



Republic of Bulgaria
ECONOMIC
AND SOCIAL COUNCIL

OPINION

on

**NATIONAL REPORT OF THE GOVERNMENT
OF THE REPUBLIC OF BULGARIA
ON THE IMPLEMENTATION OF
THE EUROPEAN SOCIAL CHARTER (REVISED)
FOR THE PERIOD 1 JANUARY 2001 – 31 DECEMBER 2002**

(on its own initiative)

Sofia, 29 April 2004

On 7 April 2004 the Plenary Session of the Economic and Social Council took decision to draw up on its own initiative an Opinion on the National Report on the Implementation of the European Social Charter (revised) for the period 1 January 2001 – 31 December 2002.¹

The Commission on Labour, Incomes, Standard of Living, and Industrial Relations of the Council that had been responsible for the preparation of the opinion approved a draft of the Council's Opinion on 16 April 2004.

Mr. Plamen Dimitrov was appointed Rapporteur.

The Economic and Social Council approved this Opinion at its Seventh Plenary Session, held on 29 April 2004.

¹ see www.mlsp.government.bg

I. INTRODUCTION

The European Social Charter (ESCh)² is a European Treaty, opened to signature in Turin in 1961 and entered into force in 1965. By ratifying the ESCh the states on one hand agree to conduct policy that will be governed by “all adequate means of national and international nature, the achievement of conditions for effective practice of the rights”, specified in the first Chapter of the ESCh, and on the other hand – they will be obliged to ensure the protection and implementation of the rights specified in the second chapter.

Following the enactment of the Social Charter in 1965 three additional Protocols have been adopted relating to the contents and the manner of its implementation. During the Parliamentary Session of the Council of Europe in 1996 in Strasbourg a decision was taken as to the adoption of a new document, which in its essence was a revised and supplemented Social Charter that entered into force under the name of a Revised European Social Charter. This Charter contains all fundamental groups of rights, mentioned in the 1961 Charter, a large part of them – supplemented and enriched, including the rights, stated in the CE Additional Protocol of 1998 and some other groups of rights, set in 8 new clauses. Totally the Revised social charter has 31 articles by content, together with a number of other supplemented and enriched texts in relation with its implementation. The Revised Social Charter has been in force since 1999, i.e. following its ratification made by a certain number of member states.

The European Social Charter, the additional protocols to it and the Revised ESCh are not obligatory documents to be undersigned and ratified by the CE member states. Nevertheless, most countries have ratified one or the other charter or have at least signed them. The European Social Charter defends the **fundamental social and economic rights** and supplements the European Convention for the protection of the human rights, providing protection of the civil and political rights.

The Economic and Social Council reminds that in March 2000 the 38th National Assembly ratified by a law the European Social Charter (ratified)³, which has been in force since August 2000.

The Council has to note the fact that by May 2003 a Council for the ratification of the Charter at the Ministry of Labour and Social Policy (MLSP) was acting, which later was transformed into a Consultative Committee of the European Social Charter. This committee organized the consultations of the national reports prepared on the Charter with the social partners and the representatives of the civil society and provided answers to the inquiries relating to the implementation of the Charter made by the Committee of the social rights and by other states, contracting parties under the Charter.

² Hereunder referred to as the Charter

³ Published in Official Gazette, Issue 30 of 11.04.2000

It was for the first time after ceasing the operation of the Consultative Committee on the European Social Charter that the Labour and Social Policy Minister presented a national report on the implementation of the ratified non-obligatory to ratification clauses of the ESCh (revised), prepared by the MLSP experts, to the attention of the Economic and Social Council (ESC).

The Council reminds that according to art. 5, para 1 of the Economic and Social Council Act, individual ministers are not empowered to approach the Council and request Opinions from it.

Acknowledging the responsible attitude of the groups of the social partners – organizations of the employers, organizations of the employees and the other representatives of the civil society, represented with the Council,

And because of the following interrelated reasons:

- **first**, the importance of this document, reflecting the social development of the country;
- **second**, the role of the Economic and Social Council as the spokesman of the interests and will of the organized civil society, represented by the nationally representative organizations of the employers, the nationally representative organizations of the employees and the other organizations of the civil society, expressing social, professional and class interests.

