

BULGARIA

Criminal Code

(1968)

(excerpts)

Legislationline: the text below is not a consolidated version of the Code. The latest amendments appear as formulated in the Law on Amendments to the Penal code published in the State Gazette on 27 September 2002. Titles of Chapters and Sections are missing.

[State Gazette Nos. 28/1982, 10/1993, 50/1995, 62/1997, lastly amended on 13 September 2003, State Gazette No 92/27.9. 2002]

(...)

Article 53

(1) Notwithstanding the penal responsibility, confiscated in favour of the state shall be:

- a) objects belonging to the convict, which were intended or have served for the perpetration of intentional crime;
- b) objects belonging to the culprit, which were subject of intentional crime - in the cases expressly provided in the Special Part of this Code.

(2) Confiscated in favour of the state shall also be:

- a) articles that have been subject or means of the crime, the possession of which is forbidden, and objects acquired through the crime, if they do not have to be returned or restored. Where the acquired objects are not available or have been disposed of, an equivalent amount shall be adjudged.

Chapter Two: CRIMES AGAINST THE PERSON

Section IV: Kidnapping and Unlawful Deprivation of Liberty

[amended - SG, No. 50/1995]

Article 142

(1) A person who kidnaps another person and unlawfully deprives him of liberty shall be punished by deprivation of liberty from one to six years.

(2) [As amended - SG, No. 62/1997] The punishment shall be deprivation of liberty from three to ten years if:

[New - SG, No. 50/1995]

1. the perpetrator has been armed;
2. the act has been committed by two or more persons;
3. the kidnapped person has been a pregnant woman or under 18 years of age;
4. the kidnapped person has been entitled to international protection;
5. the act has been perpetrated with regard to two or more persons.

6. the act has been perpetrated by a person engaged in security business, by an employee of an organisation carrying out security and insurance activities, by a person who acts on order of such an organisation or presents himself as acting on such order, by a person on the staff of the Ministry of Interior or a person who presents himself as such;

7. the kidnapping has been carried out for the purpose of taking the person over the borders of this country;

8. the act has been perpetrated by a person who participates in an organisation or a group under Article 321a, or who acts on orders of such an organisation or group.

(3) If as the result of the act under paragraphs (1) and (2) considerable harmful consequences have occurred, the punishment shall be deprivation of liberty for three to twelve years.

(4) If the act has been repeated or the kidnapped person has been treated with particular cruelty, the punishment shall be deprivation of liberty for five to fifteen years.

Article 142a

[amended - SG, Nos. 50/1995, 62/1997]

(1) A person who unlawfully deprives another of liberty shall be punished by deprivation of liberty for up to two years.

(2) (As amended - SG, Nos. 62/1997) Where the act has been committed by an official or by a representative of the public, in violation of his duties or functions, or a person under Article 142, paragraph (2), items 6 and 8, the punishment shall be deprivation of liberty for one to six years.

(3) (New - SG, Nos. 62/1997) Where the act under the preceding paragraphs has been committed in respect of a pregnant woman, a minor or an underage person, the punishment shall be deprivation of liberty for three to ten years.

(4) (Former (3)) Where the act under the preceding paragraphs has been committed in a manner painful or dangerous to the health of the victim, or where the deprivation of liberty has continued for more than 48 hours, the punishment shall be deprivation of liberty for three to ten years.

(5) (Former (4)) The punishment under the preceding paragraph shall be imposed also on a person who consciously admits to or holds a healthy person at a health establishment for mentally ill persons.

(...)

Article 152 (1) A person who has sexual intercourse with a person of the female sex:

1. who is deprived of the possibility of self-defence, and without her consent;

2. by compelling her thereto by force or threat;

3. by reducing her to a state of helplessness shall be punished for rape by deprivation of liberty for two to eight years.

4. The punishment for rape shall be imprisonment of ten to twenty years:

if the raped female is under fourteen years of age;

if grievous substantial injury has been inflicted;

if suicide has occurred in result;

if the offence committed is of exceptional gravity.

(...)

Section VIII: Debauchery

Article 155

[amended - SG, Nos. 28/1982, 10/1993, 62/1997]

(1) A person who persuades a female to practising prostitution or acts as procurer or procuress for performance of acts of lewdness or sexual intercourse, shall be punished by deprivation of liberty for up to three years and by a fine of one hundred thousand up to six hundred thousand Bulgarian Leva.

(2) (As amended - SG, Nos. 10/1993, 62/1997) A person who systematically places at the disposal of different persons premises for sexual intercourse or for acts of lewdness shall be punished by deprivation of liberty for up to five years and by a fine of fifty thousand up to five hundred thousand Bulgarian Leva.

(3) (New - SG, No. 62/1997) For acts under the preceding paragraph the punishment shall be deprivation of liberty from one to six years and a fine of five hundred thousand to one million Bulgarian Leva, if the premises have been provided against payment or in the case of public advertisement for such purpose.

(4) (As amended - SG, No. 62/1997) For persons who involve minors into acts of debauchery the punishment shall be deprivation of liberty for two to eight years.

(5) (Former (4)) In the cases under the preceding paragraphs the court may also rule compulsory domicile.

Article 156

[amended - SG, Nos. 10/1993, 62/1997]

(1) A person who abducts a female for the purpose of her being placed at the disposal for acts of debauchery shall be punished by deprivation of liberty for up to ten years and by a fine of up to one million Bulgarian Leva.

(2) (New - SG, No. 62/1997) The punishment shall be deprivation of liberty for three to twelve years, if:

1. the abducted person is under 18 years of age;
2. the abducted person has been placed at disposal for acts of debauchery, or
3. the abduction has been carried out for the purpose of placing the person at disposal for acts of debauchery beyond the borders of this country.

Section IX: "Trafficking in persons"

Article 159a

Persons who select, transport, hide, or receive individuals or groups of persons for the purpose of using them for acts of debauchery, compulsory labour, removing their organs, or keeping them in forceful subordination, irrespective of their consent, shall be punished with imprisonment of one to eight years and a fine not exceeding eight thousand Levs.

2) Acts under paragraph 1 committed:

against persons under eighteen;

by using force or misleading the person;

by abduction or unlawful deprivation of liberty;

by taking advantage of a position of dependency;

by abuse of power;

by promising, giving, or receiving benefits

shall be punished with imprisonment of two to ten years and a fine not exceeding ten thousand Levs.

Article 159b

Persons who select, transport, hide, or receive individuals or groups of persons and take them across the frontiers of the country for the purposes specified under Article 159a, paragraph 1 shall be punished with imprisonment of three to eight years and a fine not exceeding ten thousand Levs.

In case the act under the preceding paragraph is committed under the conditions of Article 159a, paragraph 2 the punishment shall be imprisonment of five to ten years and a fine not exceeding fifteen thousand Levs.

Article 159c

When the act under the preceding Articles constitutes a case of dangerous recidivism or has been committed following an order or in implementation of a decision of an organized criminal group the punishment shall be five to fifteen years of imprisonment and a fine not exceeding twenty thousand Levs, whereas the court may also rule confiscation of part or the whole of the perpetrators property."

(...)

Article 177 (2) A person who abducts a person of the female gender for the purpose of forcing her to enter into marriage, shall be punished by deprivation of liberty for up to three years, and if the victim is not of full age, the punishment shall be deprivation of liberty for up to five years.

(...)

Article 255c.

[as amended on 13 September 2002, State Gazette No. 92/27.9.2002]

(1) Any person who while performing work for a legal person or sole trader, requires or accepts a gift or any benefit, to which he/she is not entitled, or accepts an offer or a promise for a gift or benefit in order to perform or fail to perform an action in breach of his/her obligations, while performing commercial activity, shall be punished by imprisonment of up to five years or a fine of up to 20 000 BGN shall be imposed.

