

BULGARIA

Child-friendly justice

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1. The child's legal capacity

1.1 Minimum age at which a plaintiff can bring a case to court in their own right

In Bulgaria the minimum age of criminal responsibility is 14. For all matters, the minimum age at which a plaintiff can bring a case to court in their own right is 14.

2. Access to adapted proceedings

2.1 Specialised institutions and competent authorities

2.1.1 Criminal justice

2.1.1.1 General information

There is no specialisation in the area of child justice in general courts of justice. In courts where the staffing is sufficient to guarantee the principle of random allocation of cases judges are allocated to a civil and a criminal divisions and only deal with the respective cases. Divisions can be set up in regional and district courts, and the allocation of judges to them takes place at the discretion of the administrative head of the court. Cases, in which children participate, are heard by any randomly assigned judge and judges hearing such cases are not required to have any special training.

However, the law does not rule out the setting up, within the divisions, of panels specialised in the hearing of criminal cases involving children and the allocation of the respective cases to such judges only. Their lower caseload due to the small number of cases involving children can be balanced by inclusion of these panels in the general case allocation too. Some courts have adopted the practice to allocate cases involving minors to specialised judges.

The described approach does not create specialised courts and prosecutor's offices but is flexible and adequate to the conditions, in which the system functions in Bulgaria, especially in relation to the existence of magistrate offices with very low staffing levels. A specialised approach to children is thus ensured without limiting in any way the access to justice – something that would result from the existence of a small number of specialised magistrate offices on the territory of the country, e.g. only in some larger regional cities where the number of cases involving children would substantiate economically the existence of such a court.

2.1.1.2 Specific care of the minor

Children in criminal proceedings can have two main roles - as suspected/accused in a crime, or taking part in a criminal procedure as a witness or a victim. Children in conflict with the law, as a particular group, which need a specific care and approach, should be treated more carefully due to their age and growth, maturity, etc.

Control of Juvenile Anti-social Behaviour Act shall govern the activities for the prevention and combating of the various forms of juvenile delinquency and for ensuring the normal development and education of offenders. According to this Act, there shall be organized: Commissions for Combating Juvenile Delinquency, Child Counselling Services, Social School Boarding Houses, Reformatories, Temporary Foster Institutions and Homes for Neglected Children.

These institutions have the responsibility to deal with children in conflict with the law, after finished criminal procedure. As mentioned above, in Bulgaria, specialised courts, chambers and units, dealing with children in criminal proceedings do not exist.

There are officers working predominantly with juvenile offenders in every police department. Judges, who work in the penal units of some of the regional courts, have a qualification for working with child offenders. Also, some of the penal units of the courts have "blue rooms". They are used for making interrogations of children in friendly atmosphere. When the child is witness or victim, the fear of facing the delinquent is so big, that the "blue rooms" helps making the interrogation friendlier. In that way, children have the possibility to be surrounded by a family environment and the stress of government authorities is minimised. These "blue rooms" can also be used in civil procedures, for example, during a divorce processes, custody cases, etc. According to Article 15 of Child Protection Act all cases of administrative or judicial proceedings affecting the rights and interests of a child should provide for a mandatory hearing of the child, as long as he or she has reached the age of 10, unless this proves harmful to his or her interests.

2.1.1.3 Non-jurisdictional bodies

A specialised prosecutors' network is in place to handle cases of children - victims or offenders.

Child Counselling Services (CCS) are specialised establishments at the municipalities, which take part in the prevention of crime and antisocial acts committed by children. Furthermore, they have specific functions concerning the rendering of assistance to other authorities in relation to the identification, signalling and protection with respect to children who are subject of a criminal offence, ill-treatment or are neglected, as well as in investigation of such cases. In order to secure a setting that is friendlier to the children's mentality they are located in premises outside the police buildings. Pedagogues appointed by the Minister of Interior work in them – the so called “CCS inspectors”.

2.1.2 Civil justice

There are no special institutions dealing with children in civil judicial proceedings in Bulgaria.

See the information on pilot chambers for hearing cases involving children under project „*Strengthening the Legal and Institutional Capacity of the Judicial System in the Field of Juvenile Justice*“.

2.1.3 Administrative justice

There are no specialist institutions dealing with children in administrative judicial proceedings. See also the general information provided under question 1 above.

Administrative justice does not require a different family or child court. Any of the cases in the areas of asylum, migration, education, etc. involving children are held in the regional courts. The child protection authorities have a leading role, because they have the obligation to overview the protection of child's rights. The Bulgarian judicial system does not include special family courts, so the family actions are brought to a standard civil court.

