



**DIVERSITY MANAGEMENT  
IN BULGARIA:  
POLITICO-LEGAL PREREQUISITES  
AND SELF-REGULATION**



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The report provides an overview of the main regulatory, policy, and institutional parameters that have an impact on diversity management in the workplace in Bulgaria. Four principal thematic domains are examined: equality, non-discrimination and social inclusion; gender equality and equal opportunities for men and women and persons with different gender identity and/or sexual orientation; equality and equal opportunities for those belonging to ethnic minorities; and equality and equal opportunities for persons with disabilities. The report reviews the national legislation in each respective domain, as well as relevant international agreements and standards, and directives and strategic documents of the European Union. The report has been developed within the framework of the initiative *DIVERSE.BG: Launch and implementation of a Diversity Charter in Bulgaria*.

Authors:

**Dr Tatyana Novosiolova**, Research Fellow, Center for the Study of Democracy

**Dr Maria Yordanova**, Senior Fellow, Center for the Study of Democracy

Editorial board:

**Dr Ognian Shentov**

**Dimitar Markov**

**Ruslan Stefanov**



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5 Alexander Zhendov Str., 1113 Sofia

Tel.: (+359 2) 971 3000, Fax: (+359 2) 971 2233

[www.csd.bg](http://www.csd.bg), [csd@online.bg](mailto:csd@online.bg)

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## EXECUTIVE SUMMARY

The intense global processes over the past few decades, social stratification, migration and sharpening demographic tendencies of various nature have underscored the need for policies and measures for effective diversity management in all spheres of social life. In order to preserve its stability against the backdrop of these multi-dimensional dynamics and growing social turbulence, labour market requires a novel economic culture underpinned by the adoption and implementation of new ethical norms and workplace arrangements which take into account the expanding scope of opportunities for professional realisation<sup>1</sup>.

This report provides an overview of the main regulatory, policy, and institutional parameters that impact on diversity management in the workplace in Bulgaria. The report comprises three parts.

Part One defines the concepts of “diversity” and “diversity management” and analyses the extent to which diversity impacts on and can serve as an indicator for implementing policies aimed at achieving corporate social responsibility (CSR).

Part Two looks into the regulatory prerequisites for promoting diversity management among companies in Bulgaria. Four principal thematic domains are examined:

- equality, non-discrimination and social inclusion;
- gender equality and equal opportunities for men and women and persons with different gender identity and/or sexual orientation;
- equality and equal opportunities for those belonging to ethnic minorities; and
- equality and equal opportunities for persons with disabilities.

Besides national legislation in each respective domain, this Part of the report reviews relevant international agreements and standards, as well as directives and strategic documents of the European Union.

Part Three of the report examines different ways in which the existing regulatory provisions are being implemented. To this end, relevant approaches and initiatives that contribute to promoting diversity management in Bulgaria are reviewed. The Diversity Charter is highlighted as an example of a flexible approach for self-

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<sup>1</sup> Mikova, V. and Kurukafov, T. *Diversity on Labour Market Manual: Business Guidance*, 2010, <http://www.kzd-nondiscrimination.com/layout/index.php/layout-over-40-positions/publikacii/publikacii>.

regulation that meets the needs of both Transnational Corporations (TNCs) and small and medium enterprises (SMEs).

The benefits in terms of enhanced competitiveness and demonstrating corporate social responsibility that companies can yield through the adoption and implementation of institutional policies for diversity management are summarised in the conclusion.

## INTRODUCTION

The motto of the European Union, “United in Diversity” is a key fundamental for the effective exercise of personal freedom. It underlines the role that different cultures and values play in forming a sustainable social system which is capable of adapting to the ever changing external factors of its surrounding environment. At European level, the rule of law recognises differences not as obstacles or hurdles but as a uniting force which drives progress. Thus, diversity is not just a descriptive characteristic of the system, but an intended end result: it is a property that needs to be nurtured; a resource that needs to be developed. The intense global processes over the past few decades, social stratification, migration and sharpening demographic tendencies of various nature have underscored the need for policies and measures for effective diversity management in all spheres of social life. In order to preserve its stability against the backdrop of these multi-dimensional dynamics and growing social turbulence, labour market requires a novel economic culture underpinned by the adoption and implementation of new ethical norms regarding workplace arrangements which take into account the expanding scope of opportunities for professional realisation<sup>2</sup>.

The introduction of an active institutional diversity policy can help companies gain considerable advantages in at least five areas:

- 1) Strengthening cultural values within the organisation;
- 2) Enhancing corporate reputation;
- 3) Allowing for attracting and retaining highly talented people;
- 4) Improving staff motivation and the efficiency of existing staff;
- 5) Improving innovation and creativity amongst employees<sup>3</sup>.

The purpose of the present report is to provide an overview of the main regulatory, policy, and institutional parameters that impact on diversity management in the workplace in Bulgaria. The report comprises three parts. Part One defines the concepts of “diversity” and “diversity management” and analyses the extent to which diversity impacts on and can serve as an indicator for implementing policies aimed at achieving corporate social responsibility (CSR). Part Two looks into the

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<sup>2</sup> Mikova, V. and Kurukafov, T. *Diversity on Labour Market Manual: Business Guidance*, 2010, <http://www.kzd-nondiscrimination.com/layout/index.php/layout-over-40-positions/publikacii/publikacii>.

<sup>3</sup> Keil, M. et al. *Training Manual for Diversity Management*, International Society for Diversity Management, 2007.



regulatory prerequisites for promoting diversity management among companies in Bulgaria. Four principal thematic domains are examined: equality, non-discrimination and social inclusion; gender equality and equal opportunities for men and women and persons with different gender identity and/or sexual orientation; equality and equal opportunities for those belonging to ethnic minorities; and equality and equal opportunities for persons with disabilities. To this end, national legislation in each respective domain, relevant international agreements and standards, and directives and strategic documents of the European Union are reviewed. Part Three of the report examines different ways in which the existing regulatory provisions are being implemented by reviewing relevant approaches and initiatives for promoting diversity management in Bulgaria. The benefits in terms of enhanced competitiveness and demonstrating corporate social responsibility that companies can yield through the adoption and implementation of institutional policies for diversity management are summarised in the conclusion.

# 1. DIVERSITY MANAGEMENT IN THE CONTEXT OF CORPORATE SOCIAL RESPONSIBILITY (CSR)

This section examines the practical application of the concepts of “diversity” and “diversity management” with respect to the workplace. The section also conducts a general review of the literature on “corporate social responsibility” analysing the extent to which diversity management can serve as an indicator for the social impact of companies.