Any person who, while performing commercial activity, offers, promises or gives a gift or any benefit to a person, who performs work for a legal person or for a sole trader in order to perform or fail to perform an action in breach of his/her obligations shall be punished by imprisonment of up to three years or a fine of up to 15 000 BGN shall be imposed.

The punishments under the previous Para. shall be also imposed in cases when with the consent of the person under Para. 1 the gift or the benefit have been offered, promised or given to somebody else.

Any person who intermediates for performing any of the acts under the previous Paragraphs if the act does not constitute graver crime shall be punished by imprisonment of up to one year and a fine of up to 5 000 BGN shall be imposed.

The chattels of the crime shall be confiscated for the benefit of the state, and if it is missing or alienated their equivalent value shall be ruled.

Chapter Eight

CRIMES AGAINST ACTIVITIES OF STATE BODIES AND PUBLIC ORGANISATIONS

[New - SG, No. 62/1997]

Section I

Crimes Against the Governmental Order

Article 280

(1) A person who takes across the frontiers of this country individuals or groups of persons without permission from the respective authorities, or with permission but not through the points designated therefor, shall be punished by deprivation of liberty for one to six years and a fine of five hundred thousand to one million Bulgarian Leva.

(2) The punishment shall be deprivation of liberty from one to ten years, a fine of one million to three million Bulgarian Leva and confiscation of part of or the entire property of the perpetrator, if:

1. the person taken across the frontier is less than 16 years of age;
2. the person has been taken across the frontier without his/her knowledge;
3. the person taken across the frontier is not Bulgarian citizen;
4. a motor vehicle, an aircraft or another means of transportation has been used;
5. the crossing of the frontier has been organised by a group or organisation and has been carried out with the participation of an official, who has abused his official position.

(3) In the cases under paragraph (2), item 4, the means of transportation shall be appropriated by the state, if it was owned by the perpetrator.

(...)

Article 301

§ 61. Amendments [on 13 September 2002, State Gazette No. 92/27.9.2002]

(1) Any official, who requests, or accepts a gift, or any benefit, which he is not due, or accepts an offer, or a promise for a gift or benefit, in order to perform, or fail to perform an act within his/her duties, or because he/she has performed, or failed to perform such an act, shall be punished for bribery by imprisonment for up to 6 years and a fine to 5000 BGN.

(2) If an official has committed an act under Para 1, in order to breach, or because has breached his/her duties, where such a breach does not constitute a crime, he/she shall be punished by imprisonment of up to 8 years, and a fine of up to 10000 BGN.

(3) If an official has committed an act under Para 1, in order to commit, or because has committed another crime in connection with his/her duties, the punishment shall be imprisonment of up to 10 years, and a fine of up to 15000 BGN.

2. New Para. 1 shall be created:

"(5) The punishment under Para 1 shall be imposed to a foreign official, who requests, or accepts bribe, or accepts an offer, or promise for a bribe."

§ 62. Amendments [13 September 2002, State Gazette No. 92/27.9.2002] shall be made to **Article 302** as follows:

1. In item 1, after the words "responsible official" a comma shall be placed, and the words "including a judge, juror, prosecutor or investigator" shall be added.

In item 4:

In letter "a" after the word "years" a comma shall be placed, and the words " a fine of up to twenty thousand BGN" shall be added."

In letter "b" after the word "years" a comma shall be placed, and the words " a fine of up to twenty-five thousand BGN" shall be added.

§ 63. In Art. 302a, after the word "years " and the comma after it, the words "a fine of up to thirty thousand BGN" shall be added.

§ 64. Amendments [13 September 2002, State Gazette No. 92/27.9.2002] shall be made to **Article 303** as follows:

"Art. 303. Having regard for the differences in the preceding articles, an official and a foreign official shall also be punished and where with their consent, the gift or material benefit have been proposed, promised, or given to a third person."

§ 65. Amendments [13 September 2002, State Gazette No. 92/27.9.2002] shall be made to **Article 304** as follows:

"Art. 304 (1) Any person who proposes, promises or makes a gift or any other material benefit to an official so as to perform or fail to perform an official act in his/her official duties, or on account of having performed or failed to perform any such duty of service shall be punished by imprisonment of a term of up to six years, and a fine of up to five thousand BGN shall be imposed."

(2) If in connection with a bribe, the official has breached his/her duties, the punishment shall be imprisonment of up to eight years, and a fine of up to seven thousand BGN shall be imposed, if the breach does constitute a crime of a graver punishment".

(3) Punishment under Paragraph 1 shall also be imposed to any person who offers, promises, or gives a bribe to foreign official".

§ 66. Amendments [13 September 2002, State Gazette No. 92/27.9.2002] shall be made to **Article 304a** as follows:

"**Article 304a.** Any person who offers, promises, or gives a bribe to a high-ranking official, including a judge, juror, prosecutor or investigator shall be punished by imprisonment of up to ten years and a fine

of up to fifteen thousand BGN."

§ 67. A new Article 304(b) shall be created [amendments on 13 September 2002, State Gazette No. 92/27.9.2002]:

"**Article 304(b)** (1) Any person who requests or accepts a gift or any benefit, to which he/she is not entitled, or accepts an offer, or promise for a gift, or benefit in order to exercise influence while taking a decision by a foreign official in reference to his/her job, shall be punished by imprisonment of up to 6 years, or a fine up to 5000BGN.

(2) Any person, who offers, promises or gives a gift or any benefit not due to another person, which claims that he/she can exercise influence under Para. 1 shall be punished by imprisonment of up to 3 years, or a fine of up to 3000 BGN."

§ 68. **Article 305** shall be amended [13 September 2002, State Gazette No. 92/27.9.2002] as follows:

"Art. 305 (1) The punishments for bribery under the previous articles shall be imposed on an arbiter, or an expert witness, appointed by the court, institution, enterprise, or an organization, after having performed such acts in reference to their activity, as well as to that person, who offers, promises, or gives such a bribe.

(2) The punishments for bribery under the previous articles shall be imposed also to a defender or an attorney, while performing such acts in order to help to be decided in favour of the counter party, or to the detriment of the demandant a criminal, or civil case, as well as to that person, who offers, promises or gives such a bribe.

§ 69. Amendments [13 September 2002, State Gazette No. 92/27.9.2002] shall be made to Art. 305a as follows:

"Article 305a. Any person who acts as a mediator to the offences under the preceding articles and if this act does not constitute a graver crime shall be punished by imprisonment of up to three years and a fine of up to five thousand BGN."

§ 70. Amendments [13 September 2002, State Gazette No. 92/27.9.2002] shall be made to Art. 306 as follows:

"Article 306 Any person who has offered, promised or given a bribe, if he/she has been extorted by an official, arbiter or expert witness to do so and if he/she has immediately and voluntarily communicated the above circumstances to the competent authorities shall not be punished."

§ 71. In Art. 307a the words "the crime under articles 301 – 307" shall be substituted with the words "the crimes under this Section." [13 September 2002, State Gazette No. 92/27.9.2002]

PENAL PROCEDURE CODE

(excerpts)

REPUBLIC OF BULGARIA

NATIONAL ASSEMBLY

Promulgated State Gazette, No. 89 of 1974;

Amended SG Nos. 99/1974; 10/1975; 84/1977; 52/1980; 28 & 38/1982; 89/1986;

31, 32 & 35/1990; 39, 109 & 110/1993; 84/1994 & 50/1995; 107 & 110/1996;

64 & 95/1997; 21/1998; 45/1998 - Decision No. 9/1998 of the Constitutional Court; 70/1999 88/1999 - Decision No. 14/1999 of the Constitutional Court; 42/2001

Institution of penal proceedings by the prosecutor for crimes prosecuted on the grounds of complaint by the aggrieved party

Article 46

(1) (Amended, SG No. 28/1982, 70/1999) In exceptional cases of crimes prosecuted on the grounds of complaint by the aggrieved party, where the latter cannot defend his or her rights and lawful interests due to state of helplessness or dependency upon the perpetrator of the crime, the prosecutor may institute penal proceedings ex officio, provided the time limit under Article 57, paragraph (4), has not expired and there are no obstacles to institution of penal proceedings pursuant to Article 21, paragraph (1).

