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## **SUBSTANTIVE EQUALITY AND NON-DISCRIMINATION IN BULGARIA**

### **SHADOW REPORT SUBMITTED TO THE CEDAW COMMITTEE FOR THE 52<sup>ND</sup> SESSION IN JULY 2012**

**Presented by the Gender Alternatives Foundation  
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## EXECUTIVE SUMMARY

The Team of the Gender Alternatives Foundation ([www.genderalternatives.org](http://www.genderalternatives.org)) works on pro-active research, education, legal and psycho-social counseling, campaigning and lobbying for legislative changes in the field of gender equality and women's rights. Violence against women and socio-economic rights of women make the main focus of its activities. Given the focus of its work and following its mission to achieve a balanced civil society in the Republic of Bulgaria, ensuring equal chances and equal representation of women and men and of different ethnic groups, in the public and private spheres, the Team prepared a Shadow report for the 52<sup>nd</sup> CEDAW Committee session in July 2012. The Team aims at using the report as a tool for holding the Government accountable for the implementation of the CEDAW as well as a tool for advancing women's human rights in the country.

The report covers six of the areas of concern outlined in the CEDAW Committee List of Issues and Questions<sup>1</sup>, namely: 1. Legal status of the Convention and legislative and institutional framework; 2. Traditional stereotypes; 3. Violence against women; 4. Education; 5. Health; 6. Disadvantaged groups of women. The report also provides a list of recommendations to be taken into account by the CEDAW Committee for the Concluding observations.

### I. Legal status of the Convention and legislative and institutional framework

1. No specialized training has been organized on the Convention, its Optional protocol and its General recommendations. None of the General recommendations has ever been translated officially in Bulgarian language. The Views of the Committee under *Communication No20/2008 – V.K. v. Bulgaria*, have not been translated as well.
2. It is only through the general educational process when students acquire some knowledge as to the existence and the legal status of the Convention in the national legal system. As for the professional, random training on European and International human rights law, through gender equality and antidiscrimination projects, is provided but mainly by the women's human rights organizations.
3. No information is available as to which Bulgarian authority is responsible for the implementation of the Convention; no mechanism for implementation and the Committee's recommendations in general, and under *Communication No20/2008 – V.K. v. Bulgaria* in particular, exists in the State party; no State will is expressed in order to create such, thus to ensure the implementation of the Convention itself.
4. Judging from the State submission under Rule 63 of the Rules of the CEDAW Committee, presented under the above communication, a victim of human rights violations for which the State is found in breach of its positive obligations under the Convention – after going through the ordeal of the national legal system and the proceedings before a competent human rights body - should be forced to go through yet another set of proceedings at national level, which does not even slightly suggest legal possibility to ask for implementation of the Committee's recommendations.
5. No specific legislation on gender equality is adopted by the Bulgarian Parliament, despite the human rights NGOs efforts and the recommendations of the CEDAW Committee, the Human Rights Committee and those under the Universal Periodic Review mechanism. Thus, no gender equality body is created in order to protect the rights and interests of the victims of gender based discrimination.
6. Victims of gender based discrimination do not often address their cases to the national courts and the Commission for Protection against Discrimination. In fact, they rarely seek judicial redress for the violations they suffer because of the well-known deficiencies of the legal system in Bulgaria, for which the State is still under regular review, every 6 months, of the European Commission under the Cooperation and

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<sup>1</sup> CEDAW/C/BGR/Q/4-7

Verification Mechanism on progress with judicial reform, the fight against corruption and the fight against organized crime.

## **II. Traditional stereotypes**

7. There is lack of a State adopted comprehensive approach to overcome traditional stereotypes regarding the roles of women in family and society, including political, legal and awareness-raising measures involving state officials and civil society as well as the Media.
8. Violence against women is a form of discrimination against women which is most related to cultural stereotypes. It is among the strongest expressions of gender stereotypes and at the same time is the tool used to maintain the defined roles of men and women in society. Therefore, the position of women in the family is the expression of the role attributed to them in the society.
9. The Protection against Domestic Violence Act does not recognize domestic violence as a gender-based violence which constitutes discrimination against women; the law does not recognize that domestic violence affects women in Bulgaria disproportionately and lessens and nullifies women's enjoyment of their human rights. Some of the procedures and norms of the Law contribute in practice to the perpetuation of this phenomenon by not treating it according to its specificity and according to the international law requirements.
10. The implementation of the PDVA in Bulgaria very often affirms the unequal position of women in society and, subsequently, in the family. The legal form is one of the main expressions of the social practice, the expression of the real relations of inequality of the two sexes. Law defines the character and creates the institutions of the social relations in the frame of which men and women act, the family acts. The legal system continuously reproduces a concrete ideological concept of the relations between the two sexes which can be defined as patriarchal ideology.
11. Despite that, in its 2010 Annual report, the Commission for Protection against Discrimination admitted that the stereotypes, deeply-rooted in the society, are often a serious obstacle for achieving equality between the sexes and stated that in many cases, the seemingly not harmful stereotyped behavior illustrates women and men as incapable and creates negative image leading to violation of their dignity and fundamental human rights, its practice proves that women cannot expect change in the social mentality soon and cannot rely on both the national courts and the commission their rights to non-discrimination to be effectively protected.
12. No specific legislation on gender equality is adopted by the State party. No specialized body is created to implement the national policy in the area of gender equality.
13. The National Strategy for Promotion of Gender Equality (2009-2015) does not provide a comprehensive approach to the issue nor specific steps to encourage gender equality, secured with the necessary financial means. No gender equality body exists. Non-governmental organisations are not included in the implementation of the strategy, which is a significant deficiency given the lack of knowledge on the topic on behalf of the representatives of the institutions and their need for capacity building in this area.
14. The National Plan for the Promotion of Equality between Women and Men (2012) also does not provide a comprehensive approach to overcome traditional stereotypes regarding the roles of women in family and society. It is not available on the Ministry of Labour and Social Policy webpage.

## **III. Violence against women**

### **A. Domestic violence**

15. Under the Penal Code, domestic violence is still not recognized as a separate crime.

16. Rape in a family context is not specifically recognized as a crime, thus no special support is offered for the women victims of rape, including counseling and rehabilitation.
17. According to Article 161 (1) of the Penal Code, allegations of domestic violence must be initiated upon a complaint of the aggrieved in cases of light or average bodily harm.
18. Although that in April 2009, the violation of a protection order under the PDVA was criminalized (Art. 296, Penal Code), and was made punishable by imprisonment or a fine, there are only few cases initiated by the Prosecutor's office in that regard.
19. The criminal prosecution of domestic violence cases is generally limited to cases where the offender violates the administrative order for protection (Art. 296, paragraph 1 of the Penal Code). Thus, there is low number of cases of domestic violence that are actually brought to justice and sanctioned under the Penal Code.
20. The Protection against Domestic Violence Act was enacted in March 2005. It provides for administrative measures in cases of domestic violence. The Law's subsequent amendments (December, 2009) have been approved thanks to the efforts of the women's NGOs. One of the most important amendments has been the provision for national financial support for NGOs activities to combat domestic violence and assist victims. However, no money was provided for its implementation in 2010. The amount of BGN 500 000 (250 000 EUR) was provided for 2011 – humiliating amount if international standard had to be followed. For the current year - 2012, no financial support is ensured for the NGOs so far.
21. The practice so far, few years after the PDVA was adopted, reveals that besides the positive effect of the new legislation, there are a number of problems arising in the course of work within the established legal framework. Women are still afraid to complain about domestic violence taking into account the stigma that will mark them and the general negative reaction of the society which does not accept "family matters" to be discussed in public, thus they often do not seek judicial protection or, even if they apply to the court, the latter does not offer them adequate protection due to the shortcomings of the Law and the inadequacy of some of its procedures.
22. There is lack of clarity in the PDVA as to which of the parties wears the burden of prove in domestic violence cases which is incompatible with the State's duty to provide protection against domestic violence and is discriminatory in that the law's shortcomings impact disproportionately on women.
23. The provision of Article 10, paragraph 1 of the PDVA, stipulating for a one-month time limit for applying for court protection, places undue administrative and legal burden on victims of domestic violence.
24. The Police can neither issue emergency protection orders nor initiate proceedings under the PDVA.
25. The State does not legally recognize the specialized services for domestic violence victims as social services.
26. The State does not offer adequate support for women victims of domestic violence as there is insufficient number of crisis centers in the country.
27. The State does not adopt and/or implement and periodically review and analyse its national legislation to ensure its effectiveness in eliminating violence against women, emphasizing the prevention of violence and the prosecution of offenders.
28. No mandatory training is provided for judges, lawyers and law enforcement personnel on the application of the PDVA.
29. There is lack of State funded and supported research on prevalence, causes and consequences of gender based violence.
30. There is lack of official statistics on the number of domestic violence cases – both criminal and civil, their prevalence and pervasiveness.

## **B. Trafficking and exploitation of prostitution of women and girls**

31. Although under the Criminal Proceedings Code, the victims of trafficking have the right to be legally represented during the criminal proceedings both in their capacity of civil claimant and witness (Articles 75 (1) *in fine* and 122 (2), the investigation and prosecution authorities do not inform the victims of their right to be legally represented.
32. Although the Victims' Assistance and Financial Compensation Act provides explicitly for free legal aid to victims of trafficking if "*they do not have financial means to pay an attorney, wish to have one and it is in the interest of justice to have one*" (Article 23 (2) of the Legal Aid Act in conjunction with Article 10 of the Compensation Act), there has not been any case documented where a victim of trafficking has requested free legal aid.
33. Article 73 (1) of the Criminal Proceedings Code imposes on the court and prosecution authorities a duty to inform the victim of her right to file a claim for compensation of the damages caused as a result of the crime. Pursuant to article 84 (1), the victim may file, in the course of the trial, a civil claim for compensation of the moral and non-moral damages caused and has the right to join the trial as a civil claimant.
34. Although the prosecution and court authorities have a statutory obligation to inform the victims about their right to take part in the trial as civil claimants, it most often remains unclear for the victims what the substance of this right is. The victims do not have information of the reasonable amount of compensation to claim and the appropriate evidence to adduce. Most importantly, the victims are unaware of the possible means to guarantee the actual payment of the compensation awarded, after the verdict becomes final.
35. The prosecution authorities hardly ever request preliminary measures aimed at guaranteeing the payment of the fine (and possibly the confiscation) which the trafficker will be obliged to pay the State under the final verdict. Such a preliminary measure would benefit the victim as well, for the collection of the compensation, which the trafficker will be obliged to pay her, under the same verdict.
36. If the victim does not file a compensation claim before the criminal court or considers that the compensation awarded does not cover all damages, the victim disposes of another option, namely to claim compensation under the Obligations and Contracts Act to a civil court and the case follows the rules of the Civil Proceedings Code. However, the chances that the victims learn about the possibility to claim compensation under the Civil Proceedings Code are insignificant.
37. Pursuant to Article 3 of the Victims' Assistance and Financial Compensation Act, financial compensation may be awarded to victims who survived trafficking and have suffered non-moral damages. The law does not provide for financial compensation of moral damages. It only provides for financial compensation of a list of pecuniary damages, enumerated in Article 14. However, most of them are irrelevant for the crime "human trafficking".
38. In addition, the maximum amount of financial compensation provided in the law - EUR 2 500 - is insufficient, especially on the background of the value of the assets acquired by the State from the traffickers.

#### **IV. Education**

39. Although the Bulgarian government has adopted many documents in the past 15 years which introduce policies and programs for development and improvement of economic, social and health situation of Roma people, it must be noted that the country's second biggest minority group is still at the very bottom of all spheres of social organization. The progress in educational reforms is no exception despite the presence of these political frameworks.
40. There is a tendency for increasing the level of illiteracy among Roma.
41. Data collection is a whole discourse in figuring out the number of Roma population in Bulgaria. From here – the exact number of Roma students both in school and

university is also uncertain. The data from the National Statistical Institute remains central in defining the number of Roma people in Bulgaria, and in particular the enrolment and dropout rates of Roma girls and boys. However, it is gender neutral. In addition, the data from census 2011 includes no statistics on education, minorities and gender.

42. When taking into account the gender dimension, the most thorough data is provided by the NGO sector. Muslim Roma girls and boys have the biggest gender difference when it comes to dropping out of school.
43. Numerous reports explain the dropping out of Roma students and in particular girls with reasons which could be found both in the Roma community, the Bulgarian educational system and social prejudices towards the minorities. Some of the major problems they face are poverty and patriarchal traditions which urge girls to stay at home and help the household, early marriages, parents' low level of education and lack of understanding the assets of education, no knowledge on the national language, children being raised by grandparents because of parents working abroad, bad infrastructure.
44. The reports also outline the impact of the economic crisis which has affected the 2012 bridal fair and one could have found a girl cheaper. Among the "colorful setting", media also bring to light another concern, namely fears of loss of virginity as a reason for girls to drop out of school. Virginity is also considered the highest virtue of a future bride and a prerequisite for receiving a good price for her.
45. Bulgarian educational system has also a contribution to the dropping out of school of Roma children. According to experts, despite the presence of many political frameworks, there is no complete governmental policy on the processes of integration and desegregation of Roma. The bigger part of the strategies and other related documents have been formally adopted without any plans for their realization. The desegregation policy of Roma in schools is done mechanically and has no effect.
46. Among the educational reasons the major issues are lack of appropriate studying materials for Roma students; lack of subjects in school focusing on ethnic culture; teachers who are not sensitive to Roma culture and traditions.
47. Parallel to that, Bulgarian schools do not involve parents in school activities and do not lead a dialogue with them. The measures they apply to "motivate" them to send their children to school are mainly restrictive for example, by cutting welfare when their children miss out classes. Social prejudices to minority groups are also an obstacle to the integration of Roma.

## V. Health

48. Most of the services available for young people are either vertical or sectorial and do not take into account diverse needs and fail to cover simultaneously different sectors. Further, there has been no coordination mechanism for referral.
49. In most of the municipal districts the services directed towards young people are not priority for the local decision makers.
50. Despite many positive examples and good practices, among which there are the attempts to introduce compulsory sexuality education in schools and to improve the access to youth services and information, the Bulgarian health, social and educational systems are still not flexible enough to respond to the needs of the Bulgarian youth.
51. A detailed analysis of a Summary Report on the access of young people to sexual and reproductive health services unambiguously shows that the young people aged 10-14 from ethnic minorities who live in the rural parts of the country, as well as the persons who are excluded from the social security system, seek and receive limited number of services. The research shows that the typical group that benefits from these kinds of services comprises of young people aged 15 – 24 who define

themselves as Bulgarians and live in the cities, have financial resources and a social security.

52. The existing social and economic crises and the lack of sufficient perspectives for young people's future realization contribute to risky behavior in regard of their social and health wellbeing.
53. 60% of the newly registered HIV/AIDS infections in Bulgaria are of young people between 15-29 years old. 21% of the young people aged 16-24 did sex with more than one partner within a month. Half of the Bulgarian youths did their first sex intercourse on 16 years or younger as 39% of them did not use condoms.
54. The level of knowledge on HIV/AIDS is low. According to the UN index on knowledge on HIV/AIDS, the level of awareness in Bulgaria is only 23%. At the same time 8% of the Bulgarian youth has active sexual life before the age of 15. A youth website reveals that Bulgaria ranks second after Russia with high levels of pregnancies and births between the ages of 15-19 years. In 2009, more than 10 000 girls have given birth before turning 20 as nearly 500 of them have been under 15 years of age.
55. Sexuality education is not a compulsory and separate subject in the Bulgarian school curricula.
56. School environment is not suitable for young people to acquire comprehensive sexuality education and the respondents in a Summary report do not even rank it among their reliable sources of information.
57. There is no centralized and unified idea about what sexuality education on contraception, HIV and STIs prevention should be like. There are existing policies but they remain out of the practice of the educational system. The services and education on these topics is mainly provided by the NGO sector.
58. Reports on verbal and physical abuse of women by hospital staff during abortion and delivery are very common in Bulgaria, albeit primarily oral. Therefore, they leave very little trace. Socially, the most typical and omnipresent ill-treatment of labouring women, such as shouting at them, making sarcastic and vulgar remarks, forbidding them to scream, and slapping them, is widely accepted as the natural way of birth.
59. The labouring women are expected to be apologetic and docile. Disobedience may be punished by inflicting unnecessary pain by staff during delivery.
60. Roma women are segregated and ignored.
61. Similar experiences are shared by women who suffered miscarriages or underwent abortions. The women are approached with continuous requests for money during the miscarriage and while in pain; they are threatened, coerced, and shamed. Some report that during abortion, no nurse was present and only male staff.
62. There is no quantitative data whatsoever in respect of the abuse suffered by women in maternity wards in Bulgaria. There is no comprehensive and specialized research or investigation of this issue, nor are there any successful attempts at strategic litigation as ways of addressing the problem and creating publicity.