2.1.4 Projects

The Ministry of Justice is implementing project “*Strengthening the Legal and Institutional Capacity of the Judicial System in the Field of Juvenile Justice*” under Thematic Fund “Security” of the Bulgarian-Swiss Cooperation Program. In the frame of the project's Specific Objective 3: “*Preparative actions for the institutionalisation of juvenile chambers/panel specialisation undertaken*” five pilot chambers for hearing cases involving children (both criminal and civil) have been set. Guidelines for their work are in place. The aim is to prepare a National Strategy Paper for the setting up of juvenile chambers.

Moreover, the Ministry of Justice drafted a new *Act on Diversion of Underage Offenders from Criminal Proceedings and Implementation of Educational Measures* which provides for specialisation for all professionals. Pursuant to its Article 7 the proceedings shall involve judges, public prosecutors, and investigating authorities, specialised police officers for work with children and mediators who have specialised knowledge of the rights of the child and the international standards for the work with children in conflict with the law. The specialisation standards shall be adopted by the Supreme Judicial Council, the Minister of Justice, the Minister of Interior and the Chairperson of the State Agency for Child Protection. The draft act is in the process of public and multiagency consultations.

2.5. Legal and policy measures in place to avoid undue delay in the handling of cases involving children

2.5.1 Placing requests

Undue delay principle is placed as an obligation for all the authorities, working with children. According to Article 28 of Child Protection Act the requests for placing a child with the family of relatives or friends, with a foster family, social service-resident type or in a specialised institution shall fall within the jurisdiction of the regional court at the current address of the child. The court shall immediately consider the request in an open session, where the bodies or the persons that have submitted the request shall participate along with the child pursuant to the provision of Article 15. The court shall come out with a ruling within one month. The ruling shall be disclosed to the parties concerned and shall be brought to immediate effect. In specifying the child protection measures the court shall follow the order established by Article 26 (1), unless that goes against the child's interests.

2.5.2 Criminal cases

On the next point, according to the Criminal Procedure Code (CPC), there are specific rules for examination of cases for crimes, committed by underage persons – Chapter 30, Articles 385-395. They restrict the types of remand measures that can be imposed on underage persons. They provide for collecting information about the personality of the underage person. They also stipulate the way of presenting the investigation, of constituting the court panel, of conducting the hearing and of putting the sentence into execution. The parents or guardians of underage persons shall be summoned to the hearings of cases against them. They shall have the right to take part in the collection and verification of evidentiary materials and to make requests, remarks and objections. Failure of the parents or guardians to appear shall not be an obstacle to the examination of the case, unless the court finds that their participation is necessary. In cases against underage persons, the participation of a prosecutor shall be mandatory. These cases are conducted by appointed investigative bodies with appropriate training. Where it is necessary to elucidate facts, which may have a negative impact on the defendant who is underage, the court may temporarily remove the underage person from the courtroom after hearing the defense, the parents or the guardian and the prosecutor. There is a common rule for undue delay in all types of justice.

According to Article 22 the CPC, the courts examine and adjudicate in the cases within a reasonable period of time. The prosecutor and investigative bodies shall be obligated to secure the conduct of pre-trial proceedings within the time limits set forth in the Code. Cases in which the accused party has been remanded in custody shall be investigated, examined and disposed of before other cases.

2.6 Child-specific support mechanisms and procedures

2.6.1 Responsibility

An Agreement on cooperation and coordination of the work of the territorial structures of the bodies for protection in cases of children, who are victims or at risk of violence, and crisis intervention, was signed in 2010. According to the Agreement the relevant bodies shall cooperate in implementing the Coordination Mechanism for interaction regarding the work in the case of child who is victim or at risk of violence.

Bulgarian legislation provides for a legal definition of a “child”. A minimum age is also required to bear criminal liability and there are special rules governing imposing of sentences on minors. Within the meaning of the Child Protection Act “a child shall be any natural person who has not reached the age of 18”.

According to the Criminal Code (Article 31) criminally responsible shall be any person of full age - who has completed 18 years of age, and who has perpetrated a crime in the state of being responsible for his acts. Persons under 14 years of age are underage children and they do not bear criminal liability. They can violate the provisions of the Criminal Code by committing socially dangerous acts but they are presumably criminally non-accountable and cannot be charged with and found guilty for the commitment of a crime. As regards this group of persons the Criminal Code provides for the application of educative measures. Persons from 14 to 18 years of age bear criminal liability if they could understand the nature and meaning of the act and could manage their acts¹.

Minors are divided in two groups – from 14 to 16 years of age and from 16 to 18 years of age. Their criminal liability is mitigated compared to the adults’ criminal liability, as the degree of mitigation is lower in the 16-18 age categories.

Minors who have attained 16 years of age can bear administrative liability under the Administrative Offences and Punishments Act and under special acts such as the Decree on Combating Minor Hooliganism.