And on the authority of art. 5, para 5 of the Economic and Social Council Act, the Council took a decision to prepare an Opinion on **the National Report of the Government of the Republic of Bulgaria in relation with the implementation of the European Social Charter (revised) for the period from 1 January to 31 December 2002** at its Fourth Plenary Session.

The Council stresses that the present Opinion is a follow-up of a number of meetings and discussions, organized by the Commission of Labour, Incomes, Standard of Living, and Industrial Relations with the participation of experts dealing with the themes of the Charter.

The Opinion aims at drawing the attention of the Council of Ministers, the institutions concerned and the non-governmental organizations to some problems which may incur in connection with failure to meet the Charter clauses ratified by the Republic of Bulgaria.

In the course of the discussions held on the occasion of the National Report of the Government of the Republic of Bulgaria in relation with the implementation of the European Social Charter (revised) for the period from 1 January to 31 December 2002, the Economic and Social Council has come to the conclusions and recommendations, taken up in part 2 and part 3 of the Opinion.

1. Grounds for the Preparation of the National Report on the Charter

According to article "C" of the ESCh (revised) the execution of the obligations thereof is a subject of control, performed every two years by presenting reports for the implementation of its provisions. The revised charter stipulates the following system for submitting the reports of the government to the Council of Europe:

- Report on the provisions of the "solid body" (obligatory clauses) every two years;
- Report on the remaining provisions every four years.

In compliance with this system by 30.06.2003 the national report on the clauses of the Charter solid body was presented.

By 31 March 2004 the Republic of Bulgaria had to submit a report on the clauses from the second part of the optional provisions of the Charter, which comprise art. art. 8, 11, 14, 17, 18, 25, 27.

2. Mechanism for Control on the Execution of the Ratified Clauses from the Charter

The following bodies of the Council of Europe participate in the control procedure:

Committee of the Social Rights (CSR) – considers the reports presented by the contracting parties and prepares a legal assessment about the manner by which they have met their obligations. The assessment is under the form of conclusions, which can be: positive, negative, and deferred. **Positive conclusion** – defines the situation in the country as adequate to the requirements of the Charter. CSR may request new information on the conclusion thus made, which has to be included in the next national report. **Deferred conclusion** is at hand when the Committee does not dispose of sufficient information in order to assess whether the provision in question has been observed. The needed data have to be included in the next report. The other option in case of missing information is: the Committee will give a negative mark motivating its decision by the fact that the respective state has not proved to meet the Charter requirements. If it is not included in the next report, the Governmental Committee may forward a warning or offer to the Ministerial Committee to adopt a recommendation against the given state. **Negative conclusion** is given when the CSR considers that the situation in the state does not comply with the requirements of the Charter pertaining to legislation, administrative policy, jurisprudence, and etc. The state has to demonstrate readiness to outline the measures it intends to take up and record them in the next national report.

The **Governmental Committee** prepares the resolutions of the Ministerial Committee and the recommendations addressed to each country concerned recording the economic and social environment in it.

The **Ministerial Committee** adopts a resolution about the entire control cycle and prepares recommendations requesting from the states to make changes in their legislation or practice in order to comply with the requirements of the Charter.

3. Assessment of the Council of Europe on the First National Report:

Following the ratification of the Charter, in the period 2001 – 2003 monitoring was started on the implementation of the provisions ratified by Bulgaria and the first national reports were worked up in 2002 and 2003. The government of the Republic of Bulgaria presented the first National report for the period from 1 August to 31 December 2000 to the Council of Europe by 31 March 2002. It contained information about Bulgaria's implementation of all ratified non-obligatory paragraphs of articles 2, 3, 4, 8, 11, 14, 17, 18, 21, 22, 24, 25, 26, 27, 28, and 29. Following that report, the Government worked up the second national report on the implementation of the obligatory ("solid body") clauses.