(2) (Amended, SG No. 70/1999) The instituted penal proceedings shall follow the general procedure and may not be terminated on the grounds indicated in Article 21, paragraphs (4) and (5).

(3) The aggrieved party may take part in the penal proceedings as private accuser and civil claimant.

(4) Should the prosecutor withdraw from participation in the proceedings, the aggrieved party may proceed with the indictment as private complainant.

Continuation of proceedings for crimes prosecuted on the grounds of complaint by the aggrieved party (Amended, SG No. 70/1999)

Article 46a

(New, SG No. 89/1986; Amended, SG No. 70/1999) Where the pre-trial proceedings ascertain that the matter refers to crime prosecuted on the grounds of complaint by the aggrieved party, the penal proceedings shall not be terminated should the prosecutor consider that the grounds under the preceding article are at hand.

Section II

Private Accuser

Persons who may participate as private accuser

Article 52

A person who has sustained property or non-property damages from a crime prosecuted under the general procedure shall have the right to take part in the court proceedings as private accuser. After the death of such persons, this right shall pass on to their heirs.

Request for participation as private accuser

Article 53

(1) The request for participation in the court proceedings as private accuser may be oral or in writing.

(2) The request must contain data about the person who files it and about the circumstances on which it is based.

(3) (Amended, SG No. 21/1998) The request must be submitted before the first-instance court by the start of the judicial examination at the latest.

Function of the private accuser

Article 54

(1) The private accuser shall uphold the accusation in the court along with the prosecutor.

(2) The private accuser may uphold the accusation also after the prosecutor declares that he does not uphold it.

Rights of the private accuser

Article 557

(Amended, SG Nos. 28/1982, 31/1990, 70/1999) The private accuser shall have the following rights: to familiarize himself with the case file and to make excerpt transcripts as necessary; to produce evidence; to take part in the court proceedings; to make requests, notes and objections and to appeal the court acts, where his rights and lawful interests are infringed.

Section III

Private Complainant

Persons who may bring and uphold accusations

as private complainant

Article 56

A person who has suffered from a crime prosecuted on the grounds of complaint by the aggrieved party may bring and uphold accusation as private complainant. After the death of such person, this right shall pass on to his or her heirs.

Complaint

Article 57

(1) (Amended, SG No. 21/1998) The complaint must be made out in writing and must contain data about the complainant, the person against whom it is filed, and about the circumstances of the crime. A document on the payment of the state fee shall be attached to the complaint.

(2) The complaint must be signed by the complainant.

(3) Where there are several aggrieved persons, they may file a joint complaint.

(4) The complaint must be filed within six months as from the date when the aggrieved party has come to knowledge of the perpetration of the crime.

Rights of the private complainant

Article 58

(1) The private complainant shall have the following rights: to familiarize himself with the case file and to make the excerpt transcripts as necessary; to produce evidence; to take part in the penal proceedings; to make requests, notes and objections; to appeal acts of the court which infringe upon his or her rights and lawful interests and to withdraw the complaint.

(2) The private complainant may constitute himself in the penal proceedings also as civil claimant in the cases and under the procedure specified in this Code.

Cooperation by the bodies of the Ministry of Interior

(Amended, SG No. 70/1999)

Article 59

(Amended, SG No. 70/1999) The aggrieved party and the accused shall have the right to request cooperation by the bodies of the Ministry of Interior for the collection of information which they themselves cannot collect.

Section IV

Civil Claimant

Persons who may take part as civil claimant

Article 60

(1) (Amended, SG No. 21/1998) The aggrieved party and his or her heirs, the institutions and legal entities which have sustained damages due to the crime, may file in the course of penal proceedings civil claim for compensation of the damages and may constitute themselves as civil claimants.

(2) A civil claim may not be filed in penal proceedings where it has been filed pursuant to the Civil Procedure Code.

Application for filing of civil claim

Article 61

(1) The application for filing of civil claim should comprise: full names of the claimant and the person against whom the claim is filed; the criminal case in which it is filed; the crime which has caused the damages, and the nature and amount of damages for which compensation is claimed.

(2) The claim may be oral or in writing.

(3) Where the damages sustained from the crime are the object of deficiency in accounts, the civil claim shall be considered filed by presentation of the protocol of deficiency.

(4) (Amended, SG No. 21/1998) A civil claim may be filed before the first-instance court by the start of the judicial examination at the latest.

Section II

EXPLANATIONS OF THE ACCUSED

Oral and direct explanations by the accused

Article 87

(Amended, SG No. 31/1990)

(1) The accused shall give explanations orally and directly before the respective body. The explanations shall be given in the presence of defence counsel, should the accused so request.

The request shall be entered in the record and the defence counsel shall be called for the interrogation.

(2) The accused may not be interrogated by letters rogatory, except in cases where the accused is beyond the borders of this country and provided this shall not be an obstacle to the discovery of the objective truth.

(3) The accused shall have the right to refuse to provide explanation.

Interrogation of the accused

Article 88

(1) The interrogation of the accused shall take place in daytime, except where it should suffer no delay.

(2) Before the interrogation, the respective body shall establish the identity of the accused and shall submit the charge thereto.

(3) The interrogation of the accused shall begin with the question of whether he or she pleads guilty, after which the accused shall be asked to tell in the form of free narration, if he or she wishes, everything that he or she knows in connection with the case.

(4) Questions may be put to the accused for supplementing the explanations or for removing omissions, ambiguities or contradictions.

(5) The questions must be clear, concrete and relevant to the facts in the case. They must not imply answers or allude to specific answers.

Confrontation

Article 89

(1) (Amended, SG No. 64/1997) Where there is essential contradiction between the explanations of the accused or between the explanations of the accused and the testimonies of the witnesses, a confrontation between them may be arranged, except in the cases under Article 97a.

(2) The confronted persons shall be asked before the interrogation whether they know each other and what are their relations.

(3) By permission of the respective body, the confronted persons made may put questions to one another.

Interrogation of the accused through a translator or interpreter

Article 90

- (1) Where the accused does not speak the Bulgarian language, a translator shall be appointed.
- (2) Persons indicated under Article 121, paragraph (1), sub-paragraphs 1 - 3, may not be translators.
- (3) For failure to appear or refusal to fulfil the work assigned, translators shall be held liable pursuant to Article 122, paragraph (3).
- (4) Where the accused is deaf or dumb, an interpreter shall be appointed.
- (5) The provisions of paragraphs (2) and (3) shall also apply to interpreters.

Evidential force of confessions by the accused

Article 91

- (1) The accusation and the sentence may not be based on the confessions of the accused only.
- (2) The confession of the accused does not exempt the corresponding bodies from their obligation to collect other evidence in the case.

Section III

TESTIMONIES OF WITNESSES

Subject of the testimonies of witnesses

Article 92

Testimonies of witnesses may serve to ascertain all facts perceived by the witness, which contribute to elucidating the circumstances in the case.

Persons who may not be witnesses

Article 93

(1) Persons who have taken part in the same penal proceedings in another procedural capacity may not be witnesses, except:

1. (Amended, SG Nos. 28/1982, 89/1986, 31/1990) the accused, with respect to whom the proceedings have been terminated or completed with a sentence that has entered into force;
2. the private accuser, the civil claimant, the civil defendant;
3. the subscribing witnesses who have attended the penal proceedings.

(2) Persons who due to physical or mental defects are unable to perceive properly the facts of significance for the case, or to make reliable testimonies about them, may not be witnesses either.

Persons who may refuse to testify

Article 94

Spouses, persons related in ascending, descending line, brothers and sisters of the accused may refuse to testify.

Obligations of the witness

Article 95

(1) (Amended, SG No. 50/1995) Witnesses shall be obliged to appear before the respective body where summoned; to tell everything they know about the case and to answer the questions put thereto, as well as to remain at the disposal of the body who summoned him as long as this may be necessary.