2.6.2 Child protection measures

The Child Protection Act regulates and stresses the importance of hearing the views of the child in the proceedings, taking into account not only the criminal proceedings but all judicial and administrative procedures which affect the child’s rights or interests. Article 38 states that all cases of administrative or judicial proceedings affecting the rights and interests of a child should provide for a mandatory hearing of the child, as long as he or she has reached the age of 10, unless this proves harmful to his or her interests. In cases where the child has not reached the age of 10, he or she may be given a hearing depending on the level

¹ Article 31(2) of the Criminal Code

of his or her development. The decision to hear the child shall be substantiated. Before the child is given a hearing, the court or the administrative body shall:

1. Provide the child with the necessary information, which would help him or her form his or her opinion;
2. Inform the child about the possible consequences of his or her desire, of the opinion supported by him or her, as well as about all the decisions made by the judicial or administrative body.

All national legal acts in the child protection's sphere give the child ways of expressing an opinion and encouraging her/him to take part in making decisions. State Agency for Child Protection promotes children's participation in the processes of policy making for children and decision making by founding and holding sessions of the Council for Children. This is an advisory body, helping the Agency in its main obligation to supervise keeping the child's rights. Non-governmental and civil organisations participate in the meetings and give advice to the Council.

As described above, under the national law, the definition of the child is any natural person, who has not reached the age of 18. Age of criminal responsibility is set on 18 years of age and a minor - a person who has completed 14 years of age, but has not completed 18 years of age yet - shall be criminally responsible if he was able to understand the nature and meaning of the act and to manage her/his actions. Minors who cannot be considered culpable of their acts shall be admitted by a decision of the court to a correctional boarding school or to another appropriate establishment, should this be found necessary considering the circumstances of the case. Underage persons who have not completed 14 years of age shall not be held criminally responsible.

3. Multidisciplinary aspects

All relevant organisations must coordinate their activities in order to obtain a comprehensive understanding of the children. This must be achieved with strong cooperation between social workers, psychologists, NGOs. The multidisciplinary approach gives more opportunities for helping the children, because in that way all their needs are completely satisfied. The Child Protection Act regulates the competencies of the Child Protection Bodies, which are the State Agency for Child Protection, the Social Assistance Directorates at local level, the Minister of Labour and Social Policy, the Minister of the Interior, the Minister of Education and Science, the Minister of Justice, the Minister of Foreign Affairs, the Minister of Culture, the Minister of Health Care and the mayors of the municipalities. Article 7 of the law stipulates the obligation of the relevant bodies to cooperate.

4. Training of professionals

4.1 Vetting of professionals

4.1.1 Courses and trainings

Professionals who are involved in the judicial process have to be qualified and with an extensive experience, especially of working with children. There are no any legal training requirements, but almost all of the specialists took qualification courses and trainings, which give them specific skills. Most of the trainings include studies on how to treat children, how to interact with them during the proceedings. The different actors, for example, judges and prosecutors, can upgrade their qualification, taking part in the trainings, which are organised by the National Institute of Justice. This is a public institution, which provides learning opportunities for the Judiciary (magistrates).

On the other hand, the social workers and policemen take part in different studies, seminars and meetings hosted by public institutions, NGOs, etc. The Social Assistance Agency, as a main governmental institution, which is responsible for implementing the policies for child protection, on a local level, organises many trainings for improving the qualifications of its officials - the social workers.

4.1.2 Partnerships

In addition, the Ministry of Justice together with the National Institute of Justice (NIJ) implemented the project „*Strengthening the Legal and Institutional Capacity of the Judicial System in the Field of Juvenile Justice*“. Under the project trainings were organised for magistrates, social workers and police investigators from the cities with specialised pilot chambers. In partnership with the International Institute for Rights of

the Child, the Swiss Confederation, the Ministry provides additional training of trainers in the field of juvenile justice, who will teach at the NIJ, as well as training for mediators in criminal proceedings and specialists hearing children.

The NIJ organised as well an online training “Justice for the child - a specialised course for magistrates”. The Institute has included this course as part of its annual training program. The training includes acquiring skills for interaction with young people.

5. Best interests of the child

5.1 Measures in place to ensure that the child’s best interests are a primary or paramount consideration

According to the Child Protection Act securing the best interest of the child is one of the main principles of protection. Child’s best interest is the main principle for the children involvement in judicial proceedings. National legislation gives the children an opportunity to have a proactive role, expressing an opinion and taking part in making decisions.

According to Child Protection Act the legal definition for child’s best interest includes an assessment of: the desires and feelings of the child; the physical, mental and emotional needs of the child; the age, gender, past and other characteristics of the child; the danger or harm which has been caused or which is likely to be caused to the child; the ability of the parents to care for the child; the consequences which will ensue for the child with a change of circumstances; other circumstances relevant to the child. The multidisciplinary approach is a leading key for ensuring close cooperation between all professionals in order to obtain a comprehensive understanding of the child and his needs.