## 1.1. Diversity

The understanding of diversity has been evolving since the 1970s when the term was mainly used with regard to increasing the gender, national, and/or ethnic representation in the workforce<sup>4</sup>. This connotation of the term is close to the so-called “affirmative action” involving the recruitment and retention of employees of underrepresented “identity groups”<sup>5</sup>. The main disadvantage of the affirmative action policies concerns the lack of options for career development of employees belonging to underrepresented identity groups: since the formal inclusion of these employees in the workforce does not necessarily leads to their professional development, their colleagues may perceive them as underqualified<sup>6</sup>. This aspect presupposes that diversity has both a quantitative and qualitative dimension. As noted in the 2003 European Commission’s report, *The Costs and Benefits of Diversity*:

“Workforce diversity” within companies is associated with policies designed to recruit, retain, and develop employees from diverse social groups. This leads to a change in the mix of people employed in some cases, and, in other instances, to changes in the type of people employed in specific managerial or technical positions. In all cases, such policies go beyond compliance with anti-discrimination legislation”<sup>7</sup>.

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<sup>4</sup> Keil, M. et al. *Training Manual for Diversity Management*, International Society for Diversity Management, 2007.

<sup>5</sup> Keil, M. et al. *Training Manual for Diversity Management*, International Society for Diversity Management, 2007.

<sup>6</sup> Keil, M. et al. *Training Manual for Diversity Management*, International Society for Diversity Management, 2007.

<sup>7</sup> European Commission, *The Costs and Benefits of Diversity: A Study on Methods and Indicators to Measure the Cost-Effectiveness of Diversity Policies in Enterprises*, 2003, Directorate General for Employment, Industrial Relations, and Social Affairs, Brussels, <https://www.coe.int/t/dg4/culture-heritage/mars/source/resources/references/others/17%20-%20Costs%20and%20Benefits%20of%20Diversity%20-%20EU%202003%20ExSum.pdf>.

However, it remains difficult to define a “diverse workplace” and there is no widely accepted methodology for distinguishing between companies that are diverse and those that are not<sup>8</sup>. More generally, the concept of “diversity” refers to the tolerance, respect and consideration that a company demonstrates to each person’s particular characteristics<sup>9</sup>. Policies promoting diversity should thus be centred on the recognition and appreciation of individual skills rather than on sub-optimal criteria, also known as grounds for discrimination or protected grounds<sup>10</sup>. Within this context, fostering working conditions that allow each and every employee to develop their full potential is a chief priority.

The academic literature defines “diversity” in different ways. Some authors understand diversity as a two-fold concept dividing it into two types: 1) “surface-level diversity” which refers to demographic diversity; and 2) “deep-level diversity” which refers to psychological diversity manifested in differences in the ways of thinking, conviction, and modes of behaviour<sup>11</sup>. An expanded version of this model spanning the respective categories and types of diversity is presented in Table 1.

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<sup>8</sup> European Commission, *The Costs and Benefits of Diversity: A Study on Methods and Indicators to Measure the Cost-Effectiveness of Diversity Policies in Enterprises*, 2003, Directorate General for Employment, Industrial Relations, and Social Affairs, Brussels, <https://www.coe.int/t/dg4/culture-heritage/mars/source/resources/references/others/17%20-%20Costs%20and%20Benefits%20of%20Diversity%20-%20EU%202003%20ExSum.pdf>.

<sup>9</sup> European Commission, *Practical Guide to Launch and Implement a Diversity Charter*, 2015, Directorate General for Justice and Consumers, <https://publications.europa.eu/en/publication-detail/-/publication/d757b218-6302-4ff6-a11a-f24133b3305b>; David Thomas and Robin Ely, “Making Differences Matter: A New Paradigm for Managing Diversity”, *Harvard Business Review*, Sep-Oct (1996), <https://hbr.org/1996/09/making-differences-matter-a-new-paradigm-for-managing-diversity>.

<sup>10</sup> European Commission, *Practical Guide to Launch and Implement a Diversity Charter*, 2015, Directorate General for Justice and Consumers, <https://publications.europa.eu/en/publication-detail/-/publication/d757b218-6302-4ff6-a11a-f24133b3305b>.

<sup>11</sup> David Harrison et al. “Time, Teams, and Task Performance: Changing Effects of Surface- and Deep-Level Diversity on Group Functioning”, *Academy of Management Journal*, vol.45:5 (2002), pp. 1029-1045.

**Table 1: Categories and Types of Diversity**

Category	Types of Diversity
Social-category differences	Race Ethnicity Gender Age Religion Sexual orientation Physical abilities
Differences in knowledge and skills	Education Functional knowledge Information or expertise Training Experience Abilities
Differences in values or beliefs	Cultural background Ideology
Personality differences	Cognitive style Affective disposition Motivational factors
Organisational- or community-status differences	Tenure or length of service Title
Differences in social and network ties	Work-related ties Friendship ties Community ties In-group memberships

Source: Elizabeth Mannix and Margaret Neale, "What Differences Make Difference?: The Promise and Reality of Diverse Teams in Organisations", *Psychological Science in the Public Interest*, vol.6:2 (2005), pp.31-55.

The "four layers of diversity" model offers an alternative interpretation of the concept<sup>12</sup>. It covers the following sets of factors: 1) personality, 2) internal dimensions, 3) external dimensions and 4) organisational dimensions. Personality refers to the characteristic traits and features of individual employees. Internal dimensions include aspects such as age, gender, sexual orientation, ethnicity, race, and physical abilities. External dimensions comprise geographic location, income, personal habits, recreational habits, religion, educational background, work experience,

<sup>12</sup> On the model of four layers of diversity, see Lee Gardenswartz and Anita Rowe, *Diverse Teams at Work: Capitalising on the Power of Diversity*, Alexandria VA: Society for Human Resource Management, 2008.

appearance, and marital status. Organisational dimensions cover functional level/classification, work content/field, division/department/unit/group, management status, and union affiliation<sup>13</sup>.

## 1.2. Diversity Management

There are different definitions of the concept of “diversity management”. Some experts define it as a management philosophy of recognising and valuing heterogeneity in organisations with a view to improve organisational performance<sup>14</sup>. Others describe it as a proactive strategy that appreciates difference and aims to maximise the utilisation of employees’ potential<sup>15</sup>. The process of diversity management is future-oriented and creates added value to companies<sup>16</sup>.

Diversity management comprises the strategic, communicative and managerial approaches upon which companies rely, in order to ensure an optimal workforce composition that guarantees the accomplishment of corporate goals and enhances competitiveness<sup>17</sup>. These approaches are underpinned by three types of prerequisites: ethical, regulatory and economic<sup>18</sup>. Ethical prerequisites relate to the provision of equal opportunities for employees of the different identity groups that are represented in the company. Regulatory prerequisites pertain to compliance with the established legal requirements for equality and anti-discrimination. Economic prerequisites concern the increase in effectiveness, efficiency, and profits.