(2) Witnesses who cannot appear because of illness or disability may be examined at the place they are located.

(3) (Amended, SG No. 64/1997) A witness who fails to appear at the specified place and time to testify shall be punished by fine of up to one hundred thousand Leva, and shall be brought in by compulsion to be interrogated. If within seven days following the notification about the imposed fine the witness provides good reasons for the failure to appear, the fine and the bringing in by compulsion shall be revoked.

Circumstances on which witnesses shall not be obliged

to testify or may not be interrogated

Article 96

(1) Witnesses shall not be obliged to testify on questions, the answers to which might incriminate them, their relatives of ascending and descending line, brothers, sisters or spouses.

(2) Witnesses may not be interrogated on circumstances were confided thereto as defence counsel or attorney.

Rights of witnesses

Article 97

(Amended, SG No. 70/1999) Witnesses shall have the following rights: to use notes about figures, dates etc., available with them and which refer to the testimony; to receive remuneration for the lost workday and to be reimbursed for any expenses incurred, as well as to request revocation of acts that infringe upon their rights and lawful interests.

Protection of witnesses

Article 97a

(New, SG No. 64/1997)

(1) (Amended, SG No. 70/1999) The bodies of the pre-trial proceedings, the judge reporting the case or the court shall, upon request or with the consent of the witness, take measures for his/her protection, should there be sufficient grounds to believe that due to the testimony there has arisen or may arise real danger to the life, health or the property of the witness, his relatives of ascending or descending line, brothers, sisters, spouse or persons with whom he is in very close relationship.

(2) The protection of the witness shall be provided by means of:

1. keeping in secret his/her identity;
2. providing guards.

(3) (New, SG No. 70/1999) The measure of providing guards with regard to relatives of ascending or descending line, brothers, sisters, spouse or persons with whom the witness is in very close relationship shall be taken with their consent or with the consent of their legal representatives.

(4) (Amended, SG No. 70/1999) The act of the respective body for protecting a witness under paragraph (2), sub-paragraph 1 should indicate: the issuing body; the date; data about the identity and the identification number of the person; the types of measures taken and the circumstances demanding such measures; signatures of the body and the person. The act, the

documents and articles delivered by or taken away from such a witness, shall be kept by special procedure determined by the Minister of Justice and European Legal Integration.

(5) (Amended, SG No. 70/1999) Transcripts of the protocols for interrogation of the witness that do not bear his signature should be submitted forthwith to the accused and to the defence counsel thereof, and in judicial proceedings - to the parties who may put questions to the witness in writing.

(6) (Amended, SG No. 70/1999) The bodies of pre-trial proceedings and the court shall interrogate the witness in secret, and shall take measures to keep his/her identity in secret.

(7) (Amended, SG No. 70/1999) The respective bodies of pre-trial proceedings and the court shall have direct access to the protected witness, while the defence counsel and the attorney may have such access only if the witness has been summoned upon their request.

(8) (Amended, SG No. 70/1999) The measures for protection of the witness shall be withdrawn upon request of the person, in respect of whom they have been taken, or in the event of elimination of the need for application of such measures, through an act of the bodies under paragraph (1).

Interrogation of witnesses

Article 98

(1) (Amended, SG No. 64/1997) Prior to interrogation of the witness his or her identity shall be established, and the relations with the accused and with the other participants in the proceedings.

In the cases under Article 97a, paragraph (2), sub-paragraph 1, the witness shall be assigned identification number, which shall be entered in the protocol to substitute for the identity data.

(2) The body conducting the interrogation shall ask the witness to testify in good faith and warn him or her of the responsibility under the law if he or she refuses to do so and gives false testimony or withholds certain circumstances.

(3) The witness shall promise to tell in good faith and exactly everything to his or her knowledge about the case.

(4) The persons under Article 94 shall be explained their right to refuse to testify.

(5) Witnesses shall state in the form of free narration all that may be known to them about the case.

(6) Where there is substantial contradiction between the testimonies of witnesses, confrontation may be made, except in the cases under Article 97a.

(7) The provisions of Article 87, paragraph (1), Article 88, paragraphs (4) and (5), and Article 90 shall apply also to the interrogation of witnesses, respectively.

Interrogation of minors and underage witnesses

Article 99

(1) Minors shall be interrogated as witnesses in the presence of pedagogue or psychologist, and where necessary, also in the presence of the parent or guardian.

(2) Underage witnesses shall be interrogated in the presence of the persons under the preceding paragraph, if the respective body finds this necessary.

(3) With permission of the body conducting the interrogation, the persons under paragraph (1) may put questions to the witness.

(4) The body conducting the interrogation shall explain to the witness who is a minor the necessity of giving true testimony, without warning about responsibility.

Article 99a

(New, SG No. 64/1997)

The indictment and the sentence may not be based only on testimony of witnesses, made pursuant to Article 97a, paragraph (2), sub-paragraph 1.

CHILD PROTECTION ACT (31 MAY 2000)

REPUBLIC OF BULGARIA

THIRTY-EIGHTH NATIONAL ASSEMBLY

Chapter one

GENERAL PROVISIONS

Purpose of the Act

Article 1

The present Act governs the rights of the child; the principles and the measures for child protection; the state and municipal bodies and their interaction in the process of performing child protection activities, as well as the participation of non-for profit legal entities and natural persons in the said activities.

Definition of "a child"

Article 2

In the meaning of the present Act a child shall be any natural person, who has not reached the age of 18.

Principles of protection

Article 3

Child protection shall rest on the following principles:

1. recognition and respect for the child's personality;
2. the child shall be brought up in a family environment;
3. the interests of the child shall be secured in the best possible way;
4. special protection shall be provided to children at risk or to children of prominent talent;
5. voluntary participation in child protection activities shall be encouraged;
6. persons directly involved in child protection activities shall be selected in accordance with their personal qualities and social communication abilities, and with care as to their professional training
7. restrictive measures shall be of temporary nature;
8. the effectiveness of measures undertaken shall be controlled.

Protection measures

Article 4.

Child protection under the present Act shall be carried out through:

1. assistance, support and services rendered in the child's family environment;
2. placement of the child with relatives or close families;
3. placement of the child with a foster family;
4. placement of the child in a specialised institution;
5. police protection.

Special protection

Article 5.

Special protection shall be secured to:

1. children at risk;
2. children of prominent talent.

Child protection bodies

Article 6.

Child protection shall be implemented by:

1. The State Agency for Child Protection;
2. The municipal social assistance services;

Obligation to Report

Article 7.

(1) Persons, who become aware of the existence of a child in need of protection, shall immediately report the case to the municipal social assistance service.

(2) The same obligation shall be undertaken by all persons, who become aware of the said situation in the course of exercising their profession or occupation, irrespective of them being bound by occupational secret.

Rights and Obligations of Parents

Article 8.

(1) All parents may request and be granted assistance from the bodies pursuant to this Act.

(2) All parents shall have the right to be informed and consulted on all the measures and activities undertaken pursuant to this Act, with the exception of cases under Article 13.

Parents may request alteration of measures in the event of a change of circumstances.

(3) Parents shall bring into effect the measures undertaken under the present Act and shall provide assistance towards the implementation of child protection activities.

(4) The provisions set forth in the previous paragraphs shall hold valid also for persons, who provide care related to the rearing and upbringing of children.

Participation of Non-for-profit legal entities

Article 9.

(1) Non-for-profit legal entities, as well as separate natural persons shall participate in the activities related to child protection under the terms and conditions set forth in an act.

(2) The persons under para 1 and the state and municipal bodies shall cooperate in their child protection activities.

Chapter two

RIGHTS OF A CHILD

Right to Protection

Article 10.

(1) Every child has a right to protection with a view to his/her normal physical, intellectual, moral and social development and to protection of his/her rights and interests.