6. Monitoring and enforcement of decisions in proceedings involving children

Criminal justice: please reproduce section 3 Child-friendly justice after judicial proceedings of your Member State’s [contextual overview](#) and highlight any update.

Civil justice: please reproduce section 2.11 Enforcement of civil court judgements of your Member State’s [contextual overview](#) and highlight any update.

Administrative justice: please refer to section 2.11 Enforcement of administrative court judgments of your Member State’s [contextual overview](#) and highlight any update.

7. Access to remedies

7.1 Criminal justice

The Child Protection Act provides that the child has a right to legal aid and appeal in all proceedings, affecting his or her rights or interests.

The minor or juvenile victim has the following rights under the Criminal Procedure Code. In pre-trial proceedings: to be informed of his/her rights within the criminal proceedings; to obtain protection with regard to his/her personal safety and the safety of his/her relatives; to be informed of the progress of the criminal proceedings; to take part in the proceedings in accordance with the provisions of this Code; to furnish requests, notes and objections; to file appeals with regard to the acts resulting in the termination or suspension of criminal proceedings; to have a counsellor.

In trial proceedings the minor may act as a private prosecutor and/or civil claimant in order to seek compensation of pecuniary and non-pecuniary damage, which are direct and immediate consequence of the act.

Where the victim, on account of being underage or of a physical or mental deficiency, is unable to defend his/her rights and legal interests, the prosecutor may bring a civil action to his/her benefit.

Children without legal capacity can address complaints and legal appeals through their parents or legal representatives, who exercise their rights on their behalf. The legislation provides an opportunity for these representatives to make decisions, keeping child’s best interest. In case of child victim, who decide not to prosecute, a prosecutor can make this on his/her behalf, starting a pre-trial proceeding. Also, children can effectively act upon violations of their rights through their legal representatives, and in case of crime - by prosecutor. It should be pointed that during the last years the child protection legislation changed a lot in the

direction that every child shall be maximum protected and all his/her rights shall be preserved.

7.2 Civil justice

In civil proceedings again applies the rule of Article 15 of Child Protection Act described above: all cases of administrative or judicial proceedings affecting the rights and interests of a child should provide for a mandatory hearing of the child, as long as he or she has reached the age of 10, unless this proves harmful to his or her interests.

There are no special rules giving special rights to the child witness in civil proceedings. Yet, the Child Protection Act requires the child's views to be taken into account in civil or administrative proceedings in which its rights and interests are affected.

In every case the court shall notify the Social Assistance Directorate in the location of the current address of the child. The Social Assistance Directorate shall send its representative who shall express an opinion, and if unfeasible, he/she shall present a report.

There are no specific rules on legal aid for children. The common rules of the Law on Legal Aid apply.

The Civil Procedure Code regulates those instances where the child is heard in proceedings that concern him/her, such as in cases concerning parental authority, adoption and divorce as explained and discussed above. A child advocate is appointed to represent the interests of the child upon the court's discretion. In issues concerning parental authority and decisions affecting the 'best interests' of the child, the civil court is obliged to hear the child if he/she has reached the age of 14.

7.3. Administrative justice

Administrative cases are dealt within the system of administrative courts following the procedural order of the Administrative Procedure Code in which there are no specifics regarding the participation of children. Again, the Child Protection Act requires the child's views to be taken into account in civil or administrative proceedings in which its rights and interests are affected. As rightly pointed in the Annex, children aged above 14 have the right to start administrative proceedings as long as they have their parent's/guardian's consent. If the child is unaccompanied he/she can act with the consent of the appointed guardian or with the help of a social worker. Such parental/guardian consent is not needed in employment cases for children aged above 16.

8. Future developments

8.1 Guidelines

As mentioned above, the Ministry of Justice with the participation of broad scope of stakeholders drafted a new *Law on the Diversion from Criminal Proceedings and Imposition of disciplinary measures for minors*. The aim of the draft Law is to encourage the lawful behaviour of minors in conflict with law and to secure support for their integration into society through the imposition of disciplinary measures and for their inclusion in appropriate educational programs. In accordance with international standards and best practices the draft Law governs the new system of measures to ensure secondary and repeated offences prevention for minors with illegal behaviour.

The bill provides for a new way of diversion from criminal proceedings which can be done only with the express consent of the minor. There are conditions provided by the draft Law in instances where the minor is innocent. Such fact can be established and proclaimed by the court of general order, thus overcoming the current practice in which disciplinary measures are imposed without judgment by a court on the existence of fault of a minor. This is one of the procedural safeguards for juvenile offenders subject to diversion provided for in the draft Law, along with other safeguards to ensure that the treatment meets the international standards and those provided for in the Criminal Procedure Code.