## **VI. Disadvantaged groups of women**

63. Bulgarian authorities and the courts fail to consider asylum applications in the context of possible gender-related persecution, which constitutes discrimination. The refusal of the State to comply with the modern standards of asylum and refugee law in respect of women's rights to equal treatment is a serious violation of its procedural obligations.
64. Disadvantaged social categories are exposed to risk of social exclusion.
65. Women victims of gender based violence and discrimination, young women, minority women, rural women, foreign women and migrant women tend to be the most economically dependent in Bulgaria, the most isolated from the society, the most exposed to danger of losing their children in judicial proceedings, they are at risk to be extradited and/or expelled from Bulgaria.

66. The reasons being: language barrier; lack of legitimate personal documents/visas; culture differences; religious reasons; restrictive bilateral legal agreements on family matters; family constraints and traditional norms regarding women's and gender roles; lack of information regarding legislation on equal opportunities and non-discrimination; difficulties in reconciling family and work due, among others, to the lack of accessible social services of caring of dependent family members; illiteracy or lack of proper education; lack of self-confidence and esteem cultivated; deceases preventing them from social communication and labour realization; minority marginalization; discriminatory attitude of employers; negative image in the Media, etc.

## VII. Recommendations

67. The following recommendations cover all six areas of concern outlined in the report and could contribute to the CEDAW Committee Concluding observations.

- Ratify the Convention on preventing and eradicating all forms of violence against women, including domestic violence (Convention No210 of the Council of Europe);
- Ratify Protocol 12 to the European Convention on Human Rights and Fundamental Freedoms;
- Take all the necessary measures to disseminate knowledge of the provisions of the CEDAW, its Optional protocol and its General Recommendations among judges, prosecutors and lawyers to enable them to invoke and apply the Convention in relevant cases;
- Develop additional policies for effective gender equality;
- Adopt and implement specific legislation on equality between men and women, thereby officially recognize the particular nature of discrimination against women and adequately address it;
- Adopt comprehensive approach to overcome traditional stereotypes regarding the roles of women in family and society, including political, legal and awareness-raising measures involving state officials and civil society as well as the media;
- Classify all forms of violence within the family as criminal offences (in particular, amend Article 161, paragraph 1 of the Penal Code);
- Classify explicitly rape within marriage as a criminal offence;
- Classify domestic violence as a criminal offence;
- Amend article 10 (1) of the PDVA so as to remove the one-month time limit and to ensure that protection orders are available without placing undue administrative and legal burdens on applicants;
- Ensure that the provisions in the PDVA ease the burden of proof in favour of the victim by amending the Law accordingly;
- Provide possibility for the Police to initiate proceedings under the PDVA in cases where emergency protection orders are needed;
- Legally recognize the Counseling centers of the NGOs providing services for domestic violence victims (legal counseling, psycho-social counseling, work with couples, job search consultancy and work with the perpetrators), as social services;
- Adopt a methodology for the work of the Counseling centers in order to ensure equal protection of the victims throughout the country.
- Ensure that a sufficient number of state-funded crisis centers are available to victims of domestic violence and their children, especially in the small cities, villages and remote places;
- Provide shelter without bureaucratic proceedings in the process of application and ensure the crisis centers are not of residential type in order not to re-victimize the people in need forcing them into yet another dependency;
- Adequately fund and place the responsibility for the management of the domestic violence shelters, hotlines and other related services with NGOs;

- Provide adequate and consistent funding to non-governmental organizations working against domestic violence;
- Make a clear financial commitment to meeting the objectives in the PDVA;
- Ensure that domestic violence cases – both criminal and civil, are systematically investigated, that those responsible are brought to justice and punished, and that adequate compensation is provided to the victims;
- Provide mandatory training for judges, lawyers and law enforcement personnel on the application of the PDVA, including on the definition of domestic violence and on gender stereotypes;
- Continue to work to increase the coordinated community response between police, prosecution, courts, social service, health care providers, NGOs and Media in order to ensure effective implementation of the PDVA, including through adopting a Coordinated mechanism in cases of domestic violence;
- Vigorously pursue its efforts to prevent domestic violence, in particular domestic violence against women, and encourage the victims to report the cases to the authorities;
- Initiate regular gender sensitive monitoring of domestic violence cases – both criminal and civil - and analyse the reasons why they are rarely reported;
- Ensure State funded and supported research on prevalence, causes and consequences of gender based violence;
- Adopt and/or implement and periodically review and analyse its national legislation to ensure its effectiveness in eliminating violence against women, emphasizing the prevention of violence and the prosecution of offenders.
- Gather and provide official statistics on the number of complaints, prosecutions and convictions and the sentences imposed in cases of domestic violence, disaggregated by sex and age of victims and perpetrators;
- Gather and provide official sex-disaggregated statistical data on the number of protection orders issued under the PDVA per year;
- Train the investigation and prosecution authorities to inform the victims of trafficking in human beings of their right to be legally represented;
- Draft a Code of Conduct for Hotline Consultants for victims of trafficking in human beings, including a recommendation to inform the victims of their right to have an attorney in the criminal proceedings;
- Establish, within the bar associations, separate registers for attorneys who wish to provide free legal aid to victims of trafficking in human beings in the criminal proceedings;
- Train the investigation and prosecution authorities to inform the victims of trafficking in human beings properly, in oral conversation and in an understandable language, the substance and the consequences of their right to claim compensation;
- Put in visible places in the buildings of the investigation offices, and also in hospitals, information flyers explaining the victims' procedural rights;
- Create TV campaigns against trafficking in human beings, taking into account the considerable number of illiterate women among the victims;
- Amend the Compensation Act as to include financial compensation for moral damages;
- Increase significantly the budget allowed for compensations, granted by the State, accumulating it from the assets, which the State acquires from the traffickers on the basis of final court decisions.

- Consolidate the motivational background for education and training of minority girls, taking into consideration the differences within the vulnerable groups;
- Adopt and implement a countrywide preventive mechanism for girls under the legal age for marriage through community awareness-raising strategies focusing on the consequences of the practice of early and informal marriage arrangements, and on the rights and duties of the persons involved;
- Adopt legislation ensuring information and access to primary and specialized outpatient assistance for youth;
- Build capacity among the youth in order to use effectively the available youth services in the primary and specialized outpatient assistance;
- Create coordination mechanism for referral;
- Ensure that in the municipal districts the services directed towards young people are of priority for the local decision makers;
- Introduce compulsory sexuality education in schools and improve the access to youth services and information;
- Up-date the existing policies in the educational system in the areas of sexual and reproductive health and rights;
- Investigate the issue of abuse of women in hospitals through direct visits;
- Enforce penalties for hospital staff who abuse women during childbirth, miscarriage or abortion;
- Carry out training of hospital staff in ethics of assisting childbirth and the consequences of violations;
- Introduce measures to prevent extortions;
- Introduce supervision and enforce accountability of the medical staff;
- Introduce legislative changes to include rules about gender-related persecution into the Asylum and Refugees Act;
- Produce manuals on gender-related issues in asylum and refugee law, organize trainings, conferences and seminars for judges, prosecutors, lawyers, and the state agency employees;
- Promote social inclusion and economic empowerment among victims of gender based violence and discrimination, young women, minority women, rural women, foreign women and migrant women, based on the identification and recognition of their particular needs and interests;
- Promote an inclusive and cohesive society which transcends differences in terms of ethnicity, gender, age, nationality and social status;
- Eliminate discriminatory practices based on criteria such as ethnic origin, gender, age, nationality and social status;
- Pursue its efforts to eradicate stereotypes and widespread discrimination against Roma women and girls by, among other things, increasing awareness-raising campaigns that promote tolerance and respect for diversity;
- Provide accurate information on the status of women in rural areas to assist policy-makers as well as advocates to improve the status of women and enhance their contribution to local development;
- Create and consolidate cooperation among the vulnerable women, their communities and the society as a whole;
- Adopt measures to promote equal access to opportunities and services in all fields and at all levels through appropriate actions in order to address existing inequalities;
- Adopt measures reconciling professional life (career) with family life through affirmative actions supporting women to find a stable job;
- Raise occupational ratio among the categories exposed to the risk of social exclusion;

## INTRODUCTION

### 1. Short GAF introduction

**68. The Gender Alternatives Foundation (GAF)** was established on 30.11.2011 by the Team of the former branch of the Bulgarian Gender Research Foundation in Plovdiv, due to the perceived needs for acquiring operative freedom, including financial and organizational independence. The registration was also necessary in order for the Team to continue to offer specialized social services in the region of Plovdiv, as in the last 10 years, and to be in compliance with the existing national legal framework.

**69.** Since 13.12.2011, GAF is a **member of the National Alliance against Domestic Violence ([www.alliancedv.org](http://www.alliancedv.org))**.

**70. GAF Mission:** To achieve a balanced civil society ensuring equal chances and equal representation of women and men and of different ethnic groups, in the public and private spheres.

**71. GAF focus of work:** The Team works on pro-active research, education, legal counseling, campaigning and lobbying for legislative changes in the field of gender equality and women's rights. Violence against women and socio-economic rights of women make the main focus of its activities.

#### **72. Main activities:**

- In the period 2002-2003, the Team worked on a draft legislation related to women's rights in Bulgaria: a Draft for a Protection against Domestic Violence Act was prepared and the law was adopted in March 2005; a Draft Equal Opportunities Act of Women and Men was elaborated but a specialized gender equality law is still missing in the country; a Draft for a Protection against Discrimination Act was prepared and the law is in force since 2004; a Draft Act for combating trafficking in human beings was written and the law entered into force in 2004;
- Since 2002, the Team has been providing legal aid for women victims of domestic violence;
- Since 2004, the Team has been working with partner organizations on the implementation of the Protection against Domestic Violence Act through the application of two main approaches - interdisciplinary support for victims of DV (legal, social, psychological support) and coordinated community response to domestic violence;
- Since 2005, the Team has been part of a programme for combating discrimination on different grounds providing legal aid and support of victims of employment discrimination as well as gender based discrimination and multiple discrimination;

**73. GAF Team:** a network of 6 lawyers (4 women and 2 men), 2 psychologists, 2 philologists one of whom is a journalist and PR of the GAF. The Team has been specially trained to work with the Bulgarian legislation on violence against women and discrimination as well as on the use of the regional and international instruments for human rights protection such as the ECHR, CEDAW, ICCPR, EU law.

### 2. The Shadow report as an advocacy tool

**74.** The GAF's Team has gained recognition as one of the leading groups of experts in Bulgaria throughout the 10 years of working with and for women, especially in the Plovdiv region. Taking into account the GAF's mission as well as the experience of its members, the Team was motivated to prepare a Shadow report for the 52<sup>nd</sup> session of the CEDAW Committee when the Bulgarian combined 4<sup>th</sup> to 7<sup>th</sup> periodic report is to be considered.

**75.** The process of preparation of the Shadow report, it was thought, would improve the Team's professional development in areas such as: how to raise critical questions concerning women's human rights and women's access to justice in the contemporary context in Bulgaria and in the region; how to raise awareness about UN

conventions and enforcement mechanisms with emphasis on their application in the specific context of CEE/NIS, about UN System of human rights protection and its effectiveness, etc.

- 76.** Additional reason for the preparation of the Shadow report is the pending process of implementation of the CEDAW Committee recommendations under *Communication No20/2008 – V.K. v. Bulgaria*, which is the first Bulgarian case presented before the Committee. The case originates in Plovdiv and is led by the GAF's Managing director.
- 77.** Further, the report could be used in order to disseminate knowledge of the provisions of the CEDAW, its Optional protocol and its General Recommendations among judges, prosecutors and lawyers to enable them to invoke and apply the Convention in relevant cases.
- 78.** Furthermore, it could be used in order to increase the coordinated community response between police, prosecution, courts, social services, health care providers, NGOs and Media in order to ensure effective implementation of the national legislation related to women's human rights protection.
- 79.** The Team aims at using the report as a tool in order to force the government to implement the CEDAW Committee's previous recommendations adopted in its previous Concluding Observations (COBs), its recommendations under *Communication No20/2008*, and the recommendations which will be adopted during the session.

## CHAPTER 1. LEGAL STATUS OF THE CONVENTION AND LEGISLATIVE AND INSTITUTIONAL FRAMEWORK

### 1.1. Measures taken by the State to raise awareness about the Convention, the Optional Protocol and the Committee's general recommendations

- 80.** Only general information is provided by the Bulgarian State on the measures taken to raise awareness about the Convention, the Optional Protocol and the Committee's general recommendations: no examples are provided in order to support the statement that a number of gender equality and antidiscrimination projects are implemented. There is no information as to the number of these projects, the years of their implementation, who implemented them, were they financially supported by the State, what were the outcomes of the projects. There is no information as to what kind of brochures were prepared, how, when and where were they disseminated. There is no information as to what websites were developed: no links were provided to them although there is a statement that those websites are continuously updated.
- 81. In conclusion**, no specialized training has been organized on the Convention, its Optional protocol and its General recommendations. None of the General recommendations has ever been translated officially in Bulgarian language. The Views of the Committee under *Communication No20/2008 – V.K. v. Bulgaria*, have not been translated as well. It is only through the general educational process when students could probably learn about the existence of the Convention and other International human rights treaties as European and International human rights law is not thoroughly thought in the universities.

### 1.2. The case-law of the Courts under the Protection against Discrimination Act (PDA), related to sex-based discrimination and sexual harassment

- 82.** No information is provided by the Bulgarian State on the number of complaints decided by the courts under the Protection against Discrimination Act; the outcomes of the cases decided, if any; the sanctions imposed, if any.
- 83.** In that respect, an example should be given to the CEDAW Committee, namely, in March 2007, the Sofia District Court ruled that gender-based admission quotas for the major in Theology at the Sofia University constitute direct discrimination, as they deprive the representatives of one of the sexes (females) of admission as students, despite their better test results vis-à-vis the representatives of the other sex and only on the grounds of their sex.
- 84.** In May 2007, however, another composition of the same court ruled differently on an identical case for the major in Law at Sofia University. The court held that the quotas are "*necessary measures in reaching a gender balance between the students, although it acknowledged that "the division by quota has hindered the admission of women who have received higher admission grade-point average than the minimal for the men"*".<sup>2</sup>
- 85. In conclusion**, because of controversies such as the ones presented above, victims of discrimination do not address their cases to the national courts. In fact, they rarely seek judicial redress for the violations they suffer because of the well-known deficiencies of the legal system in Bulgaria, for which the State is still under regular review, every 6 months, of the European Commission under the Cooperation and Verification Mechanism on progress with judicial reform, the fight against corruption and the fight against organized crime.

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<sup>2</sup> Bulgarian Helsinki Committee, "Human Rights in Bulgaria" (Annual report 2008), section 12 – Protection against Discrimination: [http://www.bghelsinki.org/upload/resources/Humanrights2008\\_en.pdf](http://www.bghelsinki.org/upload/resources/Humanrights2008_en.pdf). See also section 9 – Protection from Discrimination in the 2007 Annual Human Rights Report.