(2) There shall be no limitation of rights, nor any privilege, on the grounds of race, nationality, ethnic background, sex, origin, property status, religion, education and convictions.

Protection against Violence

Article 11.

(1) Every child has a right to protection against involvement in activities that are harmful to his or her physical, mental, moral and educational development.

(2) Every child has a right to protection against all methods of upbringing, that undermine his or her dignity; against physical, psychical or other types of violence; against all forms of influence, which go against his or her interests.

(3) Every child has a right to protection against the use of children for purposes of begging, prostitution, dissemination of pornographic material, receipt of unlawful pecuniary income, as well as protection against sexual abuse.

(4) Every child has a right to protection against forcible involvement in political, religious and trade union activities.

Right to Freedom of Expression

Article 12.

Every child has a right to express freely his or her opinion on all issues affecting his or her interests. He or she may seek the assistance of the bodies and persons, to whom his or her protection pursuant to this Act has been assigned.

Information and Consultation

Article 13.

Every child has a right to be informed and consulted by the child protection body even without the knowledge thereof of his or her parents or of the persons who take care of his or her rearing and upbringing, should that be deemed necessary in view of protecting his or her interests in the best possible way and in case where informing the said persons might harm the child's interests.

Protection of Religious Beliefs

Article 14.

(1) The attitude of children below 14 years of age towards religion shall be decided upon by their parents or legal guardians; while those of children between 14 and 18 shall be decided by common consent between them and their parents or their guardians.

(2) Where such consent can not be reached, the underage person may refer through the bodies pursuant to this Act to the regional court to settle the dispute.

Participation in Procedures

Article 15.

(1) All cases of administrative or judicial proceedings affecting the rights and interests of a child should provide for an obligatory hearing of the child, provided he or she has reached the age of 10, unless that proves harmful to his or her interests.

(2) In cases where the child has not reached the age of 10, he or she may be given a hearing depending on the level of his or her development. The decision to hear the child shall be substantiated.

(3) Before the child is given a hearing, the court or the administrative body shall:

1. provide the child with the necessary information, which would help him or her form his or her opinion;

2. inform the child about the possible consequences of his or her desire, of the opinion supported by him or her, as well as about all the decisions made by the judicial or administrative body.

(4) The hearing and the consultation of a child shall by all means take place in appropriate surroundings and in the presence of a social worker or another appropriate specialist.

(5) In every legal case the court or the administrative body shall notify the municipal social assistance service, located in the child's place of residence; the service shall send a representative of its own to the case.

(6) The municipal social assistance service may represent the child in cases provided for by law.

(7) The child has a right to legal aid and appeal in all proceedings, affecting his or her rights or interests.

Confidentiality of Information

Article 16.

(1) All information, obtained through administrative or judicial proceedings and concerning a child shall not be disclosed without the parents' consent and without the child's consent where the child has reached the age of 10.

(2) The court may permit the bodies under this Act to use information pursuant to para 1 without the consent of persons under para 1, should it become necessary in view of the child's interests or for purposes of undertaking child protection measures.

Chapter three

CHILD PROTECTION BODIES

A State Agency for Child Protection

Article 17.

(1) The State Agency for Child Protection, further referred to as "the Agency", is a specialised body at the Council of Ministers in charge of the governance, co-ordination and control of child protection activities.

(2) The State Agency for Child Protection is a legal entity maintained from state budget funds, having its seat in the city of Sofia.

(3) The Agency is governed and represented by a Chairperson, who shall be nominated through a Council of Ministers' ruling and shall be appointed by the Prime Minister.

(4) A Deputy Chair, appointed by the Prime Minister, shall assist the activities of the Agency Chairperson.

(5) The Agency's activities, structure, work organisation and staff shall be determined by a Regulation, adopted by the Council of Ministers upon recommendation of the Chairperson.

(6) The Agency Chairperson shall on an annual basis submit to the Council of Ministers a report on the Agency's activities.

A National Council on Child Protection

Article 18.

(1) A National Council on Child Protection shall be set up at the State Agency for Child Protection. The Council shall perform consultative functions. It shall comprise representatives of the Ministry of Labour and Social Policy, the Ministry of Justice, the Ministry of Education and Science, the Ministry of Health, the Ministry of the Interior, the Ministry of Finance, the Ministry of Culture, the Committee on youth, physical education and sports, as well as non-for-profit legal entities, whose purpose of activity is child protection.

(2) The structure, the organisation and the activities of the National Council on Child Protection shall be determined by a Regulation, adopted by the Council of Ministers.

Functions of the Agency

Article 19.

The State Agency for Child Protection shall:

1. organise and coordinate the implementation of child protection state policies;
2. prepare and bring into effect national and regional programs to ensure child protection by providing the necessary financial resources and allocating them amongst the child protection departments;
3. propose to the Council of Ministers and take part in the deliberations of draft legislative acts in the field of child protection;
4. provide methodological guidance and control the municipal social assistance services in their child protection activities;
5. encourage child protection activities of non-for-profit legal entities;
6. organise and conduct scientific research and educational activities in the field of child protection;
7. perform international cooperation activities;
8. develop and maintain a national information system on:
 - a) children in need of special protection;
 - b) children eligible for adoption;
 - c) specialised institutions;
 - d) non-for-profit legal entities, working on child protection programs;
 - e) other data, relevant to child protection.

Municipal Social Assistance Service

Article 20.

(1) The municipal social assistance service is a specialised body in charge of conducting child protection policies within the municipality. A child protection department shall be set up at the municipal social assistance service.

(2) The department under para 1 works in cooperation with state bodies and non-for-profit legal entities, whose purpose of activity is child protection.

Functions of the Municipal Social Assistance Service

Article 21.

Pursuant to the present Act the municipal social assistance service shall:

1. perform the current practical activities of child protection within the municipality;
2. determine and bring into effect concrete measures on child protection and shall control their implementation;
3. make checks relating to complaints and signals for violation of children's rights and shall make compulsory recommendations to remedy the breaches;
4. give advice and consultations on child rearing and upbringing;
5. provide information on services offered and render assistance and support to the parents and families of children in need thereof;
6. compile and update registers on:
 - a) children in need of special protection;
 - b) children under police protection;
 - c) children eligible for adoption
 - d) children placed to live with relatives' or close friends' families;
 - e) children placed in foster families;
 - f) children placed in specialised institutions;
 - g) candidate and approved foster families;
 - h) non-for-profit legal entities, working on child protection programs;
7. render assistance and cooperation to non-for-profit legal entities, performing child protection activities;
8. assist children in their occupational orientation and training, including persons that have completed their secondary education after they had come of age;
9. organise the training and consultations for foster parents and shall cater for the selection of the latter;
10. if necessary alert the police authorities, the prosecution and the courts, who shall take immediate steps to ensure child protection;
11. propose for appointment guardians councils and trustees;

12. investigate adoption candidates from the country and supply the court with a written conclusion concerning the candidates suitability to adopt a child; prepare adoption documents and express its opinion in the cases provided for by the Family Code;

13. take part in lawsuits relating to the limitation or divestment of parents of their rights over their children;

14. upon request of judicial and administrative bodies prepare reports and view-points on the situation of children;

15. nominate the persons to perform representative functions in the meaning of Article 15 para 5;

16. provide financial assistance under the terms and conditions set forth by law.

Cooperation with the guardianship and trustee body

Article 22.

The municipal social assistance service shall work in cooperation with the guardianship and trustee body.

Chapter four

CHILD PROTECTION MEASURES

Protection measures in a family environment

Article 23.