Up until the mid-1990s, two dominant paradigms for diversity management stood out: the discrimination-and-fairness paradigm; and the access-and-legitimacy paradigm<sup>19</sup>. The discrimination-and-fairness paradigm is focused on the ethical and

<sup>13</sup> Lee Gardenswartz and Anita Rowe, *Diverse Teams at Work: Capitalising on the Power of Diversity*, Alexandria VA: Society for Human Resource Management, 2008.

<sup>14</sup> Ozbilgin, M. and Tatli, A. “Mapping out the Field of Equality and Diversity: Rise of Individualism and Voluntarism”, *Human Relations*, vol.64:9 (2011), pp. 1229-1253.

<sup>15</sup> Subeliani, D. and Tsogas, G. “Managing Diversity in the Netherlands: A Case Study of Rabobank”, *The International Journal of Human Resource Management*, vol.16:5 (2005), pp.831-851.

<sup>16</sup> Keil, M. et al. *Training Manual for Diversity Management*, International Society for Diversity Management, 2007.

<sup>17</sup> Keil, M. et al. *Training Manual for Diversity Management*, International Society for Diversity Management, 2007.

<sup>18</sup> European Commission, *The Costs and Benefits of Diversity: A Study on Methods and Indicators to Measure the Cost-Effectiveness of Diversity Policies in Enterprises*, 2003, Directorate General for Employment, Industrial Relations, and Social Affairs, Brussels, <https://www.coe.int/t/dg4/culture-heritage/mars/source/resources/references/others/17%20-%20Costs%20and%20Benefits%20of%20Diversity%20-%20EU%202003%20ExSum.pdf>.

<sup>19</sup> Thomas, D. and Ely, R. “Making Differences Matter: A New Paradigm for Managing Diversity”, *Harvard Business Review*, Sep-Oct (1996), <https://hbr.org/1996/09/making-differences-matter-a-new-paradigm-for-managing-diversity>.

regulatory prerequisites for promoting diversity. Within this policy framework diversity signifies the provision of equal opportunities, as well as fair (equal) treatment and compliance with the labour law regarding the requirements for providing equal opportunities. The basic principle here is “all employees are the same, differences do not matter”<sup>20</sup>. This paradigm resembles in some respects the affirmative action policy, not least because its chief criterion for assessing diversity management is the effectiveness of companies to recruit and retain a certain number of employees of different identity groups. The state and quality of the conditions that allow employees to develop and demonstrate their potential are downgraded at the expense of quantitative indicators. Nevertheless, it is worth noting that companies which apply the discrimination-and-fairness paradigm tend to institute career-development mentoring programmes for employees of different identity groups (women, ethnic minorities) and to train other employees to respect cultural differences<sup>21</sup>.

The access-and-legitimacy paradigm covers the economic prerequisites for introducing policies and measures for diversity management and so, it is often referred to as the business case for diversity management<sup>22</sup>. This paradigm is founded on the premise that employees of different identity groups are needed, so that companies can gain more access to these groups. The basic principle at play here is that workforce diversity boosts the legitimacy of companies among all social segments thus allowing companies to reach more customers. In practice, this policy framework requires that companies should match their demographic profile to that of their customers. Diversity management is regarded as an instrument that companies use for the achievement of specific goals which yield direct benefits. Despite its strengths from the point of view of business logic, the access-and-legitimacy paradigm runs the risk of leaving employees feeling exploited and without real prospects for career development<sup>23</sup>.

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<sup>20</sup> Thomas, D. and Ely, R. “Making Differences Matter: A New Paradigm for Managing Diversity”, *Harvard Business Review*, Sep-Oct (1996), <https://hbr.org/1996/09/making-differences-matter-a-new-paradigm-for-managing-diversity>.

<sup>21</sup> Thomas, D. and Ely, R. “Making Differences Matter: A New Paradigm for Managing Diversity”, *Harvard Business Review*, Sep-Oct (1996), <https://hbr.org/1996/09/making-differences-matter-a-new-paradigm-for-managing-diversity>.

<sup>22</sup> Thomas, D. and Ely, R. “Making Differences Matter: A New Paradigm for Managing Diversity”, *Harvard Business Review*, Sep-Oct (1996), <https://hbr.org/1996/09/making-differences-matter-a-new-paradigm-for-managing-diversity>.

<sup>23</sup> Thomas, D. and Ely, R. “Making Differences Matter: A New Paradigm for Managing Diversity”, *Harvard Business Review*, Sep-Oct (1996), <https://hbr.org/1996/09/making-differences-matter-a-new-paradigm-for-managing-diversity>.

In 1996, Thomas and Ely developed the integration-and-learning paradigm, which aims to combine the strengths of the two paradigms described above<sup>24</sup>. This paradigm treats diversity as a dynamic capital. The effective management of this capital requires both provision of equal opportunities and appreciation of the cultural differences among individual employees and their added value. The basic principle here relates to the recognition that the ways in which employees make decisions at work are inevitably influenced by their cultural background and identity. Companies should aim to create favourable conditions for integrating the different modes and approaches of individual employees which in turn can help find new markets and develop innovative strategies, products, and practices<sup>25</sup>. This diversity management paradigm allows companies to grow and develop by accepting the differences between their employees, which creates a sense of unity: they are all part of the same team with their differences, not despite them<sup>26</sup>.

The costs and benefits of implementing policies and measures for diversity management have been the subject of both academic and commercial research<sup>27</sup>. The benefits accruing to companies from workforce diversity include:

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- <sup>24</sup> Thomas, D. and Ely, R. "Making Differences Matter: A New Paradigm for Managing Diversity", *Harvard Business Review*, Sep-Oct (1996), <https://hbr.org/1996/09/making-differences-matter-a-new-paradigm-for-managing-diversity>
- <sup>25</sup> Thomas, D. and Ely, R. "Making Differences Matter: A New Paradigm for Managing Diversity", *Harvard Business Review*, Sep-Oct (1996), available at <https://hbr.org/1996/09/making-differences-matter-a-new-paradigm-for-managing-diversity>
- <sup>26</sup> Thomas, D. and Ely, R. "Making Differences Matter: A New Paradigm for Managing Diversity", *Harvard Business Review*, Sep-Oct (1996), <https://hbr.org/1996/09/making-differences-matter-a-new-paradigm-for-managing-diversity>
- <sup>27</sup> Centre for Strategy and Evaluation Services, *Methods and Indicators to Measure the Cost-Effectiveness of Diversity Policies in Enterprises*, October 2003, <https://www.econbiz.de/Record/methods-and-indicators-to-measure-the-cost-effectiveness-of-diversity-policies-in-enterprises-final-report/10009638540>; Department for Business Innovation and Skills, *The Business Case for Equality and Diversity: A Survey of the Academic Literature*, BIS Occasional Paper No.4, January 2013, <https://www.gov.uk/government/publications/the-business-case-for-equality-and-diversity-a-survey-of-the-academic-literature>; *Diversity Management in 2008: Research with the European Business Test Panel*, developed as part of the European Community Programme for Employment and Social Solidarity (2007-2013); Rossella Ricco and Marco Guerci, 'Diversity Challenge: An Integrated Process to Bridge the "Implementation Gap"', *Business Horizons*, vol.57 (2014), pp.235-245; *Diversity and Innovation: A Business Opportunity for All*, developed as part of the European Community Programme for Employment and Social Solidarity (2007-2013), <http://www.iegd.org/pdf/Task%203%20-%20Innovation.pdf>; Ramdane Djebarni and Samuel Ebie, 'Equality and Diversity Management: An Investigation into the Business Case of Equality and Diversity Practice in SMEs', *The International Journal of Diversity in Organisations, Communities, and Nations*, vol.10:5, (2011), pp. 145-168; Economist Intelligence Unit, *Global Diversity and Inclusion: Perceptions, Practices and Attitudes*, Society for Human Resource Management, 2009.