The first Opinion of the Committee of Social Rights at the Council of Europe relating to the first national report was received at the end of August. The general impression from the Opinion is that the first national report did not provide thorough information about the implementation of the ESCh. Regarding most of the clauses of the peripheral part of the Charter, the Committee has deferred its conclusions till obtaining additional information. The CSR assessments on articles in the First report, which were included in the Third national report, are as follows:

<p>Art. 8. The right of employed women to protection of maternity Para 1 – Maternity leave</p> <p>Para 2 – To consider dismissal unlawful during maternity leave</p> <p>Para 3 – Leave for nursing mothers</p> <p>Para 4 – Night work</p> <p>Para 5 – Prohibition for hazardous, unhealthy and hard kinds of work</p>	<p>The situation in Bulgaria does not comply with the Charter since the woman can refuse fully or partially to use the leave given to her due to pregnancy or childbirth.</p> <p>The situation in Bulgaria does not conform to art. 8, para 2 of the revised Charter, because the national legislation does not prohibit dismissal of pregnant women workers and because the national law does not guarantee that the worker will be paid adequate compensation in any case of dismissal when violation of this regulation is present.</p> <p>The situation in Bulgaria conforms to art. 8, para 3 of the revised Charter.</p> <p>The situation in Bulgaria conforms to art. 8, para 4 of the revised Charter.</p> <p>The Committee has deferred their conclusion till receiving the information requested.</p>
<p>Art. 11. The right to protection of health Para 1 – Remove as far as possible the causes of ill-health Para 2 – Advisory and educational services Алинея 3 – Prevent diseases</p>	<p>The Committee has deferred their conclusion till receiving the information requested.</p> <p>The Committee has deferred their conclusion till receiving the information requested.</p> <p>The Committee has deferred their conclusion till receiving the information requested.</p>

<p>Art. 14. The right to benefit from social welfare services Para 1 – Provide and support social care services Para 2 – Participation of the public in the setting up and operation of the social care services</p>	<p>The Committee has deferred their conclusion till receiving the information requested. The Committee has deferred their conclusion till receiving the information requested.</p>
<p>Art. 17. The right of children and young persons to social, legal and economic protection Para 2 – Free of charge basic and secondary education – regular attendance at school.</p>	<p>The situation in Bulgaria does not conform to the revised Charter, as far as the disabled children and the children of Romany origin do not have guarantee for real right to education.</p>
<p>Art.18. The right to engage in a gainful occupation in the territory of other Parties Para 4 – Right of their nationals to leave the country</p>	<p>The Committee has deferred their conclusion till receiving the information requested.</p>
<p>Art. 25. The right of workers to the protection of their claims in the event of the insolvency of their employer</p>	<p>The situation in Bulgaria does not conform to art. 25 of the Charter since the system of privileges thus described does not further the efficient protection of the employees' claims, which would be equal to a guarantee institution.</p>
<p>Art. 27. The right of workers with family responsibilities to equal opportunities and equal treatment Para 2 – Parental leave to take care of a child Para 3 – Prohibition about family responsibilities shall not, as such, constitute a valid reason for termination of employment</p>	<p>The situation in Bulgaria complies with art. 27, para 2 of the revised Charter. The Committee has deferred their conclusion till receiving the information requested.</p>

It should be noted that most probably part of the negative estimates are due to not always complete and adequate information.

4. Scope of the Report

The national report under consideration provides answers to part of the CSR requests for supplementary information in relation with their conclusions on the First national report for the implementation of the regulations adopted in the peripheral part of the Charter.

The report provides information about the implementation of the following articles of the ESCh (revised):

Art. 8 The right of employed women to protection of maternity;

Art. 11, para 1, para 2, para 3 The right to protection of health;

Art. 14 The right to benefit from social welfare services;

Art. 17, para 2 The right of children and young persons to social, legal and economic protection:

Art. 18, para 4 Right of local nationals to leave the territory of the country

Art. 25 The right of workers to the protection of their claims in the event of the insolvency of their employer

Art. 27, para 2 The right of workers with family responsibilities to equal opportunities and equal treatment.

II. ESTIMATES AND RECOMMENDATIONS UNDER THE THIRD NATIONAL REPORT

1. On article 8. The right of employed women to protection of maternity

1.1. On art. 8, para 1

The Council **considers** that the answer to the questions posed by the Committee of Social Rights can be defined principally as thorough and correct. At the same time the Council **finds** positive the fact that the contents of art. 163 of the draft for the Law on the amendment and supplement of the Labour Code have been cited in the report and its provisions fully correspond to the provisions of art. 8, para 1 of the Charter.