The following shall constitute protection measures in a family environment:

1. provision of pedagogic, psychological and legal aid to parents and to persons, entrusted with parental functions, concerning problems with child rearing, upbringing and education;

2. referring persons to the centres for social rehabilitation and integration;

3. consulting and informing the child in accordance with the level of his or her development;

4. consulting the parents or the persons, entrusted with parental functions, on issues of social assistance and services;

5. provision of assistance with a view to improve living conditions;

6. conducting social work to facilitate child-parent relations and solution of relations conflicts and crises;

7. studying the individual abilities and interests of a child and referring him or her to a suitable educational establishment;

8. assistance in finding appropriate jobs for children in need thereof, who have reached the age of 16, under the conditions set forth by the labour legislation;

9. referring the child to appropriate activities to fill up his or her spare time;

10. assisting the adoptive parents in their preparation to assume their parental responsibilities, to complete the act of adoption, as well as protecting the child's rights in cases of termination of adoption.

Provision of protection measures in a family environment

Article 24.

(1) Assistance, support and services in a family environment shall be rendered by the municipal social assistance service upon request of parents, of persons, entrusted with parental functions, of the child, as well as by discretion of the municipal social assistance service.

(2) Protection measures under para 1 may be rendered in combination with other protection measures pursuant to the present Act.

Grounds for placement out of the family

Article 25.

A child may be placed to live out of his or her family in cases where his or her parents:

1. have passed away, are unknown or have their parents rights divested or limited;
2. without valid reason permanently fail to provide care for their child;
3. are in a position of permanent inability to rear their child.

Placement out of the family

Article 26.

(1) The placement of a child with a family of relatives or friends, as well as placement of a child to be reared by a foster family or a specialised institution shall be done by the court. Until the court comes out with a ruling, the municipal social assistance service shall provide for a temporary placement by administrative order.

(2) The request to apply measures under para 1 shall be submitted to the court by the municipal social assistance service, by the prosecutor or the parent. They shall refer to the regional court, seated in the region of the municipal social assistance service.

Temporary placement by administrative order

Article 27.

(1) Placement out of the family pursuant to Article 26 para 1 shall be done by the order of the head of the municipal social assistance service.

(2) In cases of placement with relatives or friends, it is necessary to obtain the consent of the person with whom the child will be placed.

(3) In cases of placement with a foster family, placement shall be done after a check has been performed on the suitability of the candidate foster persons. Placement shall be effected upon the signing of a contract with the foster family, which shall specify placement period, the funding, the contractual rights and obligations, related to the rearing and upbringing of the child.

(4) The acts of the head of the municipal social assistance service shall be issued and appealed in the order set forth in the Administrative Procedure Act.

Placement through the court

Article 28.

(1) The requests to apply measures under Article 26 para 1 shall be ruled out by the regional court, seated in the region of the municipal social assistance service.

(2) The court shall immediately consider the request in an open sitting, where the bodies or the persons, that have submitted the request shall participate along with the child.

(3) The court shall come out with a ruling within a one-month period. The ruling shall be disclosed to the parties concerned and shall be brought to immediate effect. In specifying the child protection measures the court shall follow the order set forth in Article 26 para 1, unless that goes against the child's interests.

(4) The ruling may be appealed in front of the district court within a seven-days' period. In cases where a complaint or a letter of protest has been submitted, the court shall schedule the hearing within a period of less than seven days. The district court shall come out with a ruling, which shall be final.

(5) The court may change the measure that has been ruled out upon request of the persons under Article 26 para 2 in case that is to the child's interest.

Grounds for termination of placement

Article 29.

Placement out of the family shall be terminated:

1. upon revocation of the contract;
2. at the expiration of the term;
3. by mutual consent of the parties to the contract;
4. at the adoption of the child;
5. at the child's coming of age;
6. at the invalidation of grounds under Article 25;
7. at the death of the spouses or of the foster family person;
8. at a change in the protection measure.

Procedure for placement termination

Article 30.(1) Placement shall be terminated by the regional court upon request of the foster family, of the municipal social assistance service, of the child's parents or of the prosecutor.

(2) Placement may be terminated temporarily by the municipal social assistance service until the ruling of the court comes out. In that case the municipal social assistance service may make a decision concerning the future rearing and upbringing of the child; or it may adopt another temporary protection measure in case that protects best the interests of the child.

(3) The ruling of the regional court may be appealed against in front of the district court. The act of appeal may not stop the execution. The ruling of the district court shall be final and is not subject of cassation appeal.

(4) The ruling to terminate placement shall be executed in the administrative order.

Foster family

Article 31.

(1) A foster family shall consist of two spouses or of a separate individual, with whom a child is placed to be reared and brought up pursuant to a contract under Article 27.

(2) The spouses or the person of the foster family do not bear the parental rights and responsibilities.

Persons who may not apply for becoming a foster family

Article 32.

(1) Persons who may not apply for becoming a foster family are those that:

1. have not come of age;
2. have been placed under prohibitory injunction;
3. have been deprived of their parental rights or whose parental rights have been limited, unless that has happened for objective reasons and their parental rights have been restored;
4. may not act as guardians;
5. are guardians or trustees, as well as foster families, who have been discarded of that activity for culpable failure to fulfill obligations;
6. are unsuitable to perform parental functions as they lack the personal qualities to bring up a child and they do not have financial means to rear and care for a child.
7. are adoptive parents at the moment of adoption termination, which has been caused through their fault pursuant to the procedure set forth in the Family Code;
8. are afflicted with illnesses pursuant to Articles 36 and 36a of the National Health Act.

Relations with birth parents

Article 33.

(1) The foster family shall provide information about the child to his or her parents and shall assist them in their personal relations with the child. Where such relations are to the interest of the child, the regional court shall rule out on their regime by a decision.

(2) The decision under para 1 may be appealed pursuant to the order set forth in the Code of Civil Procedure by the parents, the child, the prosecutor, the municipal social assistance service or the foster family.

Expression of opinion

Article 34.

The foster family has a right to express an opinion before a decision has been issued concerning a change in the child protection measure.

Placement in specialised institutions

Article 35.

(1) Placement of children in specialised institutions shall be done in the order and under the conditions specified by the effective legislative acts.

(2) Placement of children under para 1 shall be done only in cases where all possibilities for the child to stay in a family environment have been exhausted.

(3) Institutions that provide services pursuant to Article 23 shall not be considered specialised institutions in the meaning of paras 1 and 2.

Control

Article 36.

The head of the municipal social assistance service shall exercise current control on the effectiveness of measures undertaken.

Police protection

Article 37.

(1) Provision of police protection to a child shall be done by the specialised bodies of the Ministry of the Interior.

(2) The bodies under para 1 shall work in cooperation with child protection bodies.

Grounds

Article 38.

Police protection is an urgent measure to be applied when:

1. the child has become subject of crime or there is an immediate threat for his or her life or health, as well as when there is a danger of the child getting involved in a crime;
2. the child has been lost or is in a helpless condition;
3. the child has been left without supervision.

Police protection measures

Article 39.

(1) The specialised bodies of the Ministry of the Interior may:

1. accommodate the child in special premises, where they shall not permit any contacts with the child that may prove harmful to him or her;
2. place the child in specialised institutions and where necessary provide him or her with food;
3. return the child back to his or her parents or the persons entrusted with the parental functions.

(2) The specialised bodies under para 1 shall inform the child and explain to him or her in an understandable manner the measures undertaken and the grounds for them.

Obligation to notify

Article 40.

The police bodies, who have implemented the protection, shall notify immediately:

1. the child's parents;
2. the municipal social assistance service of the region where protection has been implemented;
3. the municipal social assistance service of the place of the child's residence;
4. the prosecution.

Period

Article 41.

The child may not remain under police protection longer than 24 hours.

Search for a disappeared child

Article 42.

The actions for the search of a disappeared child shall be undertaken immediately.

Ordinance

Article 43.

The order and conditions to provide police protection shall be governed by an ordinance issued by the Minister of the Interior in agreement with the State Agency for Child Protection.

Chapter five

FINANCING OF CHILD PROTECTION ACTIVITIES

Funding sources

Article 44.

Child protection activities are financed from:

1. the republican budget;
2. the municipal budgets;
3. other sources.