- Access to a new labour pool.
- Improved company's reputation.
- Commitment to equality and diversity as company values.
- Promoting innovation and creativity among employees.
- Improved motivation and efficiency.
- Legal compliance.
- Competitive advantage.
- Economic effectiveness.
- New marketing opportunities.
- Enhanced customer satisfaction<sup>28</sup>.

In terms of costs, companies should take into account both the direct and indirect costs incurred in the process of introducing and implementing policies and measures for diversity management<sup>29</sup>. Direct costs include the investment in staff training, recruitment of designated staff for diversity management, development of institutional strategic documents, and initiating appropriate assessment, accountability, and oversight processes. It is important to note that some of these are not one-time investments but require long-term allocation of budget. The costs related to the time that top and functional management need to dedicate to the development and implementation of diversity policies, as well as the risk that companies take in case the attempted culture change fails are, in principle, considered indirect costs.

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<sup>28</sup> Keil, M. et al. *Training Manual for Diversity Management*, International Society for Diversity Management, 2007.

<sup>29</sup> European Commission, *The Costs and Benefits of Diversity: A Study on Methods and Indicators to Measure the Cost-Effectiveness of Diversity Policies in Enterprises*, 2003, Directorate General for Employment, Industrial Relations, and Social Affairs, Brussels, <https://www.coe.int/t/dg4/culture-heritage/mars/source/resources/references/others/17%20-%20Costs%20and%20Benefits%20of%20Diversity%20-%20EU%202003%20ExSum.pdf>.



### 1.3. Corporate Social Responsibility

The idea of corporate social responsibility (CSR) gained in popularity in the 1960s against the backdrop of rising social concern about the negative impact of human activity on the environment. Environmental issues recognise no borders, which has led to a shared understanding that they can hardly be resolved solely by regulatory means. This vision finds support within business circles, not least because it paves the way for self-regulation which allows limiting state intervention in the private sector. In order to enhance their reputation and attract more customers, companies undertake institutional and organisational steps intended to have favourable effects of community significance.

In 2001, the European Commission published a working document on promoting a European framework for corporate social responsibility, which put forward the following definition:

“Corporate social responsibility is described as a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis<sup>30</sup>.

Social responsibility goes beyond legal compliance with the existing regulations concerning companies’ activities; it constitutes an approach for managing change and reconciling social development with improved competitiveness<sup>31</sup>.

The renewed EU strategy for corporate social responsibility that was developed in 2011 defines the concept in much broader terms as “the responsibility of enterprises for their impacts on society”<sup>32</sup>. The Strategy adds further:

“To fully meet their corporate social responsibility, enterprises should have in place a process to integrate social, environmental, ethical, human rights and consumer concerns into their business operations and core strategy in close collaboration with their stakeholders, with the aim of:

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<sup>30</sup> European Commission, *Green Paper: Promoting a European Framework for Corporate Social Responsibility*, 18 July 2001, Brussels, <https://www.jussemp.org/Resources/Corporate%20Activity/greenbookeu.html>.

<sup>31</sup> European Commission, *Green Paper: Promoting a European Framework for Corporate Social Responsibility*, 18 July 2001, Brussels, <https://www.jussemp.org/Resources/Corporate%20Activity/greenbookeu.html>.

<sup>32</sup> Communication from the Commission to the European Parliament, the Council, the European and Social Committee and the Committee of Regions, *A renewed EU strategy 2011-14 for Corporate Social Responsibility*, COM(2011) 681, 25 October 2011, Brussels, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52011DC0681>.

- maximising the creation of shared value for their owners/shareholders and for their other stakeholders and society at large;
- identifying, preventing and mitigating their possible adverse impacts.

The complexity of that process will depend on factors such as the size of the enterprise and the nature of its operations. For most small and medium-sized enterprises, especially microenterprises the CSR process is likely to remain informal and intuitive<sup>33</sup>.

The EU Strategy needs to be considered within the context of the existing international initiatives and standards for promoting corporate social responsibility. The UN Global Compact Initiative launched in 1999 calls upon companies to adopt ten universal principles in the area of human rights, labour standards, environment and anti-corruption and apply them in their business strategies and everyday practice<sup>34</sup>. The UN Global Compact is a platform for collaboration and dialogue which seeks to enhance the interaction among companies, UN specialised agencies, business associations, and non-governmental organisations and trade unions. It is aimed at reducing the negative effects of commercial activity, and promoting ethical business standards and the fulfilment of the Sustainable Development Goals (SDGs)<sup>35</sup>.

The UN Global Compact is directly related to the UN “Protect-Respect-Remedy” Framework and Guiding Principles which were adopted in 2008<sup>36</sup>. The Framework rests on the following pillars:

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<sup>33</sup> Communication from the Commission to the European Parliament, the Council, the European and Social Committee and the Committee of Regions, *A renewed EU strategy 2011-14 for Corporate Social Responsibility*, COM(2011) 681, 25 October 2011, Brussels, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52011DC0681>.

<sup>34</sup> On the UN Global Compact Initiative, see <http://www.unglobalcompact.bg/en/>; <https://www.unglobalcompact.org/what-is-gc/mission/principles>; Ursula Wynhoven, “The Protect-Respect-Remedy Framework and the United Nations Global Compact”, *Santa Clara Journal of International Law*, vol.9:1 (2011), pp.81-100.

<sup>35</sup> For more information about the UN Global Compact Initiative, see <http://www.unglobalcompact.bg/en/>. For information about the UN Sustainable Development Goals, see <https://www.un.org/sustainabledevelopment/sustainable-development-goals/>.

<sup>36</sup> For more information about the UN “Protect-Respect-Remedy” Framework and Guiding Principles, see <https://www.business-humanrights.org/en/un-secretary-generals-special-representative-on-business-human-rights/un-protect-respect-and-remedy-framework-and-guiding-principles>; Ursula Wynhoven, “The Protect-Respect-Remedy Framework and the United Nations Global Compact”, *Santa Clara Journal of International Law*, vol.9:1 (2011), pp.81-100.