The draft proclaims principles applicable to divert and imposing disciplinary measures as follows:

- Protection of the best interest of the minor;
- Non-discrimination;
- Respect for the physical, mental, moral and social development of the minor and of his right to education;

- Imposing the least restrictive measure by which the objectives of the Act are to be achieved;
- Participation of the parent/guardian or the person who takes care for the minor in the choice of measures and their implementation, except where this would be contrary to the best interests of the minor or when it would impede the proceedings;
- Individualisation of measures and programs and educational impact;
- Speed of proceedings.

8.2 Mediation

An essential element of the proposed legislative changes is the envisaged possibility of using mediation. This will allow the introduction of recovery (restorative) justice in diverting juveniles from criminal proceedings in order to achieve the removal of damages caused by the unlawful conduct and to the extent possible to restore the relationship between the offender, the victim and society. In such a way issues such as: injury, needs, responsibilities and obligations through a tripartite relationship (offender, victim and society), can be addressed in practice. The implementation of this new approach in the treatment of juvenile offenders aims to make the offender liable to compensate the damages caused by the unlawful act, to enable him/her to demonstrate positive capacities and qualities, to deal with the guilt in a positive way, to give opportunity for others who have a role in resolving the conflict, including the victim, parents, extended family members, school and peers the offender to participate actively in conflict resolution. In order to ensure the rights of participants in mediation and reasons of legal certainty, the bill provides that the agreement or refusal to reach an agreement through mediation be sent for approval by the court.

It is also envisaged, where appropriate to achieve the objectives of the law, family council to be convened with the participation of: the juvenile concerned, the parents/guardians, relatives with whom they have built a close relationship, and representatives of various institutions, according to circumstances in each case, for example, a social worker from the "child protection" class, his head or guidance counsellor or another teacher preferred by the child. One of the functions of the family council is drawing up an individual plan for the minor, subject also to approval by the court.

8.3 Specialization

This bill defines the power of the competent authorities to impose various types of correctional measures. Here lies the fundamental change- the required educational matters have to be handled only by specialized staff of the District Court at the current address of the minor and this rule have to be applied by judges, prosecutors, investigative bodies and specialized police officers who have expertise in working with children. Regulation of specialization of all the professionals who work with juvenile offenders_ not only meets international standards and recommendations to Bulgaria, but will provide greater efficiency and speed of the system by developing the professional capacity of experts working with juvenile offenders.

8.4 Correctional measures

The project also settles: the regulation of specific conditions for correctional cases to impose appropriate disciplinary measures, the rules for their implementation, the possibility of appeal, review and amendment of the measures imposed and terminating the execution. In the implementation of the measures imposed constant monitoring of services is provided for educational support and development /periodically or if circumstances change/ and relevant reports, as well as deadlines for their presentation to the court which has the power to suspend implementation of the corrective measure, to review and the possibly to impose another measure. These provisions meet the requirement for periodic monitoring and review of the measures relating to minors.

In response to the observations and recommendations of the UN Committee on the Rights of the Child, to those of the Commissioner of the Council of Europe on human rights and after careful analysis of the reports of the National Ombudsman, the State Agency for Child Protection and the Supreme Cassation Prosecution Office on treatment of children in socio-educational boarding and reformatory schools under the current Juvenile Delinquency Act, the draft law provides a new framework for placement in closed institutions for correctional supervision in accordance with the ECHR.

8.5 New organisation

In accordance with the new conceptual understandings set out in the draft Law structural changes and setting up of a new organization and new bodies to implement this law are foreseen. The closure of existing

structures and the creation of new structures, as well as adequate and comprehensive framework of their powers is a guarantee for the implementation of the law. In this regard, it provides for the creation of National Service for Educational Support to the Minister of Justice and local agencies for educational support to be set up by a decision of the municipal council in the municipalities on whose territory there are regional courts. The Draft exhaustively defines the functions and tasks of these structures and regulates the powers of inspectors for children in specialized units for children at the Ministry of Interior.

In accordance with the recommendations of international experts made after analysing the Bulgarian legislation establishment of coordination between the justice system and child protection system is proposed to ensure compliance with the best interests of minors. In this direction, imposing an educational measure of "special supervision" by a parent/guardian, educator, family or relatives or a foster family, foresees the possibility that the court turns to the use of the social services under the Social Assistance Act to support personal development for pre-school and school education or other specialized day care and, where necessary, to include specialists in matters of personal development, health education and/or education of minors.

9. Family life

9.1 Procedure for adoption, including international adoption.

9.1.1 Registers for adoption

The Bulgarian legislation of the adoption has been revised in consequence of the ratification of the Convention on protection of children and co-operation in respect of intercountry adoption (Hague Convention). Amendments were made in the Family Code and subordinate legislation was adopted in this respect.

The entry of adoptions and adoptive parents in special registers was introduced as a condition for the admission of full adoptions with the amendments. An exception to this rule was anticipated at the adoption of a child of a spouse and the adoption of a grandchild by a grandfather and a grandmother.