### 1.3. The case-law of the Commission for Protection against Discrimination under the PDA, related to sex-based discrimination and sexual harassment

86. The Commission for Protection against Discrimination presented by the State as a well-established, effective and independent body for prevention, control and protection against discrimination, including on the grounds of gender, is in fact a relatively new body which was elected, in contradiction with the Protection against Discrimination Act's time-frame requirements, in May 2005. The Law entered into force on 01.01.2004 and, according to § 2 of its Transitional and Concluding Regulations, the Commission was due to be created in three months' time. In reality, the Commission was set up more than a year later. In addition, the members of the current Commission are working out of their mandate as the term for serving is 5 years (Article 41, paragraph 2 of the PDA). The Commission was set up in May 2005 and new members were supposed to be appointed and elected in May 2010. It did not happen.
87. Second specialized permanent chamber of the Commission deals with cases related to discrimination on the grounds of sex, human genome and protection of the right to labour.
88. No cases on gender based discrimination were initiated in 2005. 3 cases were initiated in 2006. Direct discrimination was found in only 1 of the cases. It is one of the few positive decisions of the Commission concerning gender discrimination (No29/04.07.2006). The case is related to systematic unequal treatment at work place. 10 cases were initiated, alleging discrimination on the ground of gender, in 2007. Most of them were related to enjoyment of the rights in the sphere of labour and education. Agreement was reached in one of the cases; direct and indirect discrimination was found in another case. The same was the number of cases in 2008 - 10. The same were the allegations – related to inequality in enjoyment of labour rights and the right to education. 6 cases were initiated in 2009. In 2010, the number was the same. Direct discrimination was found in only 1 of the cases. There is no information available for 2011.
89. *"The CPD does not conceptualize correctly the statutes of indirect discrimination. In some cases, it deems as indirect discrimination behavior that is in fact direct discrimination – less favorable treatment on the basis of a protected attribute.[...] Such an interpretation is fundamentally wrong and in reality makes the indirect discrimination meaningless as a separate statute. [...] In some cases the CPD explicitly rules that for the discriminator to be held responsible, his or her actions need to be intentional. [...] The requirement that the discrimination should be intentional in order to constitute a violation of the law illegally deprives the victims of protection in many cases when the exclusion or the restriction is not due to a desire of the discriminator to harm the victim, but to deeply rooted (unrealized) stereotypes on the place and the roles of the people depending on their sex, age, health condition and other protected attributes. [...] In some cases the CPD unjustly requires proof for the allegations in order to move on a complaint."*<sup>3</sup>
90. As a result of the fundamentally wrong perception of the CPD of the "intent" in cases of discrimination, including on the ground of gender, and on the need to provide evidence of discrimination performed in order to move a complaint and to shift the burden of proof on the respondent, in cases of discrimination based on sex, it would hardly be possible for the victims to prove discrimination. Furthermore, it should be noted that the procedure under the Protection against Discrimination Act does not

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<sup>3</sup> Bulgarian Helsinki Committee, "Human Rights in Bulgaria" (Annual report 2008), section 12 – Protection against Discrimination:  
[http://www.bghelsinki.org/upload/resources/Humanrights2008\\_en.pdf](http://www.bghelsinki.org/upload/resources/Humanrights2008_en.pdf). See also section 9 – Protection from Discrimination in the 2007 Annual Human Rights Report.

provide the victims of gender-based violence with adequate protection and redress in accordance with the “*due diligence*” standard.

- 91. In conclusion**, it should be stated that although the PDA requires the Courts and Commission to ensure gender equality (Articles 2, 4, 40), their practice proves that women cannot expect change in the social mentality soon and cannot rely on both the court and the specialised body their rights to non-discrimination to be effectively protected.

*For more details, please refer to the paragraph related to the measures taken to eliminate traditional stereotypes regarding the roles and responsibilities of women and men in the family and in society;*

#### **1.4. Implementation of the CEDAW Committee recommendations under Communication No20/2008 – V.K. v. Bulgaria**

- 92.** In regard with the implementation of the CEDAW Committee recommendations under Communication No20/2008, it should be stated that, given the State submission dated 5 March 2012<sup>4</sup>, no information is available as to which Bulgarian authority is responsible for the implementation of the Convention and the Committee’s recommendations; no mechanism for implementation of the Committee’s recommendations exists in the State; no State will is expressed in order to create such, thus to ensure the implementation of the Convention itself.
- 93.** Instead of presenting information on the concrete recommendations of the Committee related to the individual measures which should be taken to protect the victim and to ensure her fair and adequate compensation (§9.16, “a” of the Views), the State pointed to a special Law on Liability for Damage Incurred by the State and the Municipalities, thus purposefully misleading the members of the Committee providing them with:
- A citation of a Law which is being amended twice after the year of the citation – 2006: in April 2008 (SG 43 of 29 April 2008) and in March 2009 (SG 17 of 6 March 2009);
  - A Law which does arrange, in Article 2 (1), 7 hypotheses for seeking State liability because of acts of legal authorities – investigation’s office, prosecutors’ office and the court – but no hypotheses exist related to the present case. The legal hypotheses are: 1) arrest, when it is held to be illegal; 2) accusation in crime, when the proceedings end with not guilty verdict; 3) criminal punishment, when the proceedings end with no guilty verdict; 4) forcible medical treatment, when it is held to be illegal; 5) administrative court measure, when its decision is overturned; 6) implementation of criminal punishment, when it is above the time limit or type of punishment; 7) use of special investigation methods;
  - A citation of a norm of the Law – Article 7 - which relates to the local competences of the courts to hear cases under the special legislation.
- 94.** Judging from the State submission, a victim of human rights violations for which the State is found in breach of its positive obligations under the CEDAW – after going through the ordeal of the national legal system and the proceedings before a competent human rights body - should be forced to go through yet another set of proceedings at national level, which does not even slightly suggest legal possibility to ask for implementation of the Committee’s recommendations.
- 95.** Thus, after the end of the proceedings before the CEDAW Committee, Ms. V.K. was left without any support by the State which, through its major ministries (the Ministerial Council of the Republic of Bulgaria, the Ministry of Justice, the Ministry of the External Affairs and the Ministry of Labor and Social Policy) – supposedly

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<sup>4</sup> The author of the Communication is the Managing director of Gender Alternatives Foundation who legally represents Ms. V.K.

responsible for the implementation of the Convention – in reality, refused to put in practice the recommendations of the Committee.

96. Considering the number of women victims of domestic violence, as it has been presented in Communication No20/2008, it is difficult to understand and accept the State reaction in the particular case.
97. As to the general recommendation of the CEDAW Committee, it should be stated that, instead of presenting information on the concrete recommendations of the Committee related to Article 10 (1) of the Protection against Domestic Violence Act and the norms related to the burden of proof in that legal act, the Bulgarian authorities – with no clarity which one exactly – presented a resume of the law and its amendments: definition, parties, type of protection measures. No information is presented as to which amendment they refer to because such took place in 2009 and in 2010. The authorities also presented a brief note on the amendments of the Penal Code. Further, they presented brief information on the designation and appointment – with no clarity is there designation or appointment, which is different according to the Bulgarian labor legislation and the Ministry of the Interior Act – of regional domestic violence coordinators who collect data on the protection orders under the LPADV.
98. The State did not even comment the concrete recommendations of the Committee, rather it made an attempt to prove that the Bulgarian law in the area of protection against domestic violence is effective the way it is at the moment – despite the Committee's Views. Such attitude only comes to show that all the measures the Government has taken to address this phenomenon have primarily involved adoption of some legal norms but no effort has been made in order to research and analyze the causes, nature, seriousness and consequences of violence against women and the effectiveness of the measures adopted. In addition, the Committee's competences and its work have been completely disregarded. Thus, no will has been expressed to ensure the application of the Convention in the country.
99. In addition, instead of providing information as to what is the State doing in order to implement the Committee's recommendations to ensure that sufficient number of state-funded shelters are available for domestic violence victims and their children, the submission briefly presents general information on the number of crisis centers in the country in 2011. No information is given as to which ones are state-funded; for how long they exist; where are they located; how many people were sheltered; how many people did not manage to be sheltered; gender-disaggregated statistics in that regard, etc. No information is available on the website of the Agency for Social Protection (ASP) about the social services provided in the country, including for the victims of domestic violence.
100. Further, instead of providing information as to what is the State doing in order to implement the Committee's recommendations to provide support to NGOs offering shelter and other specialized services to the victims of domestic violence, the submission briefly presents the legal norm requiring the State to ensure financial means for the work of those NGOs and lists several of them – even not the most active in the country. No information is provided as to: are all the services for domestic violence victims recognized as social services; the date of the adoption of the norm stipulating that financial support should be provided by the State; is the support provided on regular basis; the amount ensured by the State – on yearly basis; the NGOs which were supported; the services that were supported; the outcomes of the support; the financial situation in 2012.
101. Furthermore, instead of providing information as to what is the State doing in order to implement the Committee's recommendations to provide mandatory training for judges, lawyers and law enforcement personnel on the application of the LPADV, including on the definition of domestic violence and on gender stereotypes, as well as appropriate training on the Convention, its Optional Protocol and the Committee's general recommendations, in particular general recommendation No. 19, the State presented a brief note how the education of the magistrates is organized.

102. In fact, there is no such thing as “mandatory training” under LPADV – whatever that means – for judges, lawyers and law enforcement officials. Otherwise, the State could have provided the Committee with information as to which educational act or programme or project has in mind when making such a statement.
103. As it has been stated above, no training is organized on the Convention, its Optional protocol and its General recommendations – none of the recommendations is even translated officially in Bulgarian language. The Views of the Committee are not translated as well.
104. Last but not least, the name of the victim was published on the ASP website as well as in the Responses to the CEDAW Committee List of Issues and Questions although the Committee granted her specific protection through a hidden identity and guaranteed the confidentiality of her statements.
105. Thus, the State submission proves the lack of understanding of the specific nature of domestic violence, the lack of understanding of its roots and causes, the lack of understanding of the behaviour and vulnerability of the victims, the lack of understanding of the need the victim to be immediately protected and the perpetrator to be adequately punished as an expression of the State will to stop violence against women and to clearly state that violence – in whatever form and for whatever reason – is unacceptable and will not be excused and tolerated as the norm in the society but will be harshly punished and prevented, as the international legal obligations of Bulgaria require.
106. **In conclusion**, the overall lack of responsibility as to the Bulgarian obligations under the Convention is clearly visible as is the lack of respect towards the work of the CEDAW Committee, its Views and Recommendations; the lack of respect towards the work of the NGOs dealing with violence against women in Bulgaria; the lack of respect for the lawyers working in the area of women’s human rights protection; and, most of all, the total lack of respect for the victims of domestic violence in the State – judging from the content of the State submission.

#### 1.5. Steps taken by the State to adopt specific law on gender equality

107. During the consideration of the Second and Third periodic reports of the Republic of Bulgaria, the CEDAW Committee already expressed concern that no strong national machinery on gender issues exist in the country. Thus, it recommended the State to set up appropriate national machinery for the promotion and protection of human rights.
108. Considering the third Bulgarian periodic report, the Human Rights Committee expressed concern that no specific legislation has been adopted on equal opportunities between women and men and recommended the State to adopt and implement such, thereby officially recognizing the particular nature of discrimination against women and adequately addressing the problem.
109. The Government inadequate actions and policies towards achieving gender equality were sanctioned on 4 November 2010 when Bulgaria was considered under the Universal Periodic Review mechanism (UPR). Several states asked questions related to gender equality (§§48, 68, 73). No answer was provided in that respect (§76) Accordingly, a number of recommendations were addressed to the State to consider the adoption of affirmative actions in order to accelerate equality for women in practice (§§ 80.34-80.35., 80.37.-80.38, 80-109.).
110. Up until now and despite human rights NGOs efforts and the recommendations mentioned above, there is no specific legislation on gender equality adopted by the Bulgarian Parliament.
111. A Draft Equal Opportunities Act of Women and Men was presented before the Bulgarian Parliament in 2002. It was giving elaborate definition of what constitutes gender discrimination and what constitutes direct and indirect gender discrimination. It was also outlining special statutory measures related to pregnancy and maternity

protection as well as affirmative actions designed to guarantee gender equality. The Draft provided for institutional mechanism for equal opportunities and the advancement of women as well as a national consultative body. The Draft was rejected on 3 of April 2002. Second Draft law was rejected in 2003.

112. In 2006, third Draft law was prepared. Although it was accepted by the Council of Ministers, it was difficult to be presented and defended before the relevant Parliament commissions as some of its definitions and terms were either not sufficiently clear or repetitive with those in the Protection against Discrimination Act. The draft was rejected.
113. In November 2008, fourth Draft law was prepared. It was discussed and accepted by the leading relevant Commission in the Parliament in the beginning of 2009. Despite the opposing voted from some of the other commissions, the draft was prepared to be presented before the Parliament for voting. However, the term of the Parliament expired and the draft was not voted. It should be noted that the Commission for Protection against Discrimination expressed an opinion against the adoption of a law on gender equality. It should be stated that the draft: defined equality and all the relevant terms in accordance with the International human rights law; stipulated temporary special measures to be adopted in order to foster the realization of equality between the sexes; provided specialized body to be created within the government in order to implement the national policy in the area of gender equality, including through ensuring gender disaggregated statistics to be gathered at national and local level, etc.
113. In Section I of the *National Strategy for Promotion of Gender Equality (2009-2015)*<sup>5</sup> – “Introduction”: in paragraph 4, named “Arguments on the need of adopting a National Strategy on Gender Equality” – the State admits that no mechanism for coordinating a uniform national policy on gender equality exists; no legislative framework is adopted for achieving gender equality; there is need for creating a national policy guaranteeing gender equality. The Government also admits that “*The studies, surveys and analysis conducted to date show that there are cases of inequality or disrupted balance in the participation of women and men in various fields of public life in Bulgaria ... or in private life, which finds expression through violence on the basis of gender...*”
114. **In conclusion**, despite all presented above, judging from the Responses of the State to the CEDAW Committee List of Issues and Questions, the government does not intend to adopt a special law on gender equality – in violation of its international obligations in the area of women’s human rights protection.

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<http://sgdatabse.unwomen.org/searchDetail.action?measureId=7609&baseHREF=country&baseHREFId=276>

## CHAPTER 2. TRADITIONAL STEREOTYPES

### 2.1. Measures taken by the State to eliminate traditional stereotypes regarding the roles and responsibilities of women and men in the family and in society, which overemphasize the role of women as mothers and wives and that of men as the main breadwinners of a family

115. During the consideration of the Second and Third periodic reports of the Republic of Bulgaria, the CEDAW Committee requested attention to be paid to and detailed descriptions to be provided of measures to change the prevailing attitudes and policies with regard to women's role in the home. In addition, the Committee requested the State *“to remove stereotypes from school books and from other facets of the education system, so as to overcome the legal, economic and social problems of female heads of households with children [..].*

#### i. National Strategy for Promotion of Gender Equality (2009-2015)

116. Discussing the measures to eliminate traditional stereotypes regarding the roles and responsibilities of women and men the National Strategy should be taken into consideration. It should be noted that the adoption of the National Strategy is a consecutive document in the list of plans and programmes, and strategies already adopted by the State in the area of women's human rights protection which neither provides for a comprehensive approach towards gender-based violence nor guarantees achievement of gender equality. It contains the same deficiencies as the 2008-2009 *National Action Plan on Encouraging Gender Equality* adopted by the Council of Ministers in the summer of 2008, namely *“doesn't provide a comprehensive approach to the issue nor specific steps to encourage gender equality, provided with the necessary financial means. It lacks important elements, such as the creation of a specialized state body on the implementation of the gender equality policy, the use of the gender budgeting approach. [...] Non-governmental organisations are not included in its implementation, which is a significant deficiency given the lack of knowledge on the topic on behalf of the representatives of the institutions and their need for capacity building in this area.”*<sup>6</sup>
117. The National Strategy admits that *“there still is a following of old stereotypes as regards the role of men and women in both public and personal life”; “Vertical and horizontal gender segregation is observed in many sectors”; “the difference in payment between the total of women and men in some sectors even reaching 30 %”; “Gender inequalities in employment”; “poverty disproportionately refers to women or is “feminized”; “out of 240 members of Parliament in the 40<sup>th</sup> National Assembly, only 53 were women”; “The representation of women in the executive and local authorities is even worse”; there is need to change “the existing unfavourable stereotypes and attitudes”.*<sup>8</sup>
118. The most serious deficiencies could be seen in Section IV - *“Strategic goals and fields of action”* and the way for achieving Objective 4 - *“Eradication of gender violence and human trafficking”* and Objective 5 - *“Change of stereotypes existing in society based on gender in the sphere of education, culture, the media and labour”*.
119. Objective 5 is planned to be achieved through *eradication of gender stereotypes* “in education and in the sphere of culture”, “in the field of the labour market” and “in the media”.

<sup>6</sup> Bulgarian Helsinki Committee, “Human Rights in Bulgaria” (Annual report 2008), section 14 – Women's rights and Gender Discrimination:

[http://www.bghelsinki.org/upload/resources/Humanrights2008\\_en.pdf](http://www.bghelsinki.org/upload/resources/Humanrights2008_en.pdf).

<sup>7</sup> Page 6 of the National Strategy

<sup>8</sup> Page 7 of the National Strategy

120. As far as the financial frame for ensuring the implementation of the National Strategy is concerned, it should be mentioned that there is no such framework whatsoever. The State simply identifies the sources of possible funding of the activities listed in the National Strategy.
121. According to the UN Secretary-General's database on Violence against women, no known evaluation of the National Strategy was undertaken up to 17 July 2011. The information was presented in a response of the Bulgarian government to a questionnaire on VAW. Judging from the information presented in the Responses to the CEDAW Committee List of Issues and Questions, no evaluation was undertaken for the Committee request as well, although annual evaluation and monitoring is required to be presented to the Council of Ministers no later than March 31 of the respective year.