1. the state duty to protect against human rights abuses by third parties, including business;
2. the corporate responsibility to respect human rights;
3. greater access by victims to effective remedy, both judicial and non-judicial<sup>37</sup>.

In order to assist companies with the implementation of the Framework, a manual titled *Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework* was published in 2011<sup>38</sup>.

Another important international instrument for promoting corporate social responsibility is ISO Standard 26000:2010, *Guidance on Social Responsibility*. This Standard is practice-oriented strategic document intended to serve as a roadmap for the development and implementation of policies and measures for enhancing the positive community impact of organisations' activities, including private companies<sup>39</sup>. The *Guidance* covers seven thematic areas:

1. Organisational governance;
2. Human rights (due diligence, human rights risk situations, avoidance of complicity, resolving grievances, discrimination and vulnerable groups, civil and political rights, economic, social, and cultural rights, fundamental principles and rights at work);
3. Labour practices (employment and employment relationships, conditions of work and social protection, social dialogue, health and safety at work, human development and training in the workplace);
4. The environment (prevention of pollution, sustainable resource use, climate change mitigation and adaptation, protection of the environment, biodiversity and restoration of natural habitats);
5. Fair operating practices (anti-corruption, responsible political involvement, fair competition, respect for property rights);

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<sup>37</sup> See UN "Protect-Respect-Remedy" Framework and Guiding Principles, <https://www.business-humanrights.org/en/un-secretary-generals-special-representative-on-business-human-rights/un-protect-respect-and-remedy-framework-and-guiding-principles>.

<sup>38</sup> United Nations Human Rights Office of the High Commissioner, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, 2011, United Nations, Geneva, [https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr\\_eN.pdf](https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr_eN.pdf). See also European Parliament, *Implementation of the UN Guiding Principles on Business and Human Rights*, 2017, [http://www.europarl.europa.eu/RegData/etudes/STUD/2017/578031/EXPO\\_STU\(2017\)578031\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/578031/EXPO_STU(2017)578031_EN.pdf).

<sup>39</sup> See ISO 26000:2010 – Social Responsibility, <https://www.iso.org/iso-26000-social-responsibility.html>.

6. Consumer issues (Fair marketing, factual and unbiased information and fair contractual practices, protecting consumers' health and safety, sustainable consumption, consumer service, support, and complaint and dispute resolution, access to essential services);
7. Community involvement and development (employment creation and skills development, social investment, health, wealth and income creation, technology development and access)<sup>40</sup>.

Diversity management is a key indicator for the ways in which companies fulfil their social responsibility<sup>41</sup>. On the one hand, the introduction of policies for diversity management creates conditions for the professional and personal development of employees by recognising their differences and the contribution that these differences can make to the successful achievement of companies' corporate goals:

“Diversity of competences and views of the members of administrative, management and supervisory bodies of undertakings facilitates a good understanding of the business organisation and affairs of the undertaking concerned. It enables members of those bodies to constructively challenge the management decisions and to be more open to innovative ideas, addressing the similarity of views of members, also known as the ‘group-think’ phenomenon. It contributes thus to effective oversight of the management and to successful governance of the undertaking. It is therefore important to enhance transparency regarding the diversity policy applied. This would inform the market of corporate governance practices and thus put indirect pressure on undertakings to have more diversified boards”<sup>42</sup>.

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<sup>40</sup> See ISO 26000:2010 – Social Responsibility, <https://www.iso.org/iso-26000-social-responsibility.html>.

<sup>41</sup> See Starostka-Patyk, M. et al. ‘Diversity Management as a Part of Corporate Social Responsibility Policy’, *Procedia Computer Science*, vol. 65 (2015), pp. 1038 – 1045; CSR Europe, *Blueprint for Embedding Human Rights in Key Company Functions*, 2016, <https://www.csreurope.org/blueprint-embedding-human-rights-key-company-functions#.XNVx7o4zblU>; Andrejczuk, M. and Strzelczak, M. *Diversity Management in Central and Eastern Europe: Lesson Learned and Potential for Growth*, 2017, [https://ec.europa.eu/newsroom/just/item-detail.cfm?item\\_id=606999](https://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=606999).

<sup>42</sup> Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups, 15 November 2014, Brussels, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0095>.

On the other hand, the implementation of diversity management policies allows companies to interact effectively with all stakeholders and foster sustainable relationships with all social segments. In this way, companies can directly impact on the public policies for social inclusion and act as a reliable partner in the fight against social inequality.

## 2. LEGAL AND POLICY PREREQUISITES FOR PROMOTING DIVERSITY MANAGEMENT IN BULGARIA

This section provides an overview of the international and national politico-legal prerequisites for promoting diversity management among companies in Bulgaria. The section is thematically organised mapping the existing legal frameworks, as well as policies, and relevant state agencies in four principal domains: equality, non-discrimination and social inclusion; gender equality and equal opportunities for men and women and persons with different gender identity and/or sexual orientation; equality and equal opportunities for those belonging to ethnic minorities; and equality and equal opportunities for persons with disabilities.

### 2.1. Equality, Non-Discrimination, and Social Inclusion

The principle of equality and non-discrimination on any grounds is one of the fundamentals of International Human Rights Law (IHRL). To date, Bulgaria has ratified most of the existing legal instruments concerning human rights<sup>43</sup>. Article 2 of the *Universal Declaration of Human Rights* proclaimed by the United Nations General Assembly in 1948 states that:

“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs [...]”<sup>44</sup>

According to Article 2 of the *International Covenant on Civil and Political Rights*, adopted by the United Nations General Assembly in 1966, “each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, without distinction of any kind, such as race, colour, sex,

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<sup>43</sup> Up-to-date information concerning Bulgaria’s status of ratification of international human rights treaty is available at: <http://indicators.ohchr.org/>.

<sup>44</sup> For full text of the Universal Declaration of Human Rights, see: <https://www.un.org/en/universal-declaration-human-rights/>.

language, religion, political or other opinion, national or social origin, property, birth or other status”<sup>45</sup>.

The principle of social inclusion which guarantees the right to work and to access to social protection also falls within the remit of international law. Article 6 of the *International Covenant on Economic, Social and Cultural Rights*, adopted by the United Nations General Assembly in 1966 recognises the right to work, “which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts” and obliges States Parties to take appropriate steps to safeguard this right and ensure its full realisation<sup>46</sup>. According to Article 7 of the Covenant, States Parties “recognise the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- a) Remuneration which provides all workers, as a minimum, with:
  - i) fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
  - ii) a decent living for themselves and their families in accordance with the provisions of the present Covenant.
- b) Safe and healthy working conditions.
- c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence.
- d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.”