Chapter six

ADMINISTRATIVE AND PENAL PROVISIONS

Punitive sanctions

Article 45.

(1) Persons who fail to fulfill an obligation pursuant to this Act shall be punished by paying a fine at the amount of 50 to 100 levs, unless they are subject to a more serious punishment under a special law and their act does not constitute a crime.

(2) Officials who fail to fulfill an obligation shall pay a fine between 100 and 200 levs, unless they are subject to a more serious administrative punishment under a special law and their act does not constitute a crime.

Procedure

Article 46.

(1) Offences shall be found out by an act of a social worker from the child protection department of the municipal social assistance service, whereas the penal decision shall be issued by the head of the municipal social assistance service.

(2) Acts finding offences and penal decisions shall be prepared and appealed in the order set forth in the Administrative Offences and Penalties Act.

ADDITIONAL PROVISION

§1. In the meaning of this Act:

1. "A family environment" is the biological family of the child or the family of the adoptive persons, of the grandmother and grandfather or of the child's relatives, or a foster family, with whom the child is being placed pursuant to Article 26.

2. "Services" in the meaning of Article 23 are the social services in the usual home environment under the Social Assistance Act. 20

3. "A foster family" is a family of two spouses or of an individual person in the meaning of article 31.

4. "A specialised institution" is a child rearing and upbringing establishment with the Ministry of Health, the Ministry of Education and Science, the Ministry of Labour and Social Policy and the Ministry of the Interior.

5. "A child at risk" is a child:

a) who does not have parents or has been permanently deprived of their care;

b) who has become victim of abuse, violence, exploitation or any other inhuman or degrading treatment or punishment either in or out of his or her family;

c) for whom there is a danger of causing damage to his or her physical, mental, moral, intellectual and social development;

d) who is afflicted with mental or physical disabilities and difficult to treat illnesses.

6. "A child of prominent talent" is a child that has demonstrated permanent capabilities and achievements in the field of science, arts or sports, and his or her achievements outdo those of his or her peers.

TRANSITIONAL AND FINAL PROVISIONS

§2. Within a period of six months from the effective date of this Act the Council of Ministers shall by decree set up a State Agency for Child Protection under the terms and conditions of the Administration Act. Financing under Article 44, items 1 and 2 shall become effective as of Jan 1/2001.

§3. Within a period of six months from the effective date of this Act, the state authorities, specified in the respective provisions, shall issue the secondary legislative acts provided for by the Act.

§4. The implementation of this Act is assigned to the Council of Ministers.

This Act was adopted by the Thirty-eighth National Assembly on May 31/2000 and is stamped with the official seal of the National Assembly.

LAW

On Combating the Illegal Trafficking in Human Beings

Chapter One

General Provisions

Art.1 This Law shall provide for the activities aimed at preventing and counteracting the illegal trafficking in human beings for the purposes of:

- a. Providing protection and assistance to victims of such trafficking, especially to women and children, and in full compliance with their human rights;
- b. Promoting co-operation between the governmental and municipal authorities as well as between them and NGOs for fighting the illegal trafficking in human beings and developing the national policy in this area.

Art. 2 For accomplishing the activities and the purposes listed above the following units shall be set up:

- a. A national and local commissions for combating the illegal trafficking in human beings;
- b. Shelters for temporary housing of victims of trafficking;
- c. Centres for support and assistance for victims of illegal trafficking.

Art. 3

(1) The relevant agencies and municipalities shall allocate the necessary funds from their budgets for the setting up and the maintenance of the institutions under Art.2b and c.

(2) The NGOs may assist in carrying out the activities under the above provision within their budget.

Chapter Two

Commissions for Fight against Illegal Trafficking in Human Beings

Art. 4

(1) A National Commission for Fighting Illegal Trafficking in Human Beings having the status of a governmental and public consulting commission shall be established at the Council of Ministers.

(2) The National Commission shall be chaired by a Deputy-Prime Minister identified by the Council of Ministers. Members of the National Commission shall include a deputy-minister for foreign affairs, a deputy-minister of labour and social welfare, a deputy-minister of the interior, a deputy-minister of justice, a deputy-minister of health, a deputy-minister of education and science, a deputy-chair of the State Agency for Child Protection, a deputy-chair of the Commission for Counteracting the Anti-Social Behaviour of Juveniles and Minors, appointed by the respective Ministers and Chairs.

(3) Members of the National Commission shall include deputies of the Chair of the Supreme Court of Cassation, of the Prosecutor General and of the Director of the National Investigative Service, appointed accordingly.

(4) Representatives of Bulgarian NGOs and international organisations working in the area of preventing and combating human trafficking that represented in the country shall also be members of the Commission.

(5) Secretary of the National Commission shall be the head of the administrative unit appointed by the Council of Ministers to co-ordinate the Commission's activities.

(6) The Council of Ministers shall adopt regulations for the functioning of the National Commission.

Art. 5

(1) Local Commissions for Fight with Illegal Trafficking in Human Beings referred to hereinafter as "Local Commissions" shall be established upon a proposal by the National Commission at some of the municipalities in the country. The locations of these Local Commissions shall be determined by a decision of the Council of Ministers.

(2) The Local Commissions under the previous provision shall consist of 3 to 7 members, the exact number being determined by force of an order by the Mayor. A deputy-mayor shall chair such a Commission. The Commissions shall consist of representatives of the local government involved in the education, health issues and social policy, of the Local Commission for fight against the anti-social behaviour of juveniles and minors, the departments for children protection with the local social support units, representatives of police, of NGOs, as well as teachers, psychologists, lawyers, doctors, etc. A representative of the Regional Prosecutor's Office shall be present at the sessions of the Local Commission.

(3) If necessary, a Secretary of the Local Commission shall be appointed. The Mayor shall determine the salary of the Secretary.

(4) The Local Commissions shall be funded by the budget of the municipality.

Art. 6

The Chair of the National Commission shall report annually before the Council of Ministers. The Local Commissions shall report annually before the Mayor and before the National Commission.

Art. 7 The National Commission shall:

- a. co-ordinate the co-operation between the relevant agencies and organisations for the implementation of this Law;
- b. administer the implementation of the state policy and determine the strategy in the area of combating the illegal trafficking in human beings;
- c. draft an annual national programme for prevention of the illegal trafficking in human beings and victims' support that is subject to approval by the Council of Ministers;
- d. establish a structure which will make research, analysis and data collection regarding the illegal trafficking in human beings;
- e. assist in international co-operation for prevention and combating the illegal trafficking in human beings;
- f. carry out information and awareness-raising campaigns for potential victims of illegal trafficking;
- g. develop training curricula for officials vested with responsibilities in the prevention and combating the illegal trafficking in human beings;
- h. manage and supervise the activities of the Local Commissions and the centres for support and assistance to the victims of illegal trafficking.

Art. 8 The Local Commissions shall:

- a. co-ordinate the co-operation between the relevant agencies and organisations in the region in implementation of this Law;
- b. implement the government policy and strategy in the fight against the illegal trafficking in human beings;
- c. implement the national program for prevention of the illegal trafficking in human beings and victims' support;

- d. provide assistance in the research, analysis and data collection regarding the illegal trafficking in human beings;
- e. provide assistance in the international co-operation for prevention and combating the illegal trafficking in human beings;
- i. carry out informational, awareness raising and educational campaigns in the region targeted at potential victims of illegal trafficking;
- f. implement training for officials in the region vested with responsibilities in the prevention and combating the illegal trafficking in human beings.

Chapter Three

Shelters for Temporary Housing and Centres for Support and Assistance to Victims of Illegal Trafficking

Art. 9

(1) The Shelters for Temporary Housing for Victims of Illegal Trafficking shall be set up

- i. By the municipalities in implementation of a decision of the Council of Ministers
- ii. By individuals and legal entities after a license for providing social services has been granted in accordance with the rules and conditions provided in the Regulations under Art. 11.