**ii. National Plan for the Promotion of Equality between Women and Men (2012)**

122. In addition to the National Strategy, the National Plan should be taken into consideration. It was adopted by the Council of Ministers on 21.12.2011. However, the webpage of the newly created Equal Opportunities, Antidiscrimination and Social Assistance Department within the Ministry of Labour and Social Policy – which, according to the Responses to the List of Issues and Questions with regard to the consideration of combined fourth, fifth, sixth and seventh periodic reports, is entrusted with the promotion of gender equality of women and men - does not contain the 2012 National Plan for the Promotion of Equality between Women and Men. The National Plan could only be found in Bulgarian language as a result of time-consuming search in the Internet.

**iii. The Protection against Domestic Violence Act (PDVA)**

123. Violence against women is a form of discrimination against women which is most related to cultural stereotypes. It is among the strongest expressions of gender stereotypes and at the same time is the tool used to maintain the defined roles of men and women in society. Therefore, the position of women in the family is the expression of the role attributed to them in the society.
124. The PDVA does not recognize domestic violence as a gender-based violence which constitutes discrimination against women; the law does not recognize that domestic violence affects women in Bulgaria disproportionately and lessens and nullifies women's enjoyment of their human rights. Some of the procedures and the norms of the Law contribute in practice to the perpetuation of this phenomenon by not treating it according to its specificity and according to the international law requirements.
125. Domestic violence is not recognized as a crime. This legislators' decision diminishes the importance of the Law and sustains perpetrators' understanding that domestic violence is not worth serious attention and State involvement in order to combat it which, on the other hand, confirms the general society understanding that it is more of a private matter and the State does not bear the responsibility for preventing such violence and adequately punishing its authors.
126. The implementation of the PDVA in Bulgaria very often affirms the unequal position of women in society and, subsequently, in the family. The legal form is one of the main expressions of the social practice, the expression of the real relations of inequality of the two sexes. Law defines the character and creates the institutions of the social relations in the frame of which men and women act, the family acts. The legal system continuously reproduces a concrete ideological concept of the relations between the two sexes which can be defined as patriarchal ideology.
127. In order for the individual woman victim of domestic violence to enjoy the practical realization of the principle of equality of men and women and of her human rights and

fundamental freedoms, the political will that is expressed in a State system must be supported by State actors, who adhere to the State party's due diligence obligations.<sup>9</sup>

*For more details please refer to the paragraph below.*

**a. Measures taken by the State to address discrimination against women in Media and advertisements, including the portrayal of women as sex objects in some media**

- 128.**It should be noted during the consideration of the third Bulgarian periodic report, the Human Rights Committee expressed concern that discriminatory practices and messages remain widespread, including in the Media, thus it recommended the State to adopt measures to monitor and put an end to gender-stereotype message in society.
- 129.**In that regard, it should be mentioned that, in its 2010 Annual report, the Commission for Protection against Discrimination stated that no direct and indirect discrimination based on gender is allowed but the stereotypes, deeply-rooted in the society, are often a serious obstacle for achieving equality between the sexes. In many cases, the seemingly harmless stereotyped behavior illustrates women and men as incapable and creates negative image leading to violation of their dignity and fundamental human rights as it constitutes discrimination towards them. The Commission states that multiplication of such behavior through the Media is forbidden by the Radio and Television Act. Also, such behavior should be strictly monitored and controlled.
- 130.**As a result of its understanding of the issue, the Commission presents a case (No49/2010) in which the proceedings were discontinued and sent to the Council of Electronic Media (SEM) as the competent body. The case concerned an advertisement for a TV casting which included discriminating messages violating women's right to dignity. CEDAW was invoked by the Commission.
- 131.**Although the Commission invoked the norms of the CEDAW, and Article 5 in particular, it should be clarified that this is not the first case when the Commission was asked to address discrimination against women in Media and advertisements, including the portrayal of women as sex objects in some media. This is only one of the many examples when the Commission, instead of deciding the case based on CEDAW and other relevant international and regional human rights acts, simply discontinues the proceedings and sends the cases to other institutions and organs – SEM or the Commission for Protection of Consumers (CPC), for instance.
- 132.**In an earlier case (No217/2008), the Commission made an attempt to send it to the CPC. The case concerned alcohol advertisements with discriminating contents and messages. A group of women applied to the Commission stating that they feel deeply discriminated by the widely broadcasted and offensive portrayal of women as sex objects and products for sale and consumption, which go hand in hand with alcohol and other merchandise. These advertisements systemically assign women a subordinate position both in the family and in the public sphere, and, in their opinion, exemplify discrimination based on gender, personal and family status. The applicants rely on the norms of the Universal Declaration on Human Rights, CEDAW, ICESCR, ICCPR, ECHR, the relevant European Union Directives, the Constitutional of the Republic of Bulgaria, the Protection against Discrimination Act.
- 133.**The Commission discontinued the case, stating it is not competent to rule as it concerns consumers' rights. The case was supposed to be sent to the CPC. The applicants appeal the ruling and the Supreme Administrative Court (SAC) send the case back to the Commission. Months passed by before the case to be heard by the Commission. Witnesses were heard as well as several expert opinions. The

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<sup>9</sup> CEDAW Communication No5/2005, Views adopted on 6 August 2007

Commission decided that, although the advertisement messages were offensive and violated women's dignity, they did not constitute discrimination based on gender. The Commission's decision is not available on the Internet. It was appealed before the Supreme Administrative Court which confirmed the act of the Commission stating that the case raised serious philosophical and moral questions but no gender-based discrimination is at place. The court also stated that CEDAW, and Article 5 in particular, are obligatory for the State and create positive obligations but the Convention is not compulsory for the national courts... The court decision was appeal at a cassational level before another chamber of the SAC, composed of 5 judges. The final decision affirms the act of the 3-member chamber of the SAC. It is in force since 13.03.2012.

**134.In conclusion**, there is lack of a State adopted comprehensive approach to overcome traditional stereotypes regarding the roles of women in family and society, including political, legal and awareness-raising measures involving state officials and civil society as well as the Media.

## CHAPTER 3. VIOLENCE AGAINST WOMEN

### A. DOMESTIC VIOLENCE

#### 3.1. General introduction of domestic violence in Bulgaria

- 135.** Domestic violence is a widespread problem in Bulgaria. A 2003 national opinion poll showed that domestic violence is a private issue according to 49.2% of the respondents, while 50.8% consider it a public issue. A 2009 report, echoing a 2006 figure, estimated that one in four women had been a victim of domestic violence. A 2009 report stated that nine hundred thousand women suffer domestic abuse each year. In the period January 2009 - September 2011, the members of the national Alliance for Protection against Domestic Violence<sup>10</sup> provided social services to 14 204 victims of domestic violence. The trend for the period January 2011-September 2011 is for the numbers of victims to grow – more than 3 295 women sought help in the Alliance members. Determining just how pervasive domestic violence is in Bulgaria remains problematic in itself owing to a dearth of available data. It is only provided by the women's human rights NGOs in the country.
- 136.** According to the NGOs data, women in Bulgaria are far more affected than men by the failure of the courts to take domestic violence seriously as a threat to their life, health and as a factor which hampers realization of their human rights. Bulgarian women are affected disproportionately by the practice of not prosecuting and punishing domestic violence perpetrators appropriately. Women are affected disproportionately by the failure to educate law enforcement, judicial personnel and all the relevant professionals about domestic violence and the failure to collect data and maintain statistics on domestic violence. The lack of a special law on equality between women and men; the lack of recognition of violence against women as a form of discrimination against them, hence a human rights violation hampering the realization of substantive equality between the sexes; the lack of positive measures in favor of women victims of domestic violence, results in inequality in practice and denial of the enjoyment of their human rights. The lack of a State adopted comprehensive approach to overcome traditional stereotypes regarding the roles of women in family and society, including political, legal and awareness-raising measures involving state officials and civil society as well as the Media, contributes to violence against women.
- 137.** In 1998, during the consideration of the Second and Third periodic reports of the Republic of Bulgaria, one of the dominant concerns of this Committee was the problem of violence against women in Bulgaria, both in the public and private spheres. The Committee recommended that legislative measures protecting women against all forms of violence, both public and private, should be strengthened. It urged the Government *“to develop an array of medical, psychological and other measures to assist women victims of violence and to change prevailing attitudes to domestic violence, which view it as a private problem, and to encourage women to seek redress.”*

#### 3.2. Whether there are criminal provisions specifically criminalizing domestic violence and subjecting it to ex officio prosecution

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<sup>10</sup> The Association “Alliance for protection against domestic violence” (the Alliance; [www.alliancedv.org](http://www.alliancedv.org)) is an association of 10 independent NGOs with offices in 11 towns in Bulgaria, registered in August, 2009 for the purpose of ensuring: adequate legislation on domestic violence and its effective implementation, monitoring of the implementation, sustainability of the services provided to victims, elaboration of the respective standards for these services, prevention activities against domestic violence, gender approach in fighting domestic violence, education and training of professionals and NGOs.

- 138.**In its Recommendation Rec(2002)5 to member states on the protection of women against violence, the Committee of Ministers of the Council of Europe recommended, with regard to violence within the family, that Member states should classify all forms of violence within the family as criminal offences and envisage the possibility of taking measures in order, *inter alia*, to enable the judiciary to adopt interim measures aimed at protecting victims, to ban the perpetrator from contacting, communicating with or approaching the victim, or residing in or entering defined areas, to penalise all breaches of the measures imposed on the perpetrator and to establish a compulsory protocol for operation by the police, medical and social services.
- 139.**The Council of Europe Resolution 1582 (2007) titled "*Parliaments united in combating domestic violence against women*" stated that parliaments, which have not yet done so, should adopt or supervise the application of seven key measures considered to be of a priority, including making domestic violence against women and marital rape, a criminal offence.
- 140.**2008 General Assembly Resolution on Elimination of Violence against women strongly condemned "*all acts of violence against women and girls, whether these acts are perpetrated by the State, private persons or non-State actors, and calls for the elimination of all forms of gender-based violence in the family, within the general community and where perpetrated or condoned by the State, in accordance with the Declaration on the Elimination of Violence against Women, and stresses the need to treat all forms of violence against women and girls as a criminal offence, punishable by law, as well as the duty to provide access to just and effective remedies and specialized assistance to victims, including medical and psychological assistance, as well as effective counseling.*"
- 141.**In April 1996, the Minnesota Advocates for Human Rights conducted research on domestic violence in Bulgaria and concluded that "*Domestic violence is a serious and pervasive problem in Bulgaria. A woman's fundamental right to be free from violence is not protected at any phase of the legal process.*" The research showed that "*The law exempts from state prosecution certain types of assault if committed by a family member, although the state prosecutes the same act if committed by a stranger. The state does not assist in prosecuting crimes of domestic assault unless the woman has been killed or permanently injured. Even when the woman is permanently injured, the state does not always prosecute. The courts do not take seriously their obligation to punish perpetrators of violence against women in the home. In addition, the government does not provide any social services to victims of domestic assault nor does it attempt in any way to prevent these crimes from occurring.*"
- 142.**In July 2011, considering the third Bulgarian periodic report, the Human Rights Committee expressed concern over the low number of cases of domestic violence that are actually brought to justice and sanctioned. It expressed its regrets that the criminal prosecution of cases is generally limited to cases where the offender violates the administrative order for protection (Art. 296, paragraph 1 of the Penal Code), and that, under article 161 (1) of the Penal Code, allegations of domestic violence must be initiated upon a complaint of the aggrieved in cases of light or average bodily harm. Thus, it recommended the State to strengthen its efforts to prevent domestic violence and encourage the victims to report the cases to the relevant authorities. The Committee recommended gender sensitive monitoring of these cases to be initiated and thorough analysis to be made on the reasons why such cases are rarely reported. The Committee recommended the State to "*secure criminal investigation, prosecution and sanction of all cases of domestic violence.*"
- 143.**At the moment, under the Penal Code, domestic violence is still not recognized as a separate crime. This legislators' decision diminishes the importance of the problem and sustains perpetrators' understanding that domestic violence is not worth serious attention and State involvement in order to combat it which, on the other hand, confirms the general society understanding that it is more of a private matter and the State does not bear the responsibility for preventing such violence and adequately

punishing its authors. By its failure to condemn and adequately respond to the serious problem of domestic violence, the Bulgarian State has demonstrated its complicity in widespread violence against women in the country.

- 144.**Light and medium bodily injuries, among other similar offenses, caused within the context of domestic violence, are prosecuted in a private complaint procedure, i.e. on the initiative of the victim. The provision of Article 161 of the Penal Code has not been repealed despite the fact that constitutes discrimination against women, victims of different forms of gender-based violence within the family. It is ascertained to be such as it is expected the victims of domestic violence – who are usually humiliated, threatened, beaten, coerced and their life and health are in danger - to initiate private criminal proceedings against their abusers and to become “private prosecutors” to the perpetrators: an impossible option for a victim of domestic violence who is usually only thinking how to physically survive and take her children in order to save their life. The burden of proof would be upon her and she would face all the difficulties of an expensive and a time consuming judicial process which would require her to meet her abuser whom she just managed to escape and leave after years of experiencing different forms of domestic violence, which is the usual case.
- 145.**After several years of negotiations – since the adoption of the PDVA, in April 2009, the violation of a protection order was criminalized (Art. 296, Penal Code), and was made punishable by imprisonment or a fine. There are only few cases initiated by the Prosecutor’s office in that regard.
- 146.**The PDVA provides for administrative and policing measures in cases of domestic violence. It contains elements of criminal procedure but remains within the framework of the civil procedure.
- 147.**Judging from what has been presented above, it could be stated that, in Bulgaria, the crime of domestic violence is hidden behind deference to notions of intimacy in the private sphere stating that family integrity should be protected at all costs. Thus, it is rarely prevented or prosecuted. Laws and criminal justice procedures do not recognise it as a separate crime, and prosecutions have to be brought under the general law of assault and battery or bodily harm. The injuries inflicted on women, however, are often severe and domestic violence includes not only bodily injuries but also harassment and emotional abuse. At the same time, women face a range of barriers when they try to obtain protection.
- 148.**Bulgarian criminal justice system does not take seriously the danger of such violence, its long lasting and damaging effect not only on the victims but also for the society as a whole, and considers the issue as a minor problem, mainly as a domestic problem. Criminal law is not applied in such cases despite of all the evidence of its pervasiveness and seriousness and despite all international legal obligations undertaken by the Bulgarian State.
- 149.**Thus, the forms of violence that women experience in the home, including rape, murder, assault and battery, are condemned by the criminal law. However, when committed against a woman in an intimate relationship, these attacks are more often tolerated as the norm than prosecuted as crimes. Those who commit domestic violence are often prosecuted less vigorously and punished more leniently than perpetrators of similarly violent crimes committed against strangers.
- 150.**Further, the State failed to adopt and/or implement and periodically review and analyse its national legislation to ensure its effectiveness in eliminating violence against women, emphasizing the prevention of violence and the prosecution of offenders.
- 151.**Furthermore, the lack of State funded and supported research on prevalence, causes and consequences of violence indirectly perpetuates the negative phenomenon of domestic violence because there is lack of information on the number of such cases, its prevalence and pervasiveness, thus neither the State nor the society perceive it as a serious human rights violation affecting wide group of people, mainly women and children. The lack of official statistics affirms the State negligence

of the problem, its underestimation and is an illustration for one of the State violations of its international legal obligations in the sphere of violence against women.

**152. In conclusion**, neither the norms of the Penal Code nor those of the PDVA provide remedy capable to enforce the substance of the Convention rights and freedoms. The remedy as required by the Convention must be “effective” in practice as well as in law. As this Committee already stated, the remedies that come to mind where the obligation of a State party to exercise *due diligence* is at stake, are those which ensure effective protection, including through investigation of the crime of domestic violence, adequate punishment of the perpetrator, and provision of adequate compensation - as set out in General recommendation 19.

*For more information on the lack of official statistics, research and evaluation of the laws refer to the paragraphs related to the number of complaints, prosecutions and convictions and the sentences imposed in cases of domestic violence as well as on the number of protection orders issued.*

### **3.3. The 2009 amendments in the Protection against Domestic Violence Act**

**153.** *The Protection against Domestic Violence Act (PDVA)* was enacted in March 2005. It provides for administrative measures in cases of domestic violence. In particular, the relevant court may issue injunctions to remove the perpetrator from the common home, ban him from approaching the victim’s home, workplace or place of social contacts and temporarily place the child to live with the parent who did not perpetrate DV.

**154.** The Law provides for a special urgent civil procedure of court administration in cases of domestic violence. It is a *sui generis* procedure although similar to the quick civil procedure. The law contains also elements of criminal procedure but remains within the framework of the civil procedure. The essence of the law is the issuing by the regional court of special orders for protection of victims of violence which contain restraining measures for the perpetrators and protective measures for the victim.