According to the Bulgarian legislation a worker being in pregnancy and maternity leave for 135 days, 45 of which before the childbirth, is not capable of work. The medical authorities permit such leave and the worker cannot refuse using it.

On question D, the Council **recommends** to make short comments out of the regulatory provisions and state that there do not exist such cases in Bulgaria, moreover, during her pregnancy and maternity leave the mother:

- receives compensation amounting to 90% of the gross labour remuneration;
- relieved of paying personal social security contributions;
- receives one-time financial aid for child-birth;
- receives monthly allowance for raising a small child.

On question F, the Economic and Social Council **suggests** that additional comments would be included in relation with the equal treating of the women employed by fixed term labour contract and those working on permanent employment contracts. If the contract expires during the pregnancy and maternity leave, then the mother will receive compensation till the end of this leave, no matter if the employment relationship has been terminated (art. 52 of the Social Security Code).

The Economic and Social Council **considers** advisable to state the date of promulgation and enactment of art. 73 of the Encouragement of Employment Act in the quotation of the answer to question F.

1.2. On art.8, para 2

The Council **considers** that the answer given to the questions posed by the Committee of Social Rights in relation with the implementation of art. 8 para 2 is complete and it can be accepted as correct if the following principal positions are taken into account:

On question A: The Committee of Social Rights (CSR) has made negative conclusion on the implementation of art. 8 para 2 of the Charter in the R Bulgaria. The CSR accepts that there is strengthened protection of the women employees in maternity, unless the current legislation allows their dismissal not only from the moment they have started to use their pregnancy and maternity leave, but also upon notification of the employer about their pregnancy till the expiry of the maternity leave. In this sense it has been stated in the report that the Government will move the issue to the National Council of Tripartite Cooperation (NCTC) for discussion and eventual adoption of a legislative resolution in compliance with the Charter.

The Council **thinks** that this answer should contain and supply the concrete measure and the term for achieving a result thereof, which the Bulgarian government will undertake for changing the national occupational legislation in compliance with the requirements set by art. 8 para 2 of the Charter. In this case the planned amendments and supplements in the Labour Code should be quoted and in particular art. 313a. At the same time, it should be noted that the protection provided for in art. 8 para 2 of the Charter is not unconditional and it does refer to cases such as:

- closure of the enterprise;
- sentenced and imprisoned;
- flagrant violations of the occupational discipline.

On question D, the Economic and Social Council **considers** that the answer provided by the government is only a quotation of the existing regulation of art. 313 clause 3 of the Labour Code and **offers** to add comments in order to explain that during the validity of the contractual employment the woman employee is entitled to the same protection as the law provides for the women working by permanent employment contract. Art. 325 clause 3 of the Labour Code gives opportunity to terminate the fixed term employment contract of the woman employee upon the expiry of the term agreed upon, excluding the right of using any protection on the account that she is pregnant or that she is in pregnancy and maternity leave.

Regarding the findings of the Committee that in the event of unlawful dismissal of a woman employee using a maternity leave, the court should order compensation without any restrictions to the amount when it is justifiable by virtue of the circumstances for each

concrete occasion. The comment in the governmental report points out that compensation is ordered for becoming unemployed due to unlawful dismissal, but the circumstance is passed over in silence that in fact the law has limited the compensation due by the employer for unlawful dismissal to the maximum amount of six gross work wages. Hence, according to the current Bulgarian legislation the responsibility of the employer for an unlawful dismissal is limited to 6 monthly gross salaries and the worker cannot claim and look for damages other by kind and size, though she has really suffered them as a result of her unlawful dismissal from work.

The Council **suggests** that it should be explicitly stated in the comments that the dismissal of the woman employee with a permanent or fixed term employment contract, using a pregnancy and maternity leave, can be effected on one grounds only, namely, if the employer shuts down the enterprise. When violating the prohibition for dismissal during a maternity leave, the Bulgarian legislation stipulates a possibility for reinstating the unlawfully dismissed woman employee by the court. Usually the reinstating in the former occupation is the casual indemnification when violating the protection provision of the law and there is also a possibility for receiving compensation.