When the parents of a child are unknown, as well as when both parents are known but have provided their preliminary consent for full adoption by a statement in writing with notarial certification of the signatures, the child shall be entered into the Full Adoption Children's Register.

A child placed in an institution, whose parents have not provided preliminary consent for adoption, but who within a term of six months from the date of placement in the institution, without any plausible reason, did not request the termination of the placement or a change of the measure and return of the child or his/her placement in a family of relatives or close friends shall also be subject to an entry into the Register mentioned hereinabove. A child who was provided with a service of a residential type, but whose parents did not provide consent for adoption, as well as a child, whose parents passed away, were deprived of parental rights or were placed under full judicial disability, may also be entered into the Register after an assessment of the interest in admission of full adoption. The relevant Social Assistance Directorate, which works on the case of the child, shall be the competent authority for the initiation of the proceedings for entry, through the submission of a notification. The events when the parents of the child passed away, are deprived of parental rights or are placed under full judicial disability, when the proceedings for entry are initiated at the request of the guardian / the trustee of the child shall be an exception. The notification or the application shall be sent to the competent Regional Social Assistance Directorate, and the proceedings shall be completed with the issuance of an order for entry of the child in the Register. Under the condition that there are no legal prerequisites for entry into the Full Adoption Children's Register available at hand, the Regional Directorate shall reject the entry of the child. The Order for entry shall be obligatorily announced to the parents and other persons interested in the proceedings and shall be subject to dispute before the relevant Administrative Court.

9.1.2 Adoption of siblings

Twins are in general adopted together; they may be adopted separately only in exceptional cases. Siblings are also adopted together if they are emotionally attached to each other.

9.1.3 Prospective adoptive parents

The Social Assistance Agency shall keep a register of prospective full adoptive parents. The entry into the register shall be made by the Regional Social Assistance Directorates. A prospective full adoptive parent shall file a petition with the Social Assistance Directorate at his or her place of permanent residence to be entered into the register. The Social Assistance Directorate shall vet the eligibility of the person to become an adoptive parent. A person approved by the Social Assistance Directorate shall be entered into the register ex officio. The approval shall be valid for two years.

Eligible to be an adoptive parent is a person of legal capacity who has not been deprived of parental rights and is at least fifteen years older than the adopted child. Nobody may be adopted by two persons, unless the latter are spouses.

The Adoption Councils are created with the Regional Social Assistance Directorates. Within a month from the entry of the child into the Full Adoption Children's Register, the Adoption Council shall select suitable adoptive parents for the child, depending on the order of their registration, their preferences and the circumstances relevant to the best interests of the child.

The Regional Social Assistance Directorate shall notify in writing the top selected suitable adoptive parent of its decision and provide the details of the child. The Social Assistance Directorate at the current place of residence of the child shall provide assistance for the establishment of personal contact.

9.1.4 Petition for adoption

The adoptive parent may file a petition for adoption to the court through the Regional Social Assistance Directorate within a month of reception of the notification. The Directorate shall refer the petition for adoption together with the file to the court within three days of reception of the petition.

Where the notified adoptive parent rejects the proposal in writing or fails to file a petition within the time limit, the Regional Social Assistance Directorate shall notify the next suitable adoptive parent.

The petition for full adoption shall be filed by the adoptive parent through the Regional Social Assistance Directorate whose Adoption Council has selected the adoptive parent to the Regional court at the location of the regional directorate.

The Regional court shall examine the petition for adoption in an open session held in camera within 14 days of reception of the petition. The judgment shall be announced in court session.

The judgment may be appealed before the Court of appeal within seven days of the announcement of the judgment. Within 14 days of reception of the appeal, the court shall hear the case in an open session held in camera and rule the final judgment.

9.1.5 Monitoring after adoption

The Social Assistance Directorate at the current place of residence of the adoptive parent shall monitor the upbringing of the child and the respect for its rights and legitimate interests in the course of two years.

9.1.6 International adoption

Only children included in the Register of children eligible for full adoption by persons habitually resident abroad may be subject to intercountry adoption. Such Register is kept by the Ministry of Justice.

If within a 6-month term from the entry of a child into the Full Adoption Children's Register kept by the Regional Social Assistance Directorate not fewer than three adoptive parents were defined for him/her and none of them has filed an application for his/her adoption or when regardless of the efforts made it is not possible to define an appropriate adoptive parent, a proposal is made for entry into the Intercountry Adoption Register kept by the Ministry of Justice.

The Ministry of Justice shall also keep a register of adoptive parents habitually resident abroad who are willing to adopt a child habitually resident in the Republic of Bulgaria on full adoption basis.

A person habitually resident abroad who wishes to adopt a child habitually resident in Bulgaria, must submit an application together with supporting documents to the Ministry of Justice. The application is submitted by/through the Central Authority of the relevant country under the Hague Convention, or by/through an accredited organization authorized by the Minister of Justice to mediate in cases of intercountry adoption.