(2) The Shelters shall accommodate persons who have claimed to have been subject to illegal trafficking in human beings. They shall be provided shelter by their personal request and for up to 10 days in accordance with the rules and conditions provided in the Regulations under Art. 11.

(3) The term under the previous provision may be prolonged up to 30 days upon a proposal by a Local Commission, the bodies of the pre-trial procedure and the court when requested by the individual.

Art. 10

The Shelters for Temporary Housing have the following purposes:

- a. provide civilised conditions for stay and personal hygiene;
- b. provide food and medications for the persons sheltered;
- c. provide emergency healthcare and psychological assistance;
- d. support the sheltered persons for contacting their relatives as well as the relevant agencies and organisations.

Art. 11

The rules for setting up shelters under Art.9.1, their functioning, management and control shall be subject to Regulations by the Council of Ministers.

Art. 12

(1) Centres for Support and Assistance to Victims of Trafficking shall be set up with the Local Commissions, hereinafter referred to as Centres.

(2) The Centres shall have the following main functions:

- a. Provide information regarding the administrative and court procedures providing support and protection to victims of illegal trafficking in a language they understand;
 - b. Provide specialised psychological and medical assistance;
 - c. Support the re-integration of the victim in the family and social environment.
- (3) The funds necessary for the functioning of the Centres shall be allocated from the budget of the respective municipalities.

Chapter Four

Prevention and Counteraction of the Illegal Trafficking in Human Beings

Art. 13

The National Commission shall organise and co-ordinate the activities of the relevant agencies and organisations for prevention of the illegal trafficking in human beings based on their respective powers and in accordance with the national program approved by the Council of Ministers under Art.7.c.

Art. 14

In implementation of the previous provision the National Commission shall:

- 1) Initiate and take part in the development and implementation of measures and initiatives for creating equal social and economic conditions for the risk groups, including:
 - a. Creating an environment for integration in the labour market of the individuals from the risk regions and risk groups
 - b. Programs for micro-crediting
 - c. Programs for stimulating employers hiring individuals from the risk groups
- 2) Provide to the public information regarding:
 - a. Risk situations for becoming a victim of trafficking in human beings
 - b. Protection to the victims of illegal trafficking provided by the Government and the specialised organisations
 - c. The penal and administrative measures adopted by the state for combating the illegal trafficking in human beings
- 3) Initiates and takes part in the implementation of:
 - a. General educational programs for parents and students in the schools
 - b. General educational programs for unemployed and illiterate individuals
 - c. Educational programs for the risk groups in the risk regions
 - d. Educational programs for victims of trafficking.

Chapter Five

Protection and Support to the Victims of the Illegal Trafficking in Human Beings

Art. 15

The individuals victims of trafficking in human beings shall be granted the full support by the government agencies, commissions, centres and shelters in accordance with their competences under this Law.

Art. 16

The diplomatic and consular posts of the Republic of Bulgaria abroad shall provide assistance and co-operation to Bulgarian nationals who have become victims of illegal trafficking for their return to the country in accordance with their powers and with the legislation of the relevant foreign country.

Art. 17

The Consulates with the Bulgarian Embassies abroad in co-operation with the relevant offices of the Ministry of the Interior shall assist the speedy and timely issuing of identity documents of Bulgarian nationals who have become victims of illegal trafficking.

Art. 18

(1) In compliance with the Bulgarian legislation and the legislation of the accepting country, the diplomatic and consular posts of the Republic of Bulgaria abroad shall distribute amongst the relevant individuals and the risk groups information materials about the rights of the victims of human trafficking.

(2) The diplomatic and consular posts of the Republic of Bulgaria abroad shall provide information to the bodies of the accepting country regarding the Bulgarian legislation on human trafficking.

Art. 19

The exchange of information and the co-operation with the relevant foreign countries' authorities, international and regional organisations shall be carried out in compliance with the national legislation and the international treaties and agreements that Bulgaria is a Party to.

Art. 20

The victims of illegal trafficking in human beings shall be treated with confidentiality, their identity being protected by this law.

Art. 21

The bodies under Art. 2 shall inform immediately the State Agency for Child Protection should they obtain information about a child-victim of human trafficking; the Agency shall take the relevant measures for securing protection and support in accordance with the Child Protection Act.

Art. 22

The children-victims of illegal trafficking shall be accommodated in separate premises from the adults.

Art. 23

The children-victims of illegal trafficking in human beings shall be granted education in the state and municipal schools in the country in compliance with the Law of the Public Education.

Art. 24

(1) The children who have become victims of trafficking and are not being accompanied by an adult shall be guaranteed the possibility of searching their family in the shortest possible term by the bodies and the establishments under Art. 2.

(2) In the cases under the previous provision the specialised bodies under the Law on the Protection of Children shall undertake the measures envisaged for of establishing guardianship and representation in accordance with their obligations provided by law.

Art. 25

Individuals who have become victims of illegal trafficking and have declared their willingness to co-operate for detecting the perpetrators of trafficking shall be granted a status of special protection for the time of the penal procedure, including:

- (1) granting a foreign-national's permit for long-term stay in the country
- (2) prolonging the term of the stay in the shelters.

Art. 26

(1) The bodies of the pre-trial procedures immediately upon identification of the individuals who have become victims of human trafficking shall inform them about the possibility to be granted special protection in case within a month the victim declares his/hers willingness to co-operate in the investigation.

(2) Upon a proposal by the State Agency for the Protection of Children the term under the previous provision may be prolonged up to two months in case the victim of trafficking is a child.

Art. 27

The Prosecutor shall approve the request for granting special protection under the provisions of the Penal Procedure Code.

Art. 28

(1) The long-term stay permit shall be issued in accordance with the Law on the Foreign Nationals in Bulgaria by the respective administrative control services with the Ministry of the Interior based on the document under Art. 27.

(2) During their stay in the country the individuals being granted a permit under the previous provision shall be granted the rights of the permanently staying in the country foreign nationals in accordance with the Law on the Foreign Nationals in Bulgaria with exception to the right under Art.35.2 thereof.

(3) The permit under (1) shall not be granted to individuals who do not have identity documents and refuse to co-operate in their identification.

Art 29

The stay in the shelter shall be prolonged in accordance with the act under Art. 27 and may not be longer than the term for finalising the criminal procedure.

Art. 30

The status for special protection may be terminated prior to the elapsing of the term thereof by force of an act by the authorities under Art. 27 in the following cases:

(1) the individual has re-established contacts with the perpetrators of the crime for the investigation of which he/she had declared willingness to co-operate;

(2) the authority under Art. 27 finds that the willingness declared is untrue;

(3) there is a danger for the public order and the national security.

Art. 31

Granting the witness' protection under Art. 97a of the Penal Procedure Code shall not be considered an impediment for the individuals-subject to illegal trafficking of human beings to be granted as well the status of special protection under this Law.

Transitional Provisions:

§1. For the purpose of this law:

1. "Illegal Trafficking in Persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, regardless of their personal consent, by means of coercion, of abduction, of illegal deprivation of liberty, of fraud, of the abuse of power, of the abuse of the position of vulnerability or through giving or receiving or promising benefits to obtain the consent of a person having control over another person when carried out for the purpose of exploitation;

2. "Exploitation" shall mean the illegal use of people for debauchery, removal of organs, forced labour, for slavery or servitude;

3. "A child" shall mean any person less than 18 years of age.

4. "A victim" shall mean any person who has been a subject of illegal trafficking in human beings.

5. "A risk group" shall mean a group of individuals who due to their age, sex, social status or the geographic location of the region where they reside are potential victims to acts under §1.1.

6. "A risk region" shall mean a region inhabited by groups under §1.5.

Final Provisions:

§2. The implementation of the law shall be vested with the Minister of Justice, the Minister of Finance, Minister of the Interior, Minister for Foreign Affairs, Minister of Labour and Social Policy, Minister of Health and the Minister of Education and Science.

§3. This law shall enter into force on January 1st, 2004.