**155.** On 25.01.2008, due to the pressure from the human rights NGOs working in the area of women’s rights protection and taking into account the number of domestic violence cases growing every year, the Ministry of Justice established a working group to prepare a draft law on amending the LPADV. The draft law was prepared in the summer of 2008 but, due to administrative obstacles and the fact that the draft act was not part of the priorities of the Council of Ministers, it was presented to the Prime Minister in November 2008.

**156.** The Law’s subsequent amendments (December, 2009) have been approved thanks to the efforts of the women’s NGOs: 1. to improve the deficiencies in the definition of domestic violence, which did not recognize the vulnerability of children and the implications of some forms of domestic violence; 2. to clarify the proceedings, including the competences of the courts, the Police and the Prosecutor’s office; 3. to ensure financial framework for the implementation of the law which did not have such since its inception, etc.

**157.** Currently, the LPADV’s definition of domestic violence (Art. 2) recognizes physical, sexual, mental, emotional, psychological and economic forms of violence. It also includes the forcible infringement of one’s freedom, personal life, or rights. In addition, it has been recognized that children witnessing acts of violence are victims of domestic violence *per se*. In the case of threat to one’s health or life, it is possible to seek protection under by applying for a protection order against the aggressor (Art. 4). Apart from the victim (when older than 14), the immediate family members have standing in such applications, as well as the guardian (when the victim is a minor or legally incapable), and a state agent – the head of the Social Assistance Department (when the victim is a minor, legally incapable or disabled) (Art. 8). The applications are submitted to the Regional Courts free of charge (Art. 11). The court has authority to grant an

emergency, as well as a longer-term order for protection (for 3 to 18 months) that may provide the following forms of relief:

- order the perpetrator to refrain from committing further acts of domestic violence;
- remove the perpetrator from the common dwelling-house;
- prohibit the perpetrator from being in the vicinity of the home, the place of work, and the places where the victim has his or her social contacts;
- temporarily relocate the residence of the child with the parent who is the victim or with the parent who has not carried out the violent act at stake, on such terms and conditions as is specified by the court, provided that this is not inconsistent with the best interests of the child and that no divorce or parental rights case is pending;
- require the perpetrator to attend specialized programs;
- advise the victims to attend recovery programs.

**158.**One of the most important amendments has been that of Article 6, according to which a National Programme for Prevention and Protection against Domestic Violence should be adopted in a yearly basis before 31 March and financially supported by the national budget. In addition, a budget line under the Ministry of Justice budget has been created to fund NGOs activities to combat domestic violence and assist victims. The yearly budget allocation has to support police and judicial trainings, monitoring, programs for perpetrators, assistance for victims, and development of counseling and crisis centers to support victims.

**159.**Thus, in December 2009, the Bulgarian Parliament has taken an important step towards meeting its human rights obligations by planning to provide funding to NGOs and other State actors to effectively implement the law. However, all these commendable efforts have been of no value to the victims and women's NGOs for they have remained on paper.

**160.**It should be stressed out that the issue of financing the implementation of the LPADV was a focus point of a serious debate among the government representatives and those of the civil society, namely the Alliance. The need for financing the implementation of the law was justified by the international standards for *due diligence* and by the documents adopted by the Council of Europe, including Recommendation Rec (2002) 5 of the committee of Ministers and Resolution 1582 (2007) of the Parliamentary Assembly recommending, with regard to domestic violence, that Member states should allocate sufficient budgetary resources for implementation of their relevant legislation taking into account a minimum objective of €1 on average per inhabitant in all member states. It took a long time for the Government to understand the issue and to find a mechanism for financing the implementation of the PDVA.

**161.**Finally, the amount of BGN 500 000 (approximately EURO 250 000) was decided to be allocated for the year 2010. In June 2010, a Regulation for the implementation of the PDVA was adopted. The act determines a budget line in the Ministry of Justice budget to be created, competition to be announced every year and the NGOs to apply for State funding.

**162.**However, despite that the law was amended in December 2009, no money was provided for its implementation in 2010. Even the amount of BGN 500 000 was cut to the sum of BGN 50 000 BGN (approximately EURO 25 000) in July 2010 - during amendment of the national budget. Further, even these BGN 50 000 could not be used by the victims and the NGOs providing special services for them because it was not available.

**163.**As a result, on behalf of the Alliance for Protection against Domestic Violence, a letter was written to the Office of the Commissioner for Human Rights of the Council of Europe in November 2010, explaining the situation of the victims of domestic violence and asking for support.

**164.**The amount of BGN 500 000 was provided for 2011 – humiliating amount if international standard had to be followed. In addition, the competition was announced in April, instead of in January 2011, the contracts were signed in August 2011, thus the implementation

of all the projects had to be cut to a period of 4 months as they had to be finished by the end of November 2011. Again, the Government ignored its own laws, national plans and strategies in the area of protection against domestic violence and discrimination as well as the efforts of the NGOs.

- 165.**For the current year - 2012, no financial support is ensured for the NGOs so far: despite that the *National Plan for the Promotion of Equality between Women and Men (2012)* aims at focusing on prevention of VAW, including domestic violence, through: empowering women; adopting of a framework for protection against all forms of gender-based violence; supporting women's NGOs providing services for the victims of VAW; cooperating with NGOs and the relevant institutions in order coordinated response to be ensured against these phenomena; and, despite that the National Plan stipulates, before January 15, 2012, a competition to be announced for the implementation of projects under Article 6 (7) of the PDVA and Article 12 of the Regulation on the implementation of the PDVA. They should be financially supported by the State through the budget of the Ministry of Justice. As a possible obstacle for the implementation of the National Plan in that regard, it is stated that no adequate financial resources are ensured in the national budget. Thus, again, the State has other priorities and the protection of the life and health of the victims of domestic violence is not among them.
- 166.**Thus, women are denied State protection despite the adoption of a special law aimed at combating domestic violence due to the fact that the State continues to underestimate its negative consequences and the high cost paid by the society by depriving the victims of their rights to comprehensive and accessible services. Such behaviour turns out to be a constant political attitude towards the victims of domestic violence and the NGOs working for their protection. It presents the State approach towards its *due diligence* obligations manifested in constant failure of the State to provide the necessary resources for the implementation of the already existing legislation. The acts of the State are not only in contradiction with the national legal framework and its own budgetary policy but also with the international obligations in the area of protecting women against domestic violence.

### **3.4. Number of complaints, prosecutions and convictions and the sentences imposed in cases of domestic violence, disaggregated by sex and age of victims and perpetrators.**

- 167.***“Many police officers underestimate the danger in a certain situation and do not inform the victim about her rights. If the violator is put under arrest he is set free after a short time and then he can start beating her for he has been arrested because of her.”*<sup>11</sup> Thus, Police officers either treat acts of violence as not worth their attention, and do not take any measures to protect the victim, including giving her information on the criminal and civil remedies available, or avoid arresting the abuser because the only result would be his speedy release and re-offending putting the victim in even greater danger.
- 168.**The websites of the Supreme Judicial Council of the Republic of Bulgaria and the Ministry of Interior contain no data about the number of domestic violence cases under the Penal Code. These are the official websites where the relevant data about such cases should be posted. Thus, the information provided by the State comes from internal sources and is not officially available and accessible. In addition, no data is gathered by the Courts, the Prosecution authorities or the Police disaggregated by sex and age of victims and perpetrators.
- 169.**The lack of publicly available official statistics affirms the State negligence of the problem, its underestimation, and is an illustration for one of the State violations of its international legal obligations in the sphere of violence against women. Further, the State failed to adopt and/or implement and periodically review and analyse its national

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<sup>11</sup> Foundation for Cares in the Community DIVA – Plovdiv, Myths and Reality about the Domestic Violence: <http://www.divafoundationbg.org/en/domesticviolence.shtml?x=148>

legislation to ensure its effectiveness in eliminating violence against women, emphasizing the prevention of violence and the prosecution of offenders. Furthermore, the lack of State funded and supported research on prevalence, causes and consequences of violence indirectly perpetuates the negative phenomenon of domestic violence because there is lack of information on the number of such cases, its prevalence and pervasiveness, thus neither the State nor the society perceive it as a serious human rights violation affecting wide group of people, mainly women and children.

### **3.5. Whether marital rape is specifically criminalized; is there special support, counseling and rehabilitation available to women victims of rape**

**170.** The Council of Europe Resolution 1582 (2007) titled "*Parliaments united in combating domestic violence against women*" stated that parliaments, which have not yet done so, should adopt or supervise the application of seven key measures considered to be of a priority, including making domestic violence against women, including marital rape, a criminal offence.

**171.** However, no information is provided by the State in its Responses to the CEDAW Committee List of Issues and Questions as rape is not specifically recognized as a crime, thus no special support is offered for the women victims of rape, including counseling and rehabilitation.

### **3.6. Social services for the victims of domestic violence, legally recognized by the State**

**172.** As some of the European standards for crisis centers stipulate, "*States are responsible for creating a sufficiently dense network of women's institutions and for allocating funds to them to pay them for their activities. In accordance with the recommendation made by the Committee for Women's Rights of the European Parliament, in homes for battered women at least one place per 10,000 of the population\* should be available.*"<sup>12</sup> "Basic funding must be assured for both women's institutions and all organisations committed to the goal of combating violence against women."<sup>13</sup>

**173.** Instead of providing information as to what is the State doing in order to ensure that sufficient number of state-funded shelters are available for domestic violence victims and their children, the Response to the CEDAW Committee List of Issues and Questions briefly presents general information on the number of crisis centers in the country in 2011. Only 3 of them provide shelter for adult victims of domestic violence and are combined for both victims of domestic violence and trafficking in human beings. The rest – 10 in number – provide shelter only to children who are victims, again, of both domestic violence and trafficking in human beings. No information is given as to which ones are state-funded; for how long they exist; how many people were sheltered; how many people did not manage to be sheltered; gender-disaggregated statistics in that regard, etc. No information is available on the website of the Agency for Social Protection about the social services provided in the country, including for the victims of domestic violence.

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<sup>12</sup> [http://www.wave-network.org/images/doku/manual\\_eng\\_pdf\\_web.pdf](http://www.wave-network.org/images/doku/manual_eng_pdf_web.pdf): Standards and Recommendations of the Conference of Experts on Police combating Violence against Women – Baden, December 1998, §37. See also Recommendations of the EU-Expert Meeting on Violence Against Women – Jyväskylä (Finland) 8-10 November, 1999 – "At least 1 family refuge space per 10,000 of the population and 1 drop-in centre per 50,000 of the population are required."

<sup>13</sup> [http://www.wave-network.org/images/doku/manual\\_eng\\_pdf\\_web.pdf](http://www.wave-network.org/images/doku/manual_eng_pdf_web.pdf): Standards and Recommendations of the Conference of Experts on Police combating Violence against Women – Baden, December 1998, §40

**174.**It should be clarified that the crisis centers do not offer legal advice and no mobile intervention teams are in existence in the State. It should be further clarified that, the “Mother and Baby” Units, which the State refers to, do not shelter victims of domestic violence.

**175.**In this regard, it should be clarified that, in the period January 2009-September 2011, for instance, the members of the national Alliance for Protection against Domestic Violence, sheltered 1 025 women in 6 of the towns represented in the Alliance.

**176.**The 2011 Analytical report of the Alliance, based on the problem areas in the work of the institutions and the NGOs providing social services for domestic violence victims, shows that:

- No crisis centers for domestic violence victims are available in the small cities, villages and remote places;
- The NGOs offering crisis centers for domestic violence victims are not supported by the relevant institutions – logistically, substantially. There is no regular and adequate State funding in that regard;
- The crisis centers for domestic violence victims, which are legally recognized as a social service, are of residential type and even if supported by the State, they require bureaucratic proceedings to be performed in order for the victims to be sheltered, thus forcing them not to even try to use the service. In addition, they do not offer quick solutions of the emergency situation and then support for the future life of the victims in the society, rather they require residential status and long period of time in the center, thus re-victimizing the people who need to be included in the normal cycle of life in the society and not forced to yet another dependency. Further, no medical support is ensured in such crisis centers;

**177.****In conclusion**, the State does not offer adequate support to women victims of domestic violence as there is insufficient number of crisis centers in the country. At the same time, the State shows no intention to change the situation in order to apply the European and International standard for services provided to those affected by domestic violence as well as to implement the CEDAW Committee recommendations adopted under Communication N020/2008.

### **3.7. Social services for the victims of domestic violence, not legally recognized by the State**

**178.**Instead of giving information as to what is the State doing in order to provide support to NGOs that offer shelter and other specialized services to the victims of domestic violence, the Response to the CEDAW Committee List of Issues and Questions briefly presents the legal norm requiring the State to ensure financial means for the work of those NGOs. No information is provided as to: are all the services for domestic violence victims recognized as social services; the date of the adoption of the norm stipulating that financial support should be provided by the State; is the support provided on regular basis; the amount ensured by the State – on yearly basis; the NGOs which were supported; the services that were supported; the outcomes of the support; the financial situation in 2012.

**179.***In this regard, what has been presented above - in the paragraph related to the 2009 PDVA amendments, including the provision for financial support for NGOs – should be taken into account.*

**180.**The 2011 Analytical report of the Alliance, based on the problem areas in the work of the institutions and the NGOs providing social services for domestic violence victims, shows that:

- The Counseling centers of the NGOs providing services for domestic violence victims (legal counseling, psycho-social counseling, work with couples, job search consultancy and work with the perpetrators) are not recognized as

social services – according to the national legal framework (the Law on Social Protection and the regulations related to it);

- No services for domestic violence victims are available in the small cities, villages and remote places;
- The NGOs providing services for domestic violence victims are not supported by the relevant institutions – logistically, substantially;
- There is no regular and adequate State funding for the services provided by the NGOs for domestic violence victims;

**181. In conclusion**, the State does not offer adequate support for women victims of domestic violence as it does not recognize the specialized services for domestic violence victims as social services. At the same time, the State shows no intention to change the situation in order to apply the European and International standards for services provided to those affected by domestic violence as well as to implement the CEDAW Committee recommendations adopted under Communication No20/2008.

### **3.8. Sex-disaggregated statistical data on the number of protection orders issued per year**

**182.** The websites of the Supreme Judicial Council of the Republic of Bulgaria and the Ministry of Interior contain no data about the number of domestic violence cases under the PDVA, including on the number of protection orders issued per year.

**183.** These are the official websites where the relevant data about the domestic violence cases and the number of protection orders should be posted. Thus, the information provided by the State comes from internal sources, although that in accordance with Article 10, paragraph 2 of the PDVA, all the data related to the domestic violence cases should be available in special court registries, thus easily published in the yearly reports of the Supreme Judicial Council. In addition, the Police should gather relevant statistics for the number of protection orders issued under the PDVA. No data is gathered by the Courts or the Police disaggregated by sex and age of victims and perpetrators.

**184.** Thus, the State does not follow the European and International standards in the area of gathering sex-disaggregated statistics in cases of domestic violence, namely the Declaration on the Elimination of Violence against Women, the Beijing Platform for Action, CEDAW Committee General Recommendation No12, CEDAW Committee General Recommendation No19, Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence, etc., which require the State to promote research, collect data and compile statistics, especially concerning domestic violence, relating to the prevalence of different forms of violence against women and encourage research on the causes, nature, seriousness and consequences of violence against women and on the effectiveness of measures implemented to prevent and redress violence against women.

### **3.9. Possibility for the Police to issue emergency protection orders**

**185.** It should be stated that, according to Article 4, paragraph 2 of the PDVA – as it was adopted in 2005 and was in force until December 2009 - the victims of domestic violence whose life and health were in imminent danger had the opportunity to apply for emergency protection orders through the Police. The Police officers prepared the claim, supported it with the declaration under Article 9, paragraph 3 of the PDVA and the other evidence gathered by them and sent the application to the court. Usually, due to the fact that it was the Police sending the victim application, the courts issued emergency protection orders on time and in most of the cases. Nowadays, this option does not exist. Article 4, paragraph 2 of the PDVA stipulates that in cases of imminent danger to the life and health of the victims, she could ask for protection under the Ministry of Interior Act, meaning she could ask for a Protocol to be written to the perpetrator not to abuse her. Consequently, no women ever ask for Police protection as they need their life and

health, and those of their children, to be saved. Thus they go to the court, if they are explained that special legislation exists in the country. Unfortunately, many Police officers do not provide information to the victims as to the existence of the law or simply send women to NGOs working in the field, if any. Thus, they are no longer competent to apply to the courts and, as a result, do not feel responsible for the life and health of the victims the way they did when the law was adopted.