On the basis of the application and proper documents attached thereto, the prospective adoptive parent is included in the Register of adoptive parents habitually resident abroad who wish to adopt a child habitually resident in the Republic of Bulgaria under the conditions of full adoption.

In order to be offered a child, the prospective adoptive parent must be approved by the Intercountry Adoption Council as being suitable to adopt a certain child from the Register of children eligible for full adoption by persons habitually resident abroad. The Intercountry Adoption Council is a permanent authority which meets on a weekly basis.

Within 60 days after the child has been entered in the register the Intercountry Adoption Council shall review the candidates in order to determine a suitable adoptive applicant based on the order of entering the adoptive applicants in the register, the preferences expressed by them, as well as the circumstances that affect the interest of the child.

When choosing a suitable adoptive applicant the Council also shall be governed by the resources of the adoptive applicant to ensure the physical, psychological and social wellbeing of the child, as well as by the information regarding the personality of the adoptive applicant and other circumstances relevant to the adoption. The justification is based on the reports for the adoptive applicants prepared by the relevant competent authorities.

In cases where no suitable prospective adoptive parents have been included in the Register, or the International Adoption Council identifies no suitable adopters from among the persons registered, or the adopters selected have refused to adopt a child with a health issue, special needs or over seven years of age, the Minister of Justice takes special measures for the adoption of the child concerned by publishing information about the child's specifics on the Ministry of Justice webpage.

The International Adoption Council makes a proposal to the Minister of Justice to approve a suitable adopter habitually resident abroad for each child included in the Register. If the Minister of Justice approves such proposal, he or she signs a certificate to initiate the adoption procedure (Art. 17 of the Hague Convention).

The certificate for initiation of the adoption procedure, together with a report about the child containing a full-height photo of the child, are sent to the Central Authority of the receiving State and to the Bulgarian accredited organization which acts as intermediary for the prospective adoptive parent.

Within two months after receiving the child report, the Central Authority of the receiving State that is a Hague Convention country, or an accredited organisation with delegated powers as per Art. 22 of the Hague Convention, must give a notification of approval or objection to initiate the adoption procedure for the child concerned.

Within the same two-month period, the Central Authority or the accredited organisation must submit the prospective adoptive parent's written consent or refusal to adopt the child concerned. Prior to giving his or her consent, the prospective adoptive parent should have had a personal contact with the child for at least 5 days.

The administrative procedure ends with an express written consent of the adoption issued by the Minister of Justice within 14 days after the submission of all documents required.

Within three days after the notification of the Minister of Justice's written consent, the Ministry of Justice must receive an application addressed to the Sofia City Court to allow the adoption and within 7 days after the receipt, the Ministry of Justice ex officio forwards the application and the case file to the Court.

The Sofia City Court shall examine the petition for adoption in an open session held in camera within 14 days of reception of the petition. The judgment shall be announced in court session.

The judgment may be appealed before the Sofia Court of Appeals within seven days of the announcement of the judgment. Within 14 days of reception of the appeal, the court shall hear the case in an open session held in camera and rule the final judgment.

The accredited organisation represents the adoptive parent before the court and submits to the Ministry of Justice a certified copy of the court's decision, which allows the adoption, within 7 days after such decision becomes final. Based on the court's decision, the Minister of Justice issues a compliance certificate referred to in Art. 23 of the Hague Convention.

For a period of two years after the adoption, the Central Authority or the respective accredited organisation submits a report on the child's situation to the Ministry of Justice on a half-year basis.

9.2 Different types of adoption

According to the Bulgarian legislation the adoption may be either "full" or "simple".

In case of full adoption, between the adopted child and his/her descendants – on one part and the adopting parent and his/her relatives– on the other, shall occur rights and obligations such as between relatives by origin, and the rights and obligations between the adopted child and his/her descendants with their relatives by origin shall be interrupted.

In case of simple adoption, rights and obligations shall occur as between relatives by origin only between the adopted child and his/her descendents – on one part and the adopting parent – on the other, and the rights and obligations between the adopted child and his/her descendents with their relatives by origin shall be kept. The parental rights and obligations shall pass on the adopting parent.

9.3 Measures in place to ensure that the child's best interests are taken as the paramount consideration

According to the Bulgarian legislation the adoption is a measure for child protection. The decisions about the appropriate for each child measure for protection are made by the relevant Social Assistance Directorate with regard to the place of residence of the child. The measures for protection are graded, starting with the work with the biological family and the provision of services in the family environment. When this is impossible or the desired results are not achieved, the possibilities for the placement of the child in a family of relatives and close friends are studied, and with the absence of such conditions, respectively in a service of a residential type or an institution.

