional gypsy communities in Bulgaria, Romania and Greece, financed by the European Commission in connection to the program Daphne III 2007-2013.

#### ***4.5. Participation in judicial and administrative procedures***

One of the priorities in the strategy of the National agency of child protection is encouraging children to participate in judicial and administrative procedures. According to art. 15 of Child protection Law, judicial and administrative institutions are obligated to provide the child with appropriate place to testify, with the whole information necessary and to explain him the consequences. The child is entitled to receive legal help and to the right of complaint in all procedures, affecting his rights or interests. The work is in progress for creating mechanisms for consideration of children's opinion when policies concerning them are created; for introducing a specialization for judges, prosecutors and investigators, as well as in the institutions of the executive power administration working with children; creating special rooms for resting, hearing and interrogation of children; implementing guarantees for child participation in the legal process in the Civil Code, as well as clarifying the meaning in the procedure of the social worker and the social report established in the Child protection Law. There is a developed project for encouragement of common children

participation in the processes of taking decisions on a school, municipal and national level. Creation of specialized on minors panels of judges is in progress.

#### ***4.6. Prevention of violence and child exploitation***

In 2011 the Council of electronic media accepted Criteria for evaluation of unbeneficial content or such that creates danger of harming the physical, psychic, moral and or social development of children. Since 2012 Bulgaria has started a project with the support and partial financing by the European Commission, which is a proceeding of the previous projects of the "Safe internet" program. For the purposes of the project a National Center for Safe Internet was created as well as a Hot Internet line for signals of illegal and harmful for the child contents and acts in the Internet.

Prevention of child exploitation is in the competence of the labor controlling organs. The results from the inspections in the last years show that there are problems with using child labor in the sectors of the small and average business. In most of the cases the minors' labor is seasonal and is associated with low classified work. The hardest forms of labor are observed mostly in the domestic economy (agriculture and house work) as well as in the informal economy (restaurant business, construction, hotel business, street labor, etc.)

The fight against child traffic is a serious challenge for Bulgaria, especially after its acceptance in the European Union. It is under the control of the Commission of fight against traffic of people to the Council of Ministers.

#### ***5. Regional initiatives***

The national plan for prevention of violence against children accepted in 2012 corresponds with the inquiries and recommendations for application of the Strategy of the European Council for the rights of the child (2012-2015), accepted at a conference of the European Council in Monaco on the 20-21.11.2011. In this area

a great role has also the Resolution 1624 of the Parliament Assembly of the European Council for prevention of child abandonment at birth. The child abandonment at birth is a serious problem which affects not only the rights of the mother but those of the father and child. Unfortunately, in Bulgaria there is no tendency in overcoming the problem yet.

Another problem of the day is concerning the refugee flow from Syria where many children fall into. In accordance with the Strategy on the rights of the child of the European Council (2012 - 2015), The plan for action concerning unaccompanied minors (2010-2014) of the European Commission - the European Resolution 1810 (2011) and Recommendation 1703

(2005) for protection and help of the separated children, special measures are taken as long as child refugees are concerned: their integration in educational and health programs, social services, psychic and social support, protection from vulnerability, legal help.

#### **6. Conclusion**

As a conclusion, the legal frame in the area of the rights of the child in Bulgaria establishes standards, which correspond and in some cases even exceed the requirements of the Convention. The politics carried out by the competent institutions are frequently influenced by international acts, including on a regional level, but unfortunately the State budget is not always capable to guarantee their effective performance.

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