An indicative list of key international instruments concerning equality, non-discrimination and social inclusion is presented in Table 2.

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<sup>45</sup> For full text of the International Covenant on Civil and Political Rights see <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

<sup>46</sup> For full text of International Covenant on Economic, Social and Cultural Right see <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>. In June 2019 the International Labour Organisation adopted Convention and Recommendation to “Combat Violence and Harassment at Work”, [https://www.ilo.org/ankara/media-centre/statements-and-speeches/WCMS\\_712050/lang-en/index.htm](https://www.ilo.org/ankara/media-centre/statements-and-speeches/WCMS_712050/lang-en/index.htm).

**Table 2: International Instruments regarding Equality, Non-Discrimination, and Social Inclusion**

International Instrument	Implementing Agency	Date of Adoption	Date of Ratification in Bulgaria
Universal Declaration of Human Rights <sup>47</sup>	United Nations General Assembly	1948	The document does not require ratification
Convention for the Protection of Human Rights and Fundamental Freedoms <sup>48</sup>	European Court of Human Rights, Council of Europe	1950	1992
Convention 111 concerning Discrimination in Respect of Employment and Occupation <sup>49</sup>	International Labour Organisation	1958	1960
Convention against Discrimination in Education <sup>50</sup>	United Nations Educational, Scientific, and Cultural Organisation, UNESCO	1960	1962
The European Social Charter <sup>51</sup>	Council of Europe	1961; 1996 (amended)	2000
International Covenant on Civil and Political Rights <sup>52</sup>	United Nations General Assembly	1966	1970
International Covenant on Economic, Social and Cultural Rights <sup>53</sup>	United Nations General Assembly	1966	1970
ILO Declaration on Social Justice for a Fair Globalisation <sup>54</sup>	International Labour Organisation	2008	The document does not require ratification

<sup>47</sup> For full text of the Declaration see <http://www.un.org/en/universal-declaration-human-rights/>.

<sup>48</sup> For full text of the Convention see [https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf).

<sup>49</sup> For full text of the Convention see [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C111](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C111).

<sup>50</sup> For full text of the Convention see [http://portal.unesco.org/en/ev.php-URL\\_ID=12949&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=12949&URL_DO=DO_TOPIC&URL_SECTION=201.html).

<sup>51</sup> For full text of the Charter see <https://www.coe.int/en/web/european-social-charter>.

<sup>52</sup> For full text of the Covenant see <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

<sup>53</sup> For full text of the Covenant see <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>.

<sup>54</sup> For full text of the Declaration see [https://www.ilo.org/global/meetings-and-events/campaigns/voices-on-social-justice/WCMS\\_099766/lang-en/index.htm](https://www.ilo.org/global/meetings-and-events/campaigns/voices-on-social-justice/WCMS_099766/lang-en/index.htm).



As EU Member State, Bulgaria is required to implement the EU regulatory provisions at national level. As initially conceived, the purpose of the EU law in the area of non-discrimination was to facilitate the functioning of the internal market, and as such it applied exclusively to the employment sphere<sup>55</sup>. Subsequently, the remit of EU non-discrimination law has been expanded to include the access to goods and services, as well as access to the state system for social protection. The rationale behind this shift is that guaranteeing equality at the workplace requires that the principle of equality is upheld in all other areas which impact on employment. Examples include the *Directive of equal treatment between men and women in the access to and supply of goods and services*<sup>56</sup> (sub-section 2.2) and the *Directive on equal treatment between persons irrespective of racial or ethnic origin*<sup>57</sup> (sub-section 2.3). The 2000 *Directive on equal treatment in employment and occupation*<sup>58</sup> which prohibits discrimination on the grounds of sexual orientation, disability, age and religion or conviction applies only to the employment sphere<sup>59</sup>.

In 2003 the European Commission and the Council published a joint report on social inclusion which defined the concept of social exclusion as “a process whereby certain individuals are pushed to the edge of society and prevented from participating fully by virtue of their poverty, or lack of basic competencies and lifelong learning opportunities, or as a result of discrimination. This distances them from job, income, and education opportunities as well as social and community networks and activities. They have little access to power and decision-making bodies and thus often feeling powerless and unable to take control over the decisions that affect their day to day lives”<sup>60</sup>. At EU level, there are policies and measures for tackling poverty and providing social protection, which seek to uphold the principle of social inclusion. Among the chief priorities in this direction is increasing the access to employment of people of working age and their active inclusion in the labour market. An

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<sup>55</sup> EU Agency for Fundamental Rights and the Council of Europe, *Handbook on European Non-Discrimination Law*, 2010, <https://fra.europa.eu/en/publication/2011/handbook-european-non-discrimination-law-2011-edition>.

<sup>56</sup> Directive 2004/113/EC, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32004L0113>.

<sup>57</sup> Directive 2000/43/EC, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32000L0043>.

<sup>58</sup> Directive 2000/78/EC, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32000L0078>.

<sup>59</sup> EU Agency for Fundamental Rights and the Council of Europe, *Handbook on European Non-Discrimination Law*, 2010, <https://fra.europa.eu/en/publication/2011/handbook-european-non-discrimination-law-2011-edition>.

<sup>60</sup> Council of the European Union, *Joint Report by the Commission and the Council on Social Inclusion*, 5 March 2004, [http://ec.europa.eu/employment\\_social/soc-prot/soc-incl/final\\_joint\\_inclusion\\_report\\_2003\\_en.pdf](http://ec.europa.eu/employment_social/soc-prot/soc-incl/final_joint_inclusion_report_2003_en.pdf).

indicative list of key EU regulatory and policy instruments regarding equality, non-discrimination, and social inclusion is presented in Table 3.

**Table 3: EU Instruments regarding Equality, Non-Discrimination, and Social Inclusion**

Instrument	Date of Adoption	Description
Council Directive 2000/78/EO establishing a general framework for equal treatment in employment and occupation <sup>61</sup>	27/11/2000	Article 1: "The purpose of this Directive is to lay down a general framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation, with a view to putting into effect in the Member States the principle of equal treatment."
Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community <sup>62</sup>	17/12/2007	Article 1a, Treaty on European Union: "The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail." Article 5b, Treaty establishing the European Community: "In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation."

<sup>61</sup> Directive 2000/78/EC, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32000L0078>.

<sup>62</sup> Treaty of Lisbon, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12007L%2FTXT>.