### **3.10. The standard of proof required for the issuance of interim protection orders and other protection orders in cases of domestic violence**

- 186.**The PDVA provides that where no other evidence exists, the court can issue a protection order based solely on the applicant's statement, attached to the application, concerning the domestic violence. If not regulated within the LPADV, the law relies on the rules of evidence in the Civil Procedure Code.
- 187.**According to the Advocates for Human Rights, "*Judges in both the District and Regional Courts reported that the LPADV presents new legal concepts and remedies in Bulgaria and that its implementation has been a challenge. [...] Similarly, the LPADV includes new evidentiary standards, to which judges are still becoming accustomed. One judge stated, "The law is in contradiction to the Bulgarian philosophy of the legal system, to formal evidence and to equality of parties and the burden of proof in civil procedure..." A third factor that impacts judges' decisions to issue a protection order and which measures to include is the evidence of physical injuries. Judges' hesitancy to grant orders in the absence of evidence of physical injury undermines protection of victims who lack this evidence. [...] A long history of physical and mental abuse, although characteristic of many Bulgarian victims, will not be enough without documentation of an act of violence which occurred within the last thirty days. The law is explicit in allowing courts to grant emergency or regular orders for protection based only upon the victim's declaration. Victims of psychological and sexual violence also face challenges in obtaining protection orders because of the absence of physical injuries. Also, a tendency of judges to underestimate the seriousness of these forms of violence, coupled with a misunderstanding of what acts constitute psychological and sexual violence, creates additional barriers for such victims. Interviews revealed that judges underestimate the seriousness of psychological violence and manipulation.*"
- 188.**Developments in human rights law, at both the national and international law, establish that proof of domestic violence does not require either proof of force by the perpetrator, or of resistance by the victim and a written document to be ensured, in accordance with an evolving recognition that domestic violence implicates fundamental rights to physical integrity and sexual autonomy.
- 189.**During the consideration of *Communication No20/2008 – V.K. v. Bulgaria*, the State presented and commented the PDVA. In fact, the State admitted that the Law's provisions "*makes it possible*" but does not require clear shift of the burden of proof in favour of the victims. The State clearly expressed its understanding on what the level of proof in domestic violence cases should be, namely "*established beyond doubt*". In addition, the State presented its understanding as to which acts of domestic violence should be taken into account in the proceedings, namely – only the ones which occurred in the last 30 days.
- 190.**In her comments, dated August 2009, Ms. V.K. presented the process undertaken by women's rights NGOs to ensure amendments in the LPADV, including in the area of protecting the victims during court proceedings. As stated above, clarification as to who wears the burden of proof in the proceedings did not occur in the text of the amended PDVA (SG 102/22.12.2009).
- 191.**Thus, the law's amendments from December 2009 have been approved thanks to the efforts of the women's NGOs. They did not include any changes related to the burden of proof and Article 10 (1). Consequently, in July 2011, the Committee found violation of the Convention (paragraphs 9.9., 9.12., 9.16.b.).

- 192.**The lack of clarity of the law as to which of the parties wear the burden of proof in domestic violence cases is incompatible with the State's duty to provide protection against domestic violence and is discriminatory in that the law's shortcomings impact disproportionately on women. Bulgarian law is deficient in that it treats domestic violence as a trivial, predominantly family matter, that did not warrant great public attention and criminal prosecution. By characterising domestic violence as a mostly family related act, Bulgarian law does not ensure that the victims – who are often vulnerable – would be able to institute proceedings that would effectively protect them.
- 193.**It should be noted that the State does intend to clarify the Law, given its submission on the implementation of the CEDAW Committee recommendations, dated 5 March 2012. The State did not even comment the concrete recommendations of the Committee, rather it made an attempt to prove that the Bulgarian law in the area of protection against domestic violence is effective the way it is at the moment – despite the Committee's Views. Such attitude only comes to show that all the measures the Government has taken to address this phenomenon have primarily involved adoption of some legal norms but no effort has been made in order to research and analyze the causes, nature, seriousness and consequences of violence against women and the effectiveness of the measures adopted. In addition, the Committee's competences and its work have been completely disregarded. Thus, no will has been expressed to ensure the application of the Convention in the country.
- 194.**The Government inadequate actions and policies towards women victims of domestic violence and discrimination were sanctioned on 4 November 2010 when Bulgaria was considered under the Universal Periodic Review mechanism (UPR). Several states asked questions related to gender equality and domestic violence as gender based violence, given the reports of its high prevalence (§§45, 52, 68). No answer was provided in that respect (§76). Accordingly, a number of recommendations were addressed to the State for drawing up concrete and effective strategies to fight domestic violence and discrimination (§§ 80.21., 80.35., 80.48.-49, 80.68).
- 195.**In addition to what has been stated above, it should be noted that in 2011, the national Alliance for Protection against Domestic Violence prepared an Analytical report on the problem areas in the work of the institutions and the NGOs providing social services for domestic violence victims. Its conclusions pointed at the inadequate implementation of the LPADV.

### **3.11. General conclusion on domestic violence in Bulgaria**

- 196.**There is a clear trend in the State national policy to negate the importance of the practical implementation of the laws already adopted in the area of protecting women's human rights and to create countless plans and programs, and strategies not working in reality due to the lack of clear understanding of phenomena such as domestic violence and multiple/intersectional discrimination, lack of proper training of the relevant authorities, lack of practical preventive measures, lack of clear responsibilities and fines for those not complying with the laws, lack of shelters, lack of adequate punishment for the perpetrators, lack of funding at national and local level. Thus, the State is in clear contradiction with its positive obligations under the Convention to comply with the "due diligence" requirements and to guarantee effective protection to the victims of domestic violence.
- 197.**The practice so far, few years after the Protection against Domestic Violence Act was adopted, reveals that besides the positive effect of the new legislation, there are a number of problems arising in the course of work within the established legal framework and following the rules determined by the legislator. Women are still afraid to complain about domestic violence taking into account the stigma that will mark them and the general negative reaction of the society which does not accept "family matters" to be discussed in public, thus they often do not seek judicial protection or, even if they apply

to the court, the latter does not offer them adequate protection due to the shortcomings of the Law and the inadequacy of some of its procedures.

**198.** Despite the adoption of a special law, the courts still do not take seriously their obligation to punish perpetrators of violence against women in the home. There is a lack of understanding of the specific nature of this phenomenon, lack of understanding of the roots and causes of domestic violence, lack of understanding of the behaviour and vulnerability of the victims, lack of understanding of the need the victim to be immediately protected and the perpetrator to be adequately punished as an expression of the State will to stop violence against women and to clearly state that violence – in whatever form and for whatever reason – is unacceptable and will not be excused and tolerated as the norm in the society but will be harshly punished and prevented, as the international legal obligations of Bulgaria require.

## **B. TRAFFICKING AND EXPLOITATION OF PROSTITUTION OF WOMEN AND GIRLS**

### **3.12. Whether women victims of trafficking receive legal assistance during criminal proceedings**

**199.** Under the Criminal Proceedings Code, the victims of trafficking have the right to be legally represented during the criminal proceedings both in their capacity of civil claimant and witness (Articles 75 (1) *in fine* and 122 (2)). Moreover, the court could appoint to the victim an attorney *ex officio*, if she cannot afford to pay the legal bills, wishes to be represented and that is in the interest of justice (Article 100 (2) of CPC). In addition, the Victims' Assistance and Financial Compensation Act provides explicitly for free legal aid to victims of trafficking, under the same conditions: "they do not have financial means to pay an attorney, wish to have one and it is in the interest of justice to have one" (Article 23 (2) of the Legal Aid Act in conjunction with Article 10 of the Compensation Act). These conditions shall be decided in each concrete case, by prosecution or court authority. There has not been any case documented where a victim of trafficking has requested free legal aid.

**200.** In practice, the investigation and prosecution authorities do not inform the victims of their right to be legally represented, for two reasons. First, they consider the victim as a witness only and not as a party in the proceedings – civil claimant and private prosecutor. Second, the presence of an attorney during the investigation actions would bring transparency into their job, which the authorities strive to avoid. During the pre-trial proceedings, the victims rarely understand that they have the right to be legally represented, moreover, that they have the right to free legal aid. Further, it is rather difficult for the victims to actually receive free legal aid. The domestic case law concerning the criteria "in the interest of justice" has not developed. In addition, under the Legal Aid Act, the bar associations keep a separate register for attorneys who specialize criminal law, but not a separate register for attorneys, who wish to represent victims only.

### **3.13. Legal provisions and the practice of compensation for women victims of trafficking - features of the compensation in the criminal procedure and the compensation provided by the State: what is covered by the State, are moral damages covered, are there limitations, what is the number of women who sought and got such types of compensation, what are the amounts received by women.**

**201.** Article 73 (1) of the Criminal Proceedings Code imposes on the court and prosecution authorities a duty to inform the victim of her right to file a claim for compensation of the damages caused as a result of the crime. Upon request of the victim, during the pre-trial proceedings the competent court shall take measures to guarantee the payment under the future civil claim (Article 73 (2)), such as a ban to sale property, freezing bank account etc. The prosecution authorities similarly have the right to request preliminary

measure guaranteeing the payment of the penalty “fine”<sup>14</sup> or of possible confiscation (Article 72).

- 202.** Pursuant to article 84 (1) of the CPC, the victim may file, in the course of the trial, a civil claim for compensation of the moral and non-moral damages caused and has the right to join the trial as civil claimant. There have been civil claims filed by women victims of trafficking before criminal court. The victims have claimed moral damages, consisting of the suffering and pain caused by the sexual violence, the emotional trauma and psychological violence, the humiliation before their relatives etc. The average compensation sum awarded by the Bulgarian courts to victims of sexual violence for moral damages is EUR 5 000. There is no information whether the amounts were received by the women.
- 203.** If the victim does not file a compensation claim before the criminal court or considers that the compensation awarded does not cover all damages, the victim disposes of another option, namely to claim compensation under the Obligations and Contracts Act to a civil court and the case follows the rules of the Civil Proceedings Code. The relevant provision is Article 45 of the Obligations and Contracts Act, according to which “everyone must repair the damages, caused to other person”. There is no documentation of any civil claim submitted by a trafficked person before civil court.
- 204.** Finally, compensation could also be granted by the State. Pursuant to Article 3 of the Victims’ Assistance and Financial Compensation Act, financial compensation may be awarded to victims who survived trafficking and have suffered non-moral damages. The Compensation Act provides for financial assistance aimed at compensating the victims’ non-moral damages. As to their moral damages, the Act provides only for free legal, psychological and medical help, but not for financial compensation. Since the implementation of the Compensation Act in 2007 there has been no financial compensation awarded to a victim of human trafficking.
- 205.** First, the victims are not properly informed about their right to claim compensation. Although the prosecution and court authorities have a statutory obligation to inform the victims about their right to take part in the trial as civil claimant, it most often remains unclear for the victims what the substance of this right is. The investigation and prosecution authorities do not explain in a conversation with the victim her rights, in a language that she can understand. Instead, at the end of the investigation, the investigation authorities present the case file to the victim, whereby she is asked to sign a piece of paper, listing shortly her procedural rights. Most often, the victim does not read the content of that document. As to the court authorities, they send to the victim’s address a written notification summoning her for the first hearing and pointing out, *inter alia*, shortly her procedural rights. This procedure is relevant for the criminal trial, while the chances that the victims learn about the possibility to claim compensation under the Civil Proceedings Code are insignificant. The victims do not have information of the reasonable amount of compensation to claim and the appropriate evidence to adduce. Most importantly, the victims are unaware of the possible means to guarantee the actual payment of the compensation awarded, after the verdict becomes final.
- 206.** Second, the prosecution authorities hardly ever request preliminary measures aimed at guaranteeing the payment of the fine (and possibly the confiscation) which the trafficker will be obliged to pay the State under the final verdict. Such a preliminary measure, requested by the prosecutor in charge, would benefit the victim as well, for the collection of the compensation, which the trafficker will be obliged to pay her, under the same verdict. The implementation of the verdict becomes problematic and even impossible, when the authorities have not imposed in a timely manner a preliminary measure. Even the domestic courts have had the occasion to criticize the prosecution authorities for

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<sup>14</sup> Under Bulgarian legislation - Article 159 “a” of the Criminal Code and the following – the crime trafficking is always punishable with both an imprisonment and a fine.

their inactiveness and their failure to ensure any guarantee for the possible deprivation in favor of the State.<sup>15</sup>

- 207.**Third, the Compensation Act does not provide for financial compensation of moral damages. It only provides for financial compensation of a list of pecuniary damages, enumerated in Article 14. However, most of them are irrelevant for the crime “human trafficking”. For example, expenses for the funeral of the victim or lost income – women who have been unemployed naturally become victims of trafficking. The Compensation Act provides for reimbursement of legal bills. However, the submission of compensation claim during the criminal proceedings is free from court fees and the victims enjoy free legal aid. For that reasons, they could hardly have any legal bills. Finally, the Compensation Act provides reimbursement of expenses for medical treatment, in case that they exceed the victim’s health insurance. The reimbursement of such expenses is very problematic, because the victims do not save any evidence whatsoever for the costs they have made for medical consultations and medicines.
- 208.**As the scheme for reimbursement of pecuniary damages is inefficient, the State should be able to grant compensation for moral damages. Determining the amount of the compensation for moral damages in each particular case would not be hard, relying on the existing case law of the courts, which is, as stated above, approximately EUR 5 000.
- 209.**Fourth, the maximum amount of financial compensation provided in the Compensation Act of EUR 2 500 is insufficient, especially on the background of the value of the assets acquired by the State from the traffickers. For example, with final judgment of 21 March 2011 the Bulgarian courts have confiscated a property from a person convicted in human trafficking, at the cost of EUR 414 300.<sup>16</sup>

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<sup>15</sup> Judgment No. 64 of 7.05.2009 r. of the Military Court of Appeal in criminal case № 42/2009.

<sup>16</sup> Supreme Court of Cassation of 21/03/2011 in case № 697/10.

## CHAPTER 4. EDUCATION

### 4.1. Enrolment and dropout rates for Roma girls and boys at the primary and secondary levels of education and on the participation of Roma women and girls in higher education

- 210.** Although the Bulgarian government has adopted many documents in the past 15 years which introduce policies and programs for development and improvement of economic, social and health situation of Roma people, it must be noted that the country's second biggest minority group is still at the very bottom of all spheres of social organization. The progress in educational reforms is no exception despite the presence of these political frameworks. Some of the major documents adopted by the Bulgarian Government aiming at the integration of Roma children through education are: Framework Programs for Integration of Roma in Bulgarian society (1999-2009) and (2010-2020), Strategy and Action Plan for the Educational Integration of Children and Students from Ethnic Minorities (2004), Action Plan on "A Decade of Roma Inclusion 2005-2015", National Program for Development of School Education and Pre-school Upbringing and Preparation 2006 – 2013, National Program for Literacy and Qualification of Roma (2009), Program for Development of Education, Sciences and Youth Policies in the Republic of Bulgaria (2009-2013), National Youth Program (2011 – 2015).
- 211.** However, these political documents are often criticized by the non-governmental sector and foreign independent observers for their inefficiency, lack of adequate approaches to the Roma children and slow implementation of programs enlisted in the abovementioned documents. In addition, though they recognize gender equality and refer to international and European legal frameworks and recommendations, there is no mention of concrete measures towards Roma girls as being a more vulnerable group. An example for the criticism could be found on the special website of the "Decade of Roma Inclusion 2005-2015" created by the Ministry of Labor and Social Policy (MLSP), where it becomes obvious that efforts for drafting a methodology, methodic and indicators for the implementation of the National Action Plan on the "Decade of Roma Inclusion" start five years after the initiative has been inaugurated. Though in 2009 the MLSP claims that a system for monitoring and evaluation exists for a long time it has never been announced publicly. This is not the only evidence for such a discrepancy between data and actions. The NGO sector criticizes also the 2008 Monitoring Report prepared by the National Coordinator on the "Decade of Roma Inclusion" for not being an actual report on activities by different institutions since there are no officially approved mechanisms, no coordinated actions and no clear methodology for data collection.
- 212.** Data collection itself is a whole discourse in figuring out the number of Roma population in Bulgaria. From here – the exact number of Roma students both in school and university is also uncertain. There is a difference between official data and experts' data. According to information guide on Roma in Bulgaria this discrepancy arises from a variety of reasons: data based on self-determination, especially for Roma people who under the pressure of social stigma declare other ethnicity – either Bulgarian or Turkish; political fears arising from the idea that statistics on ethnicity would lead to social tension; speculations in the public space on the "gipsyfication of the Bulgarian society". Nevertheless, the data from the National Statistical Institute (NSI) remains central in defining the number of Roma people in Bulgaria, and in particular the enrolment and dropout rates of Roma girls and boys. In addition, all available statistics which refer to the NSI quote data from census in 2001. They are also gender neutral. In the data from census 2011 there is no statistics on education, minorities and gender. Furthermore, even though the governmental programs refer to the data from census 2001 by the NSI, difference in numbers could be found despite that they cite one and the same source. According to official statistics as quoted in the Framework Program for Integration of Roma into Bulgarian society (2010-2020), Roma population is characterized by less favorable educational structure in comparison to the other population.