1.3. On art.8, para 3

The economic and Social Council **points out with anxiety** that the answer to the question for the effective exercise of the right of the working women to protection in maternity and enough free time for nursing the small children is incomplete. It is advisable to explain when answering this question that the mother uses the leave for nursing the small child till the age of 8 months on the basis of the child's certificate of birth, and upon completing the 8 months the nursing leave is given on the assessment of the medical authorities.

The Council **considers necessary** to provide additional information herein about the criteria on the basis of which a medical certificate is issued for using a nursing leave under art. 166 of the Labour Code when the child becomes 8 months old. The correct answer needs to quote the adequate texts of the Regulation for expertise of the work capacity concerning the mode of issuing medical certificates.

1.4. On art. 8, para 4

The Economic and Social Council **finds** that the answer to the question relating to the night work of pregnant, young mothers and nursing women is concrete and complete. At the same time the Council **suggests** that additional comments should be made on the texts deposited for amendment and supplement to the Labour Code and in particular about the right to night work performed by women.

1.5. On art. 8, para 5

The council **considers** that the answer to the questions is thorough in relation with the regulatory framework but comments are missing on its implementation in relation with the young mothers and nursing women.

On question A, the Council considers necessary to include the following clarification: “the protection shall enter into force on the date of issuing the respective medical document for verifying the state of the pregnant woman, young mother and nursing woman” in the comments on the question related with the protection against hiring pregnant women, young mothers and nursing women in underground mines.

On question B, the Council **considers** that the answer to the question is thorough and concrete from point of view of the acting legislation in Bulgaria in connection with the matter under discussion – these are hazardous and hard works prohibited for performance by women. The Economic and Social Council **suggests** to make short comments that the protection becomes effective as at the moment of issuing the respective medical document for validation of the state of the pregnant woman, the young mother and the nursing woman and it shall be terminated upon the expiry of the term set by the medical certificate.

On question C, the Economic and Social Council **finds** that the answer of the government is too general. It **has to be supplemented** by stating that all legal regulations pertaining to the prohibition of hazardous and hard works for women have a subjective scope involving all women, including pregnant women, young mothers and nursing women. At the first opportunity, more detailed information can be provided about cases from the practice relating to exceptions from the prohibition on women to perform hazardous and hard works.

2. On article 11. The right to protection of health

The Council **finds** that the answers in the report on the questions alluded to in art. 11 carry the needed information relating to the regulatory framework and it is supported by sufficient statistical data and examples from the practice as well as by national programmes, envisaged by individual issues of the respective clause in the Charter.

2.1 On para 1, The Council **approves** the additional information included in the report and considers that the answer is thorough.

2.2. On para 2, The Council **notices** that there is a deferred CSR conclusion relating to this text of the Charter till receiving additional information.

On question A, no thorough information has been stated in the answer to the question regarding the school education envisaged about the negative post-effects from smoking and on the issues relating to the sex facts of life. Attention is paid only to the services for providing consultations on the AIDS disease. The Council **proposes** to quote the measures already taken for the improvement of the health training at the schools and which were stated in other sections of the report. CSR has defined the school health education as crucial and decisive for the assessment of the country regarding the conformity to art. 11 para 2 of the Charter.

On question B, the Economic and Social Council **draws attention** to the circumstance that the CSR demands additional information about particularly organized information campaigns for getting the population acquainted with the usefulness of the preventive diagnostics. The Council is concerned about the lack of answer and information thereof. The Economic and Social Council **suggests** that concrete examples, if any, should be provided about information campaigns, because this will be of crucial importance for the approval of the report by the CSR in this particular part.

2.3. On para 3, The Economic and Social Council **finds** that the information in the report corresponds to the inquiry made by the CSR.

3. On article 14. The right to benefit from social welfare services

3.1. On art.14, para 1

The Council **finds** that regarding this clause of the Charter the national report contains detailed statistical information, including such one, which concerns the regulatory framework and practice, having become effective after the reporting period – 1 January 2001 – 31 December 2002 and it is compliance with the requirements set in the CSR inquiries. The same refers also to the National Strategy for equal opportunities for the people with disabilities that was adopted on the basis of the Management Action Programme of the government, and is related to the subject matter provided for in art. 14 of the Charter.