Instrument	Date of Adoption	Description
Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, <i>Non-discrimination and equal opportunities: a renewed commitment</i> <sup>63</sup>	02/07/2008	“Better legislative protection against discrimination must be accompanied by an active strategy to promote non-discrimination and equal opportunities. So this Communication also proposes actions to give new impetus to the dialogue on non-discrimination policy and to make more effective use of the instruments available, both in general and with particular emphasis on promoting the social inclusion of Roma, given the particular discrimination problems they face.”
Commission Recommendation on the active inclusion of people excluded from the labour market <sup>64</sup>	03/10/2008	Member States should: 1. “Design and implement an integrated comprehensive strategy for the active inclusion of people excluded from the labour market combining adequate income support, inclusive labour markets and access to quality services. Active inclusion policies should facilitate the integration into sustainable, quality employment of those who can work and provide resources which are sufficient to live in dignity, together with support for social participation, for those who cannot.”
Charter of Fundamental Rights of the European Union <sup>65</sup>	26/10/2012	Article 21, Non-discrimination: “Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.”

<sup>63</sup> COM (2008) 420, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52008DC0420>.

<sup>64</sup> 2008/867/EO, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32008H0867>.

<sup>65</sup> Charter of Fundamental Rights of the European Union, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>.

Instrument	Date of Adoption	Description
Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, <i>The European Platform against Poverty and Social Exclusion: A European framework for social and territorial cohesion</i> <sup>66</sup>	16/12/2010	The Platform aims to improve the access to employment and promote social inclusion among those who are at a high risk of exclusion from the labour market.
Directive of the European Parliament and of the Council amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups <sup>67</sup>	22/10/2014	Article 19a: "Large undertakings which are public-interest entities exceeding on their balance sheet dates the criterion of the average number of 500 employees during the financial year shall include in the management report a non-financial statement containing information to the extent necessary for an understanding of the undertaking's development, performance, position and impact of its activity, relating to, as a minimum, environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters [...]."
Communication of the Commission, <i>A Better Workplace for All: From Equal Opportunities towards Diversity and Inclusion</i> <sup>68</sup>	19/07/2017	The document sets out the strategy that the European Commission utilises for promoting diversity when employing staff.

<sup>66</sup> COM (2010) 758, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52010DC0758>.

<sup>67</sup> Directive 2014/95/EU, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0095>.

<sup>68</sup> C(2017) 5300, [https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/equality-treatment\\_bg](https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/equality-treatment_bg).

The principle of equality is enshrined in the Bulgarian *Constitution*. Article 6 (2) states that “there shall be no privileges or restriction of rights [of citizens] on the grounds of race, national or social origin, ethnic self-identity, sex, religion, education, opinion, political affiliation, personal or social status or property status<sup>69</sup>. The protection against discrimination in the employment sphere is guaranteed by the provisions set out in Article 8 (3) of the *Labour Code*:

“In exercising labour rights and duties, no direct or indirect discrimination shall be allowed on grounds of nationality, origin, sex, sexual orientation, race, skin colour, age, political and religious convictions, affiliation to trade union and other public organisations and movements, family and material status, presence of mental or physical disabilities, as well as differences in the term of the contract and the duration of the working time”<sup>70</sup>.

Employment discrimination is incriminated. According to the *Criminal Code*, “a person who intentionally impedes another to take a job, or compels him to leave a job because of his nationality, race, religion, social origin, membership in a trade union or another type of organisation, political party, organisation, movement or coalition with political objective, or because of his or of his next-of-kin political convictions, shall be punished by imprisonment for up to three years or by a fine of up to BGN 5,000”<sup>71</sup>.

Additional provisions on the protection against discrimination in the area of employment are contained in the *Protection against Discrimination Act*<sup>72</sup>. The Act prohibits direct and indirect discrimination on the grounds of sex, race, nationality, ethnicity, human genome, citizenship, origin, religion or belief, education, convictions, political affiliation, personal or social status, disability, age, sexual orientation, marital status, property status, or on any other grounds established by law or by an international treaty to which the Republic of Bulgaria is a State Party (Art. 4, (1)). The cases whereby these grounds lead to any less favourable treatment of a person than the treatment another person is receiving, received, or would receive in comparable similar circumstances are regarded as direct dis-

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<sup>69</sup> Constitution of the Republic of Bulgaria, (Prom. SG 56/13 Jul 1991; amended. SG 100/18 December 2015), <https://www.lex.bg/laws/ldoc/521957377>.

<sup>70</sup> Labour Code (Prom. SG 26/1 April 1986; amended. SG 92/6 November 2018), <https://lex.bg/laws/ldoc/1594373121>.

<sup>71</sup> Criminal Code (Prom. SG 26/2 April 1968; amended. SG 16/22 February 2019), <https://lex.bg/bg/laws/ldoc/1589654529>.

<sup>72</sup> Protection against Discrimination Act (Prom. SG 86/30 September 2003; amended. SG 7/19 January 2018), <https://lex.bg/laws/ldoc/2135472223>.

crimination (Art. 4, (2)). The cases whereby these grounds result in putting a person in a less favourable position compared to other persons are regarded as indirect discrimination (Art. 4 (3)). The employer is obliged to ensure equal working conditions for all employees (Art. 13 (1)), as well as equal remuneration for equal or equivalent work (Art. 14 (1)). The employer is further obliged to provide to all employees equal opportunities for vocational training and retraining, as well as for career development and promotion in terms of position or rank by applying equal criteria in the assessment of their performance (Art. 15 (1)). If an employer receives a complaint from an employee about harassment, including sexual harassment, in the workplace, the employer is obliged immediately to hold an inquiry, take measures to stop the harassment, and if necessary, enforce disciplinary liability (Art. 17). The employer is obliged to take effective measures to prevent any form of discrimination in the workplace (Art. 18). Under Article 23 of the *Employment Promotion Act*, when announcing job vacancies, employers are prohibited from setting any qualifying requirements involving sex, age, nationality, ethnic identity or health condition<sup>73</sup>. Exceptions are permissible solely with respect to sex, age, and reduced working capacity in those cases where sex, age, or health condition is an essential element of the job (Art. 23).

The Commission for Protection against Discrimination (CPD), established in accordance with the provisions of the *Protection against Discrimination Act* is a specialised state body for the prevention of discrimination, the protection against discrimination and ensuring the provision of equal opportunities (Art. 40, (1))<sup>74</sup>. CPD operates through its regional branches which offer citizens methodological assistance and independent advice regarding the application of the *Protection against Discrimination Act*, as well as carry out awareness-raising campaigns about its promulgation<sup>75</sup>. The Commission comprises 9 members with a 5-year term of office. Proceedings before the Commission are instituted upon (1) a complaint by the aggrieved persons; (2) the initiative of the Commission; (3) tip-offs from natural and legal persons, state and municipal authorities (Art. 50). In exercising its powers, the Commission has the right to (1) demand documents and other information related to the investigation; (2) demand explanations from the persons investigated about matters relating to the investigation; (3) question witnesses (Art. 56 (1)). CPD may apply the following compulsory administrative measures:

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<sup>73</sup> Employment Promotion Act (Prom. SG 112/ 29 December 2001; amended. SG 24/22 March 2019), <https://lex.bg/laws/ldoc/-12262909>.