- 213.**The highest attainable education degree among Bulgarians is secondary education (48,4%), while the highest degree among Roma is primary education (44,8%). In the highest degree of education there is a tendency for decreasing the percentage of Roma to 0,3% in comparison to the Bulgarians (20,4%). The percentage of Roma who are illiterate is 20,5%. In comparison, the Bulgarians have almost 0%, while the Turkish minority 5.6%. The number of Roma youth and adults who have secondary special (i.e graduated vocational schools) degrees is small. There is a tendency for increasing the level of illiteracy among Roma. At the same time, the National Program for Literacy and Qualification of Roma (2009) points out that according to census 2001 the percentage of Bulgarians who have higher education is 23.5%, secondary education is 53.0%, primary education is 20.7% and 0.4% are illiterate. In comparison, the percentage of Roma who have higher and secondary education is 7.2% (they are presented as a whole sum), primary education 44.9% and the share of illiterate Roma is 12.7%. When comparing the provided statistics of the two documents it could be noted that the discrepancy in data reaches more than 4% in some of the fields of inquiry. In the case of the level of Roma illiteracy the difference is 7.8%. A media article also outlines the discrepancies between statistics of NSI and the Ministry of Education, Youth and Science (MEYS), reporting that in the school year 2009/2010 thousands of Roma children have dropped out of school. Their exact number could not be pointed out as there was huge difference in the numbers – the MEYS has announced approximately 15 000 students, while the NSI – 19 583.
- 214.**In 2002-2003 the Ministry of Education and Science had conveyed a large research on the ethnicity of students in the Bulgarian schools. The results showed that Roma students comprised 10,5% of all students in primary, elementary and secondary educational systems as their division was not balanced in different grades and classes: from more than 20% in first grade to 1% in twelve grade. The authors reach the conclusion that this difference is a result of the big percentage of students who drop out of school. The sociological data reveals that 42,8% of Roma students stop attending school after they pass the age of 10-12 years, i.e. reach elementary education level.
- 215.**According to data by the NSI in 2003 the enrolment rates among Roma girls and boys drastically increase from 89.11% in 2002 to 91,78% in 2003. The enrolment rate in the primary and elementary levels has been increasing gradually since 2000. However, during 2003 it has increased with more than 2,6% in comparison with the 1% rate during the previous few years. The percentage of children in both primary and elementary levels is with 15% lower in the rural parts of the country than in the cities. More than 20% of the Roma students who study in villages do not graduate primary level. In comparison to the percentage of those studying in the cities is 0,3%.
- 216.**A common critic towards the Bulgarian government needs to be emphasized, namely that it presents the Roma community as a homogenous group while in reality there are four major groups - Millet, Rudari, Kaldarashi, Yerlii who have different lifestyle, religion and attitude towards education. According to sociological data from 2003 most risky indicators for dropping out of school have Muslim Roma (18,1%). The share of Christian Roma and Turkish is relatively low, respectively 12,8% and 8,3%. The highest risk of dropping out bear the Muslim Roma who live in the rural parts of the country (25,6%). The report provides comparison with Bulgarians whose rate is 2%.

#### **4.2. Measures to avoid the segregation of Roma children in schools and to raise awareness among Roma parents about the importance of sending their daughters to school**

- 217.**When taking into account the gender dimension, the most thorough data is provided by the NGO sector. Muslim Roma girls and boys have the biggest gender difference when it comes to dropping out of school. The girls from this ethnic group who answered that they had “stopped attending school” are 21,2% in contrast with 14,9% of the boys. Otherwise, the report points out that both Bulgarian and ethnic minority girls have had higher grades

than the boys. An example is provided with Turkish girls who have 4,63 average grade, while the boys 4,17.

- 218.** According to data on gender division in education among Roma, it becomes clear that in 2004 the percentage of Roma girls who: are illiterate is 20.1%; have primary education 38.7%; have elementary education 37.1%; have secondary 4.1%. In comparison, Roma boys who: are illiterate is 10.7%; have primary education 30.7%; have elementary education 42.9%; have secondary education 15.7%. The numbers speak of the fact that Roma girls drop out of school earlier than the boys and so their level of education is worse.
- 219.** Numerous reports explain the dropping out of Roma students and in particular girls with reasons which could be found both in the Roma community, the Bulgarian educational system and social prejudices towards the minorities. Different Roma communities have more or less similar problems that are valid to various degrees. Some of the major problems they face are poverty and patriarchal traditions which urge girls to stay at home and help the household, early marriages, parents' low level of education and lack of understanding the assets of education, no knowledge on the national language, children being raised by grandparents because of parents working abroad, bad infrastructure. Speaking of early marriages, this tradition is still popular even in 2012. Recent media reports depict the jolly atmosphere of the annual and quite "famous" bride fair near the city of Stara Zagora where "good mood reigns" and "thousands of swarthy girls" compete with each other in order potential husbands to pay the best price for them which ranges from 500BGN to 50,000BGN. The whiter the bride, the higher the price. The same applies to the age of the bride which varies from 12-21 - the younger the girl, the better. The reports also outline the impact of the economic crisis which has affected the 2012 bridal fair and one could have found a girl cheaper. Among the "colorful setting", media also bring to light another concern, namely fears of loss of virginity as a reason for girls to drop out of school. Virginity is also considered the highest virtue of a future bride and a prerequisite for receiving a good price for her. Several articles focus on the practice of "stealing" the girl while on her way to or back from school. In an interview from 2010, the principal of a school in a Roma quarter in the city of Sliven admits that many Roma girls in the sixth grade (around 12 years of age) often skip classes because of their parents' fears.
- 220.** Bulgarian educational system has also a contribution to the dropping out of school of Roma children. According to experts despite the presence of many political frameworks, there is no complete governmental policy on the processes of integration and desegregation of Roma. The bigger part of the strategies and other related documents have been formally adopted without any plans for their realization. The desegregation policy of Roma in schools is done mechanically and has no effect. Another report expresses the same concerns saying that two years after the adoption of the Strategy for integration of children and students from ethnic minorities (2004), there are no real actions and no allocated funds from the State budget but rather the MEYS relies on Roma Educational Fund and Operational Program "Human Resources Development". The special measures for prevention of dropping out have uneven coverage on different age groups. The efforts are mostly focused on children at primary level (6 to 11 years of age) who are considered to be less vulnerable than their older mates because they are provided with free of charge food, notebooks, transport, etc.
- 221.** Among the educational reasons the major issues are lack of appropriate studying materials for Roma students; lack of subjects in school focusing on ethnic culture are not in the curriculum; teachers who are not sensitive to Roma culture and traditions. Parallel to that, Bulgarian schools do not involve parents in school activities and do not lead a dialogue with them. The measures they apply to "motivate" them to send their children to school are mainly restrictive for example, by cutting welfare when their children miss out classes. Social prejudices to minority groups are also an obstacle to the integration of Roma.

**222.**Concerning the participation of Roma girls and women in higher education, there is no data provided by governmental officials on the topic. There are programs and projects implemented by the NGO sector which aim at popularization of higher education among Roma community and support through scholarships of Roma students who would like to continue their studies. However, even in those activities Roma women and girls are not seen as a separate target group.

## CHAPTER 5. HEALTH

### 5.1. Youth-friendly services

- 223.**In an analysis of the youth lifestyle reviewed in a Municipal strategy (2012-2017) it is observed that during the last decade there is a tendency for increasing the risk behavior of young people: early dropping out of school, alcohol, tobacco and drug use, risky sexual behavior, unemployment, juvenile delinquency, prostitution – soliciting and human trafficking, running away from home. The Strategy explains the reasons for this “social immaturity” not only due to the absence of appropriate systematic education in the educational system, but with the lack of “good traditions” in family upbringing as well. The existing social and economic crises and the lack of sufficient perspectives for young people’s future realization contribute to risky behavior in regard of the social and health wellbeing. Young people today do not have sufficient skills to risk management.
- 224.**And indeed, despite many positive examples and good practices among which there are the attempts to introduce compulsory sexuality education in schools and to improve the access to youth services and information, the Bulgarian health, social and educational systems are still not flexible enough to respond to the needs of the Bulgarian youth. Their efficiency during the years has been contested and often defined as inappropriate because of their uneven distribution, sporadic occurrence and lack of adequate human and financial resources. Furthermore, by decision of the Parliament of 2002, the Government shall annually submit for approval an Annual Report on Youth. The annual reports are intended to be major governmental documents which represent the current situation of young people in the country and to pinpoint the main priorities of the youth policies. However, each year since 2002 their drafting and adoption has been drastically delayed. The report for 2007, for example was adopted by the Parliament in early 2009. For 2008 a report was submitted but has not been reviewed yet. At present, the reports for 2009 and 2010 are consolidated and are adopted two years later, in 2012. With the speed the Bulgarian government is working, it is not possible to plan in advance the youth policies and priorities at the beginning of each calendar year. Those policies should reflect the current situation of the Bulgarian youth. Due to such delays, the reports omit the latest tendencies in the development of young people in the country. The dynamicity of youth’s problems changes fast and when they are not responded to in a timely manner, they tend to deteriorate.
- 225.**A 2006 UNICEF Report on the State of Youth-Friendly Services in Bulgaria affirms that municipalities offer a large variety of services for young people. It has been determined that in 2006, for example, there were 3579 services for young people in the health, educational, social and labor market sectors that could be used by young people. However, the report observes that most of the available services need to be further developed to become “youth-friendly” according to the criteria of international organizations like the World Health Organization and the United Nations. Despite the abundance of the services, the Report shows that few young people and few providers know about their existence. Most of the services available for young people are either vertical or sectorial. In addition, they do not take into account diverse needs and fail to cover simultaneously different sectors.
- 226.**Furthermore, there has been no coordination mechanism for referral. From the 28 regions that has been studied, only in 1 (the region of Rouse) had a municipal register of service providers for young people while for Sofia and Sliven regions no available data could be found at all. The Report concludes that in most of the municipal districts the services directed towards young people are not a priority for the local decision makers.
- 227.**A detailed analysis of a 2006 Summary Report on the access of young people to sexual and reproductive health services unambiguously shows that the young people aged 10-14 from ethnic minorities who live in the rural parts of the country, as well as the persons who are excluded from the social security system, seek and receive limited number of services. The research shows that the typical group that benefits from these kinds of

services comprises of young people aged 15 – 24 who define themselves as Bulgarians and live in the cities, have financial resources and a social security.

**228.**At the same time, the serious problem with access to services for young people is defined by the Health Act according to which medical interventions, including HIV testing, shall not be performed without parental consent if the person is below 18 years of age. A legislative change is needed as well as building up capacity for the available youth services in the primary and specialized outpatient assistance.

## **5.2. Measures taken to reduce abortion rates, especially among young women and teenagers: affordable access to and information on modern contraceptives; education on sexual and reproductive health and rights**

**229.**Sexuality education is not a compulsory and separate subject in the Bulgarian school curricula.

**230.**Statistics from 2011 disseminated in the media on the occasion of a new website for young people for education and exchange of information on HIV/AIDS supported by national institutions and international bodies reveals that 60% of the newly registered HIV/AIDS infections in Bulgaria are of young people between 15-29 years old. 21% of the young people aged 16-24 did sex with more than one partner within a month. Half of the Bulgarian youths did their first sex intercourse on 16 years or younger as 39% of them did not use condoms.

**231.**The level of knowledge on HIV/AIDS is also low. According to the UN index on knowledge on HIV/AIDS, the level of awareness in Bulgaria is only 23%. At the same time 8% of the Bulgarian youth has active sexual life before the age of 15. The youth website reveals that Bulgaria ranks second after Russia with high levels of pregnancies and births between the ages of 15-19 years. In 2009, more than 10 000 girls have given birth before turning 20 as nearly 500 of them have been under 15 years of age. Young people aged 10-24 account for 1,2 million people as 700 thousand of them are in their teenage period. In 2009, 530 thousand young people attended high and vocational schools but only 16.52% of schools have at least one subject in health education, and students who visited it were only 9%.

**232.**In the National Annual report on Youth (2006) the experts state that the major problem in relation to the activities of the Ministry of Health and its partners in the sphere of sexuality education and prevention of unwanted pregnancy, HIV/AIDS and STIs is the (government's) inability to provide access of all young people and adolescents in the county to modern systematic health education and youth-friendly services. The 2007 Report admits that the non-compulsory form of sexuality education in the pilot schools gives access to contemporary health education to less than 1% of the Bulgarian students aged 11-19. It reaches the conclusion that a new educational format is necessary which would give all students the opportunity to actively take part in interactive trainings on health education focused on prevention of unwanted pregnancy, HIV, STIs and drug and alcohol abuse. At the same time, it is recognized that teachers also need additional trainings on these issues. However, there is no differential data on age (10-14 years, 15-19 years, and 20-24 years) about the health condition of young people<sup>17</sup>. This fact is still valid even in 2012 and is an obstacle to planning of activities, which would adequately respond to the needs of the target groups on national and local levels.

**233.**Contrary to the conclusions in the 2007 Annual Report, in a 2008 interview<sup>18</sup>, a senior expert from "Policies in Education" Department to the Ministry of Education, Youth and Science shares that *"School has far more difficult task than a family. It is the acquisition of the social experience of mankind. ... So, one cannot expect from school to focus on*

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<sup>17</sup> A report on State Services suitable for young people in Bulgaria, 2006

<sup>18</sup> In a Positive Manner about HIV/AIDS, bulletin (#3, 2008) - <http://www.aids-bulletin.info/index.php?magic=4.48.187>

*teaching life skills, some of which are components of sexuality education. For example, some might think that learning how to use condoms is sexuality education. That is only one of the life skills which are not necessary to be taught in schools. ... The accusation that the educational system is conservative is actually one of its positive sides."*

- 234.** Because of that reason and the lack of a common governmental approach combined with the lack of enough expertise in the area of sexuality education, a space for amateur initiatives opens like "The Adventures of Kancho"<sup>19</sup> Campaign – a cartoon commix by which the Regional Inspectorate on Prevention and Control of Public Health (RIPCPH) targets young people. In it, the protagonist Kancho - a cartoon penis, educates in rhymes young people by giving advices such as "*Kancho woke up ready to work; ... My first attempt (to put a condom) failed, God, am I being ridiculous?!"*. After a wave of public debates on the content which defined the campaign as naïve, outdated<sup>20</sup> and provoking only laugh, the RIPCPH pulled it down of their websites.
- 235.** Obviously, in the institutional reality there is no centralized and unified idea about what sexuality education on contraception, HIV and STIs prevention should be like. There is absence of clear criteria as well. There are existing policies but they remain out of the practice of the educational system. The services and education on these topics is mainly provided by the NGO sector, followed by national health care bodies. The offered services are: health information (16.4%), health advice (14%), prevention of STIs (10.2%), psycho-social advice (8.6%) and mental health services (6.8%). It is necessary to develop a more comprehensive coordination mechanism with a wide range of services offered by one and the same institution, and good relationships to focus within and across sectors.
- 236.** At the same time, according to data provided in the media, more and more young people declare their interest in having compulsory sexual education in schools. A recent survey in the city of Blagoevgrad conveyed in 7 schools with more than 1200 students revealed that young people have basic knowledge on HIV/AIDS and STIs prevention. The respondents were between the age ranges of 14-19. On the question of availability of information, for the majority of the respondents (65.3%) a main source of information is Internet as it is accessible and anonymous. The authors conclude that Internet appears to be central source for young people to acquire knowledge and competences in relation to sexual and reproductive health. This fact, however, has its risks due to the diverse information, which can be incorrect as well. The research also stresses on the secondary sources of information. These are friends (58,5%), television (37,2%), newspapers and magazines (34.5%). 2.7% of the respondents admit that they do not seek such information. The research further continues that though parents are not among the primary sources of information, 60.3% of the respondents talk with them on sexual and reproductive thematic. 31.1% of them admit they feel uncomfortable to discuss with parents, while 29,2% do it freely. The percentage of the respondents who do not discuss these topics with the parents is 39.7% - 32.1% feel uncomfortable to raise the topics, while 7,6% state that their parents avoid them. The research clearly shows that school environment is not suitable for young people to acquire comprehensive sexuality education and the respondents do not even rank it among their reliable sources of information.