The entry of the child in the Full Adoption Children's Register is anticipated as an additional condition for full adoption. The assertion of the availability of the conditions, which the law places, and the confirmation that a child may be adopted through the issuance of an order for his/her entry into an Full Adoption Children's Register is within the competences of the relevant Regional Social Assistance Directorate.

The principle of subsidiarity is respected when undertaking intercountry adoptions, which ensures higher degree of protection of the rights and the interests of the children for predominant upbringing in the family or in the State of origin. A child may be adopted in an intercountry adoption procedure solely when the possibilities for his/her adoption in the country were exhausted.

Prior to entering a child into the Intercountry Adoption Register, the Ministry of Justice also makes an assessment with regard to the interest of the child in intercountry adoption, taking into consideration both the impossibility for adoption in the country, and all the remaining circumstances under the case and the attitudes of the child when he/she may form such.

The preparation of children for intercountry adoption is made mainly by the social worker from the relevant Social Assistance Directorate in charge of the case of the child and who is competent also to express opinions regarding his/her interest, after having informed him/her in a proper manner and has taken his/her opinion and attitudes into consideration in so far as the child may form such.

9.4 Measures in place to respect the child's right to be heard in adoption cases

The legislation anticipates that in each administrative or court proceedings under which rights or interests of a child are affected, he/she shall be obligatorily heard if the child has come to the age of 10, unless that would harm his/her interests. When the child has not come to the age of 10, he/she may be heard depending on the degree of his/her development. Prior to hearing the child, the Court or the administrative authority should provide the needed information which shall help it to form his/her opinion, as well as to inform it about the eventual consequences of his/her wishes, of the opinion maintained by him/her as well as about each decision of the Court or the administrative authority.

The consent of the child if he/she has come to the age of 14 shall be required both for the performance of a domestic adoption and for an intercountry adoption. The preparation and the counselling shall be made by the relevant competent Social Assistance Directorates and the Court.

9.5 Competent authorities for adoption (national/international)

The decisions about the adoptability of the child as an appropriate measure for protection, inclusive of intercountry adoption, are made by the relevant **Social Assistance Directorate** and **Regional Social Assistance Directorates**. The Regional Social Assistance Directorates shall maintain the Full Adoption Children's Registers. The **Social Assistance Agency** shall keep a register of prospective full adoptive parents. The entry into the register shall be made by the Regional Social Assistance Directorates.

The **Adoption Councils** are created with the Regional Social Assistance Directorates. The director of the Regional Social Assistance Directorate shall serve as chairperson of the Adoption Council. Members of the Council shall be as follows: a lawyer designated by the Regional Governor, a physician designated by the director of the Regional Health Inspectorate, a pedagogue designated by the head of the Regional Inspectorate for Education, a psychologist designated by the director of the Social Assistance Directorate at the current place of residence of the child, the head of the specialized institution where the child is accommodated, as well as the institution providing social services of the resident type. The Council shall make decisions by an open ballot and by a majority of at least two-thirds of the membership.

The **Regional court** is competent to admit the national adoption. The **Court of appeal** shall rule the final judgment, if the judgment of the Regional court has been appealed.

The implementation of the activity for intercountry adoptions is assigned to the **Ministry of Justice** in cooperation with the relevant Bulgarian and foreign competent authorities and accredited bodies. The Ministry of Justice shall perform the functions of a Central Authority under the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

An **Intercountry Adoption Council** is created with the Ministry of Justice, which is a permanently functioning interdepartmental authority and makes a proposal to the Minister of Justice for the determination of appropriate adoptive parents for a specific child (matching) and for the issuance or withdrawal of a license for intercountry adoption mediation. The Council consists of six members – representatives of the Ministry of Health, the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Education, the State Agency for Child Protection and the Ministry of Labor and Social Policy and shall be chaired by a Deputy Minister of Justice. The Council shall make decisions by an open ballot and by a majority of at least two-thirds of the membership.

Sofia City Court is competent to admit the intercountry adoption. The **Sofia Court of Appeals** shall rule the final judgment, if the judgment of the Sofia City Court has been appealed.

9.6 Possibility for an adopted child to have access to information held by the competent authorities on his or her origins

The procedure for the provision of information about the origin of the adopted child is laid down in Art. 105, Para. 1 of the Family Code of the Republic of Bulgaria. According to this provision the adoptive parents and the adopted child, who has reached the age of sixteen, may ask the Regional court, which decreed the decision for the admission of the adoption, to be provided with information about the origin of the adopted,

when important circumstances justify this. In a closed session, after hearing the biological parents of the adopted and the conclusion of the Prosecutor, the Regional court shall pronounce its decision.

The Ministry of Justice provides for the elaboration of a draft of amendments in the Family Code which should facilitate the procedure for the provision of information about the origin of the adopted child, by introduction of an administrative procedure.