The Economic and Social Council **suggests** in the comments made under art. 14, para 1 answering the CSR question – which is the last instance in relation with appealing the administrative acts when social benefits are refused, to detail the comment in the part appealing in the court

The Council **finds** just to specify the answers to **question C** as follows:

- supplementing the opportunity specified in art. 126 of the Social Benefits Act according to which unemployed persons meeting the provisions for support by monthly allowances are included in employment programmes. In case of ill-grounded refusal by those persons to participate in the employment programmes, they are deprived of receiving monthly benefits for a period of 1 year;
- explanatory comments about the reduction of the funds under the social benefits budget, number of persons covered, and etc.;
- to include also the funds planned by the National Plan for integration of people with disabilities;
- short presentation of the “Personal attendant” programme.

3.2. On art. 14, para 2

The Council **considers** that the national report on this clause of the ESCh provides detail information, which conforms to the requirements of the CSR inquiries. The Economic and Social Council **suggests** in the comments relating to the participation of individuals and

volunteer or other organizations in the setting up and maintenance of social welfare services to give concrete examples for working meetings and seminars held on this problem as well as quote best practice examples of NGOs and other organizations.

4. On article 17, para 2 *The right of children and young persons to social, legal and economic protection*

The Council **considers** that the answers in the national report on the questions provided for in art. 17, para 1, contain the necessary information about the regulatory framework, which is supported by sufficient statistical data and examples from the practice as well as by national programmes planned according to the separate issues of the respective clause.

On question, the Council recommends in the answer to this question to add the regulation for the access to vocational education and training for the students of special educational needs and/or chronic diseases, for the students from the homes for bringing up children deprived of parental care and for persons of deviation behaviour – art. 32 – art. 32e of the Vocational Education and Training Act.

On question C, the Economic and Social Council **considers** that the information relating to the school attendance of children and young people from the minorities and requested by the CSR is supplied but it has not been specified that they are namely children and young people of Romany origin.

The Council **notes** with contentment that the material concerning the integration of children-refugees in the Bulgarian educational system is very well developed in the answer.

The Council is **worried** about the lack of concrete examples for measures taken and the results thereof in relation with the integration of the Roma children and children with disabilities in the educational system. The Economic and Social Council **recommends** in the measures undertaken for the integration of the children and the students with special educational needs (children with disabilities) to indicate more concrete examples from the practice illustrating the realization of those measures and in particular the programmes realized by the Ministry of Education and Science (MES) and those under the National Action Plan for Employment.

On question D, the Council considers that the government has not given a precise answer. It is necessary to specify it by absolute values and relative weights of the groups concerned. Further it is advisable in response to the inquiry of the Committee to make clear that conditions have been provided for the drop-outs from the educational system to attend the centers for vocational training, existing out of the national education system where the costs for training are covered and the students are given scholarships for the period of study. The efforts for working up a methodology about the employers' needs of qualified work force and vocational education and training should be pointed out as a preventive step against the dropping out of students from the educational system.

5. On article 18, para 4 Right of local nationals to leave the territory of the country

The Council **notices**, that the answers in the national report to the questions specified in art. 18, para 4 provide the needed information on the current regulatory framework in Bulgaria. The Council notices that this regulatory framework is new and it refers to a period for implementation out of the reporting period of the national report. Because of this reason no comments are made. The Economic and Social Council **suggests** to add in the answer that the Executive Agency “Chief Inspection of Occupation” at the MLSP exercises the control on the mediation services for the Bulgarian nationals applying for work abroad.

6. On article 25. Right of workers to the protection of their claims in the event of the insolvency of their employer

Taking into account that Bulgaria has received a negative conclusion by the CSR, the Council considers that the responses provided in the national report to the questions relating to the implementation of art. 25 are correct and they reflect precisely the current regulatory framework and the one that is to be adopted in execution of the clause. The Council is **contented** with the fact that a concrete measure has been cited in the report, which the government plans to undertake with a view to adjust our national legislation and practice in conformity with the requirements of art. 25 of the Charter.