### **5.3. Reports on verbal and physical abuse of women during delivery or abortion**

- 237.** Reports of verbal and physical abuse of women by hospital staff during abortion and delivery are very common in Bulgaria, albeit primarily oral. Therefore, they leave very little trace. Socially, the most typical and omnipresent ill-treatment of labouring women,

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<sup>19</sup> <http://www.mediapool.bg/files/190/Kun4o.pdf>; [http://education.actualno.com/news\\_379953.html](http://education.actualno.com/news_379953.html);  
<http://www.obekti.bg/dnes/4-chovek>

<sup>20</sup> It turned out that the cartoon commix has been created more than 10 years ago and in 2012 it has been only reprinted.

such as shouting at them, making sarcastic and vulgar remarks, forbidding them to scream, and slapping them, is widely accepted as the natural way of birth. The birth “war stories” are shared, and the next generations are growing up with the expectation of suffering and abuse during childbirth. Intrusive, painful, and/or humiliating procedures, such as shaving, artificial rupture of membranes, episiotomy, and the pressing on the abdomen to induce birth, are applied primarily for speed and for the convenience of staff, rather than for the comfort of the women, or only when it is really necessary. The labouring women are expected to be apologetic and docile. Disobedience may be punished by inflicting unnecessary pain by staff during delivery. Roma women are segregated and ignored.

- 238.**Very little is written on the problem of abuse of labouring women in Bulgaria. One initiative, provoked by a story about a particularly traumatic delivery experience of one woman, was organized in 2009 by a group of women who gathered for a campaign to stop violence against women by hospital staff. The story of this woman can be found on a website created for the campaign (<http://nenanasilieto.wordpress.com/category/stories-english/>). The women’s group organized a protest which was held on the 25<sup>th</sup> November 2009 in front of the hospital where the woman was abused during delivery. The protest was covered by the weekly paper *Kapital*. Unfortunately, the protest and the article did not succeed in galvanizing any further action, nor a response from the authorities.
- 239.**There is no quantitative data whatsoever in respect of the abuse suffered by women in maternity wards in Bulgaria. There is no comprehensive and specialized research or investigation of this issue, nor are there any successful attempts at strategic litigation as ways of addressing the problem and creating publicity. Women who suffered abuse during childbirth prefer to forget the experience and continue with their lives. They also feel ashamed, or simply relieved that it is over. In many cases they do not even realize that there was anything wrong with the way they were treated: the stereotype of birth as a woman’s burden, and an experience that is private, shameful, and painful, is the reason for the continued silence.
- 240.**Similar experiences are shared by women who suffered miscarriages or underwent abortions. The women are approached with continuous requests for money during the miscarriage and while in pain; they are threatened, coerced, and shamed. Some report that during abortion, no nurse was present, and only male staff.
- 241.**In its responses to the List of Issues, the State omitted to provide any answer to the second part of Question No. 19 on Health, namely “*In light of reports about verbal and physical abuse of women during delivery or abortion and illegal requests for additional payments by hospital staff, what measures are being taken by the State party to put an end to such conduct?*” The reasons for this may be the lack of formal and quantitative data on the subject, and the standing stereotype that childbirth experiences are a matter of privacy. Nevertheless, the omission to give a response shows the novelty of the debate about abuse of laboring women in Bulgaria, as well as the Government’s lack of a formal position on this very sensitive and urgent issue.

## CHAPTER 6. DISADVANTAGED GROUP OF WOMEN

### 6.1. Discrimination against women asylum seekers in access to justice

- 242.**In two recent cases (2011-2012) of women who are at present seeking asylum in Bulgaria the State Agency for Refugees and the courts failed to take into account the applicants' gender as factor in deciding on their status, which led to discrimination and to establishing of bad practice. In both cases, the women (Iraqi citizens) were refused protection by the State Agency for Refugees on the grounds of lack of threat of persecution. Persecution was interpreted by the Agency very narrowly and in breach of the standards set by the UNHCR – as persecution by state authorities in a military or a political context. The Agency did not take into account the threat of persecution to these women as members of their gender. The UNHCR guidelines on gender-related persecution (July 2000) “[...] specifically focus on the interpretation of the refugee definition contained in Article 1A(2) of the *1951 Convention relating to the Status of Refugees* [...] from a gender perspective, as well as propose some procedural practices in order to ensure that proper consideration is given to women claimants in refugee status determination procedures and that the range of gender-related claims are recognised as such.” Further, it is explained that “[g]ender-related claims have typically encompassed, although are by no means limited to, acts of sexual violence, family/domestic violence, coerced family planning, female genital mutilation, punishment for transgression of social mores, and discrimination against homosexuals.” This means that without examining the specific situation at hand including the individual experiences and characteristics of the applicant, it is not possible to form an objective opinion on whether gender has any bearing on each particular case or not.
- 243.**In the two above-mentioned cases gender was not discussed by the Agency or by the courts on appeal as factor worth considering. In one of the cases, the lawyer submitted a statement to the Supreme Administrative Court (where the case was pending at the time) pointing out the importance of considering the question of gender. In its decision, the court ignored the statement, and again there was no discussion of the issue of gender. The second case is to be appealed before the Supreme Administrative Court. The lower court confirmed the Agency's refusal to grant protection with the same arguments – lack of risk of persecution of military or political nature. The issue of gender was also not discussed.
- 244.**It is the international standard that persecution, in the meaning of 1951 Convention, does not refer only to military and political actions by the state. Persecution is assessed by the assessment of the risk of harm and “*the State's ability and willingness to respond effectively to that risk*”.<sup>21</sup> In addition, domestic and sexual violence have been recognized as a threat that can constitute persecution. On the one hand, rape can be used as a weapon of war and a means to control the enemy. On the other, the European Court of Human Rights issued a decision in 2010 in the case of *N. v. Sweden*, finding that the applicant, an Afghani woman, if deported to her state of origin, will risk domestic violence, which is regarded by the authorities as legitimate and therefore is not prosecuted. It is clear that domestic violence, or violence against women, are now understood as typical forms of persecution.
- 245.**In this light, the failure and/ or refusal of the Bulgarian authorities and the courts to consider the above applications in the context of possible gender-related persecution constitutes discrimination. The refusal of the state to comply with the modern standards of asylum and refugee law in respect of women's rights to equal treatment is in itself a serious violation of its procedural obligations.

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<sup>21</sup> Feller, Turk and Nickolson, “Refugee Protection in International Law,” UNHCR, Cambridge University Press, 2003, p. 329

## **6.2. Measures, including temporary special measures, taken to eliminate multiple forms of discrimination against women**

- 246.** Judging from what has been presented above, it could be stated that women victims of gender based violence and discrimination, young women, minority women, rural women, foreign women and migrant women tend to be the most economically dependent in Bulgaria, the most isolated from the society, the most exposed to danger of losing their children in judicial proceedings, they are in risk to be extradited and/or expelled from Bulgaria. The reasons being: language barrier; lack of legitimate personal documents/visas; culture differences; religious reasons; restrictive bilateral legal agreements on family matters; family constraints and traditional norms regarding women's and gender roles; lack of information regarding legislation on equal opportunities and non-discrimination; difficulties in reconciling family and work due, among others, to the lack of accessible social services of caring of dependent family members; illiteracy or lack of proper education; lack of self-confidence and esteem cultivated; diseases preventing them from social communication and labour realization; minority marginalization; discriminatory attitude of employers; negative image in the Media, etc.
- 247.** Unpaid work and/or low income labor is one of the dimensions through which those vulnerable women take part in sustaining their families and communities, and the society in general. The present report acknowledges the active involvement of these groups of women in productive roles and the social mechanisms (despite their exclusion and the discrimination they face) and cultural perceptions (among them racial and gender prejudices) that prescribe certain positions for them (socially assigned gender roles) and limit their opportunities in self-realization in private and public life (including the labor market). It should be stated that, on the one hand, there is no adequate number of projects aiming at gaining knowledge and deeper insight into these phenomena. On the other hand, there is no State or local policies aimed at multi-directed activities creating opportunities and real chances such women to get paid jobs that could provide them safety and well-being, and respect from their communities and the society.
- 248.** Ensuring equal opportunities for men and women, through affirmative action, and especially for men and women belonging to different ethnic and age groups is – alongside the formal recognition of rights to equal treatment and non-discrimination – one of the crucial elements of social inclusion. The latter is both a cultural and a social-economic process for it requires eradication of cultural stereotypes (that legitimize and sustain practices of discrimination and, at the end, social inequality), but also the transformation of structural conditions regarding lack of access to housing, labor, education, healthcare, etc. Disadvantaged social categories are exposed to risk of social exclusion, such as the presented group of women. They need equal opportunities, recognition and respect coming from their own communities and the society at large.
- 249.** What is needed is: promotion of social inclusion and economic empowerment among victims of gender based violence and discrimination, young women, minority women, rural women, foreign women and migrant women, based on the identification and recognition of their particular needs and interests; raising occupational ratio among the categories exposed to the risk of social exclusion; consolidating the motivational background for education and training, taking into consideration the differences within the vulnerable groups; promoting an inclusive and cohesive society which transcends differences in terms of ethnicity, gender, age, nationality and social status; eliminating discriminatory practices based on criteria such as ethnic origin, gender, age, nationality and social status; reconciling professional life (career) with family life through affirmative actions supporting women to find a stable job; creating and consolidating cooperation among the vulnerable women, their communities and the society as a whole.

## CHAPTER 7. RECOMMENDATIONS

**250.** The following recommendations could contribute to the CEDAW Committee Concluding observations to the Government of the Republic of Bulgaria as they address all the six areas of concern outlined in the report.

### General

- Ratify the Convention on preventing and eradicating all forms of violence against women, including domestic violence (Convention No210 of the Council of Europe);
- Ratify Protocol 12 to the European Convention on Human Rights and Fundamental Freedoms;

### Legal status of the Convention and legislative and institutional framework

- Take all the necessary measures to disseminate knowledge of the provisions of the CEDAW, its Optional protocol and its General Recommendations among judges, prosecutors and lawyers to enable them to invoke and apply the Convention in relevant cases;
- Develop additional policies for effective gender equality;
- Adopt and implement specific legislation on equality between men and women, thereby officially recognizing the particular nature of discrimination against women and adequately addressing it;

### Traditional stereotypes

- Adopted comprehensive approach to overcome traditional stereotypes regarding the roles of women in family and society, including political, legal and awareness-raising measures involving state officials and civil society as well as the Media;

### Violence against women

#### A. Domestic violence

- Classify all forms of violence within the family as criminal offences (in particular, amend Article 161, paragraph 1 of the Penal Code);
- Classify explicitly rape within marriage as criminal offence;
- Classify domestic violence as a criminal offence;
- Amend article 10 (1) of the PDVA so as to remove the one-month time limit and to ensure that protection orders are available without placing undue administrative and legal burdens on applicants;
- Ensure that the provisions in the PDVA ease the burden of proof in favour of the victim by amending the Law accordingly;
- Provide possibility for the Police to initiated proceedings under the PDVA in cases emergency protection orders needed;
- Legally recognize the Counseling centers of the NGOs providing services for domestic violence victims (legal counseling, psycho-social counseling, work with couples, job search consultancy and work with the perpetrators), as social services;
- Adopt a methodology for the work of the Counseling centers in order to ensure equal protection of the victims throughout the country.
- Ensure that a sufficient number of state-funded crisis centers are available to victims of domestic violence and their children, especially in the small cities, villages and remote places;
- Provide shelter without bureaucratic proceedings in the process of application and ensure the crisis centers are not of residential type in order not to re-victimize the people in need forcing them into yet another dependency;
- Adequately fund and place the responsibility for the management of the domestic violence shelters, hotlines and other related services with NGOs;
- Provide adequate and consistent funding to non-governmental organizations working against domestic violence;
- Make a clear financial commitment to meeting the objectives in the PDVA;

- Ensure that domestic violence cases – both criminal and civil, are systematically investigated, that those responsible are brought to justice and punished, and that adequate compensation is provided to the victims;
- Provide mandatory training for judges, lawyers and law enforcement personnel on the application of the PDVA, including on the definition of domestic violence and on gender stereotypes;
- Continue to work to increase the coordinated community response between police, prosecution, courts, social service, health care providers, NGOs and Media in order to ensure effective implementation of the PDVA, including through adopting a Coordinated mechanism in cases of domestic violence;
- Vigorously pursue its efforts to prevent domestic violence, in particular domestic violence against women, and encourage the victims to report the cases to the authorities;
- Initiate regular gender sensitive monitoring of domestic violence cases – both criminal and civil - and analyse the reasons why they are rarely reported;
- Ensure State funded and supported research on prevalence, causes and consequences of gender based violence;
- Adopt and/or implement and periodically review and analyse its national legislation to ensure its effectiveness in eliminating violence against women, emphasizing the prevention of violence and the prosecution of offenders.
- Gather and provide official statistics on the number of complaints, prosecutions and convictions and the sentences imposed in cases of domestic violence, disaggregated by sex and age of victims and perpetrators;
- Gather and provide official sex-disaggregated statistical data on the number of protection orders issued under the PDVA per year;

#### **B. Trafficking and exploitation of prostitution of women and girls**

- Train the investigation and prosecution authorities to inform the victims of trafficking in human beings of their right to be legally represented;
- Draft a Code of Conduct for Hotline Consultants for victims of trafficking in human beings, including a recommendation to inform the victims of their right to have an attorney in the criminal proceedings;
- Establish, within the bar associations, separate registers for attorneys who wish to provide free legal aid to victims of trafficking in human beings in the criminal proceedings;
- Train the investigation and prosecution authorities to inform the victims of trafficking in human beings properly, in oral conversation and in an understandable language, the substance and the consequences of their right to claim compensation;
- Put in visible places in the buildings of the investigation offices, and also in hospitals, information flyers explaining the victims' procedural rights;
- Create TV campaigns against trafficking in human beings, taking into account the considerable number of illiterate women among the victims;
- Amend the Compensation Act as to include financial compensation for moral damages;
- Increase significantly the budget allowed for compensations, granted by the State, accumulating it from the assets, which the State acquires from the traffickers on the basis of final court decisions.

#### **Education**

- Consolidate the motivational background for education and training of minority girls, taking into consideration the differences within the vulnerable groups;
- Adopt and implement a countrywide preventive mechanism for girls under the legal age for marriage through community awareness-raising strategies focusing on the consequences of the practice of early and informal marriage arrangements, and on the rights and duties of the persons involved;

#### **Health**

- Adopt legislation ensuring information and access to primary and specialized outpatient assistance for youth;
- Build capacity among the youth in order to use effectively the available youth services in the primary and specialized outpatient assistance;
- Create coordination mechanism for referral;
- Ensure that in the municipal districts the services directed towards young people are of priority for the local decision makers;
- Introduce compulsory sexuality education in schools and improve the access to youth services and information;
- Up-date the existing policies in the educational system in the areas of sexual and reproductive health and rights;
- Investigate the issue of abuse of women in hospitals through face-to-face;
- Enforce penalties for hospital staff who abuse women during childbirth, miscarriage or abortion;
- Carry out training of hospital staff in ethics of assisting childbirth and the consequences of violations;
- Introduce measures to prevent extortions;
- Introduce supervision and enforce accountability of the medical staff;

#### **Disadvantaged groups of women**

- Introduce legislative changes to include rules about gender-related persecution into the Asylum and Refugees Act;
- Produce manuals on gender-related issues in asylum and refugee law, organize trainings, conferences and seminars for judges, prosecutors, lawyers, and the state agency employees;
- Promote social inclusion and economic empowerment among victims of gender based violence and discrimination, young women, minority women, rural women, foreign women and migrant women, based on the identification and recognition of their particular needs and interests;
- Promote an inclusive and cohesive society which transcends differences in terms of ethnicity, gender, age, nationality and social status;
- Eliminate discriminatory practices based on criteria such as ethnic origin, gender, age, nationality and social status;
- Pursue its efforts to eradicate stereotypes and widespread discrimination against Roma women and girls by, among other things, increasing awareness-raising campaigns that promote tolerance and respect for diversity;
- Provide accurate information on the status of women in rural areas to assist policy-makers as well as advocates to improve the status of women and enhance their contribution to local development;
- Create and consolidate cooperation among the vulnerable women, their communities and the society as a whole;
- Adopt measures to promote equal access to opportunities and services in all fields and at all levels through appropriate actions in order to address existing inequalities;
- Adopt measures reconciling professional life (career) with family life through affirmative actions supporting women to find a stable job;
- Raise occupational ratio among the categories exposed to the risk of social exclusion;

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