The Council voices its confidence that by the adoption of a Law on the protection of the claims of the workers in the event of the insolvency of their employer and the establishment of a guarantee institution – Guarantee Fund for the protection of the claims of the workers in the event of the insolvency of their employer, the R Bulgaria will meet the obligation assumed to guarantee the claims of the workers in the event of the insolvency of their employer.

7. On article 27 Right of workers with family responsibilities to equal opportunities and equal treatment

7.1. On art. 27, para 2

The Council **underlines** that the responses given in the report to this text have thoroughly reflected the current regulatory framework. The Economic and Social Council **finds** apt to complete the answer under the provisions of art. 27 para 2 by a text and comments relating to a new kind of leave, foreseen by the amendments and supplements of the Labour Code, namely “Parental Leave”.

7.2. On art. 27, para 3.

The Council **considers** that the information under para 3 is thorough and points out that the notion “workers with family responsibilities” does not exist in the Bulgarian legislation.

III. GENERAL CONCLUSIONS AND RECOMMENDATIONS ON THE REPORT:

The Economic and Social Council,

After making a thorough analysis of the National report of the Government of the Republic of Bulgaria in relation with the implementation of the European Social Charter (revised) for the period from 1 January 2001 to 31 December 2002;

After getting acquainted with and estimating the Conclusions of the Committee of Social Rights relating to art. art. 1, para 4, 2, 3, 4, 8, 11, 14, 17, 18, 21, 22, 24, 25, 26, 27, 28 and 29 of the revised Charter;

And after taking into consideration the opinion of the experts and representatives of the groups represented in the Council and in execution of its function and role to voice the interests and will of the civil society and to consult the state bodies on the issues of the economic and social development of the country,

Has made the following conclusions and recommendations:

1. The Council appreciates positively the fact that the national report contains detailed information on the questions posed. At the same time the information provided to some of the questions is not always thorough.
2. The Council points out that in comparison with the first national report on the clauses of the Charter non-obligatory for ratification, this report contains more detailed information on the conformity of the situation in country to the requirements set in the clause of the Charter and subject to discussion in the report. Nevertheless, the Council considers with great concern the fact that this report uses only quotations of the regulatory framework in some places without making any comments on the concrete information demanded by the CSR in relation with the situation in the R Bulgaria with respect to the implementation of the Charter clauses ratified by the country.
3. The Council is disturbed by the circumstance that if the report is presented in its present shape to the Secretary General of the Council of Europe then the Committee of Social Rights may give again negative or deferred conclusions on the implementation of the ESCh regulations. In case of repeated negative conclusion there is danger that the R Bulgaria can become an object of recommendation on the part of the Ministerial Committee. By its nature the recommendation is a negative opinion towards the contracting country and it would obliged that country to make the adequate changes in its legislation so that they would meet the requirements for the implementation of the ratified clauses of the ESCh.
4. The Council has stressed the necessity of specifying the information displayed in the national report relating to the clauses discussed by taking into account the concrete recommendations made in the Opinion.

5. The Council considers advisable that the National report for the period from 1 January 2001 to 31 December 2002 will have an introduction part where explicitly must be stated: the grounds for the issuance of the report, the provisions it refers to, the governmental institutions and organizations of the civil society, which have been involved in the working up of the material included in the report and the data, on which is based.

6. The Economic and Social Council considers necessary with a view to the specific problems considered in the national reports with respect to the implementation of the Charter and the obligation of consulting these reports with the nationally representative organizations of the employees and the nationally representative organizations of the employers in order to find an adequate mechanism for carrying out consultations between the government, the social partners and other non-governmental organizations.

7. Though the Economic and Social Council develops and adopts opinions on strategic problems of the economic and social policy incl. also on the implementation of the Charter, the Council considers that it is necessary to establish a standing Consultative Council on the Charter at the Minister of Labour and Social Policy with clearly defined status and members, including the preparation of opinions on inquiries relating to the implementation of the Charter by other countries.

The Economic and Social Council draws the attention to the fact that formally by making reference to the regulatory framework, the national reports of Bulgaria comply with the inquiries made by the Committee of Social Rights. At the same time the Council urgently recommends that the reports have to identify and state also the practical achievements of the country regarding the implementation of the European Social Charter (revised).