<sup>74</sup> Protection against Discrimination Act (Prom. SG 86/30 September 2003; amended. SG 7/19 January 2018), <https://lex.bg/laws/ldoc/2135472223>.

<sup>75</sup> Commission for Protection against Discrimination, *Handbook on Equal Treatment*, 2010, Sofia, <http://www.kzd-nondiscrimination.com/layout/index.php/layout-over-40-positions/publikacii/publikacii>.

- issue mandatory directions to employers and officials to eliminate violations of the legislation for prevention of discrimination;
- stop the execution of unlawful decisions or orders of employers or officials which lead or may lead to discrimination (Art. 76 (1))<sup>76</sup>.

*The Social Insurance Code* contains provisions on the prohibition of discrimination regarding the additional voluntary insurance of workers and employees (Art. 231; Art. 283)<sup>77</sup>. The *Social Assistance Act* guarantees the right to access to social assistance benefits as a way of promoting social inclusion and the gainful employment of unemployed persons (Art. 1 (2))<sup>78</sup>. The provision of social assistance benefits and social services excludes any direct or indirect discrimination of individuals on the basis of sex, race, nationality, ethnic belonging, human genome, citizenship, origin, religion or faith, education, beliefs, political affiliations, personal or public status, disability, age, sexual orientation, marital status, ownership of property, or any other feature established by law or an international treaty to which the Republic of Bulgaria is a State Party (Art. 3).

Under the *Accountancy Act*, large enterprises which exceed the criterion of the average number of employees during the financial year of 500 people are required to include a non-financial declaration in their management report (Art. 41)<sup>79</sup>. The non-financial declaration contains a description of the policies of enterprises regarding their activities in the field of ecology, social issues and those related to employees, human rights, the fight against corruption (Art. 48 (1)). With regard to the social issues related to employees, actions undertaken in the following areas can be described:

- Issues concerning the number of employed men and women, whereby the information can be presented in terms of areas of employment and professions (equal pay for men and women for work of equivalent value etc.).
- Issues concerning employment including holding consultations and promoting the participation of employees in decision-making regarding working conditions (need for and frequency of consultations with employees; number of newly created jobs; proportion of employees on fixed-term contracts etc.).

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<sup>76</sup> Protection against Discrimination Act (Prom. SG 86/30 September 2003; amended. SG 7/19 January 2018), <https://lex.bg/laws/ldoc/2135472223>.

<sup>77</sup> Social Insurance Code (Prom. SG 110/17 December 1999; amended. SG 12/ 8 February 2019), <https://www.lex.bg/laws/ldoc/1597824512>.

<sup>78</sup> Social Assistance Act (Prom. SG 56/19 May 1998; amended. SG 24/22 March 2019), <https://lex.bg/laws/ldoc/2134405633>.

<sup>79</sup> Accountancy Act (Prom. SG 95/8 December 2015, amended. SG 37/7 May 2019), <https://lex.bg/laws/ldoc/2136697598>.

- Enterprises' relations with trade unions including protection of trade union rights (employment benefits).
- Human resources management including management of restructuring, career development, payroll and vocational training (payroll; average number of vocational training hours per employee per year; staff retraining programmes).
- Health and safety in the workplace (number of work-related accidents, types of injuries and work-related health issues).
- Consumer relations including consumer satisfaction, accessibility, products with likely health and safety effects (quality control systems).
- Impact upon vulnerable consumer groups (awareness of the safety of products targeted at vulnerable consumer groups: children, pregnant women etc.).
- Responsible trade and responsible research and development (understanding of the risks arising from trade or research and development);
- Community relations – ethnic or religious communities, including any measures undertaken for social and economic development (e.g. bulk of investment in the improvement of local communities)<sup>80</sup>.

The legal framework for the fight against discrimination is supplemented with policies and measures that are aimed at overcoming social inequalities and promoting social inclusion. As noted in the *National Strategy for Reducing Poverty and Promoting Social Inclusion 2020* that the Council of Ministers adopted in 2013, the “lack of employment is one of the main reasons for poverty and social exclusion”<sup>81</sup>. Among the chief priorities of the *Strategy* is to encourage “the active inclusion of those who are away from the labour market – the economically inactive, young people, the long-term unemployed, persons living on benefits, persons with primary or lower education, with no professional qualification or lacking key competences, persons with long-term disabilities, older workers, etc.”. To this end, the *Strategy* envisages a set of measures which includes as follows:

- Improving the employability of unemployed persons by providing training on skills acquisition.
- Ensuring employment for vulnerable groups on the labour market.

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<sup>80</sup> Ministry of Finance, *Instruction on the application of Chapter 7, Section 3, “Non-financial declaration” and section 4, “Consolidated non-financial declaration” of the Accountancy Act* 21 December 2017, <https://www.minfin.bg/bg/171>.

<sup>81</sup> Council of Ministers, *National Strategy for Reducing Poverty and Promoting Social Inclusion 2020*, 2013, [https://www.mlsp.government.bg/index.php?section=POLICIES&lang=\\_eng&P=279](https://www.mlsp.government.bg/index.php?section=POLICIES&lang=_eng&P=279).



- Reintegration of early dropouts from the education system.
- Efficient financing of the access to education and training.
- Providing services needed for the social inclusion of groups that are the furthest away from the labour market, with a focus on social skills and improved individual social work with these persons.
- Promoting entrepreneurship, including social entrepreneurship.
- Establishing conditions for reducing the numbers of the working poor.
- Arranging internships, job specific training and training for acquisition of key competencies by young unemployed persons with no professional experience, with secondary and higher education in the public and private sector<sup>82</sup>.

The implementation of the *Strategy* is assisted by the development of an annual *Action Plan*. The functions of coordination, cooperation, and consultation on the development, execution, monitoring, and assessment of the national policy in the area of social inclusion are performed by the National Council on Social Inclusion to the Council of Ministers<sup>83</sup>.

Another important instrument in the area of social inclusion is the *Human Resource Development Operational Programme 2014-2020* administered by the Ministry of Labour and Social Policy<sup>84</sup>. The *Programme* is set upon three pillars: (1) higher employment rate and better quality employment; (2) reducing poverty and promoting social inclusion; and (3) modernisation of public policies<sup>85</sup>. In the field of social inclusion, the *Programme* is aimed at promoting measures for the involvement of vulnerable groups in all spheres of life, as well as at supporting measures for various groups of people for their integration and inclusion in labour, cultural, economic and social areas with special attention paid to people with disabilities (in various subgroups), representatives of minorities, refugees and migrants, youth and elderly people, people of low social status, other disadvantaged groups in view of their inclusion in society and enabling equal opportunities. The *Programme* also focuses on the implementation of measures for improving social dialogue

<sup>82</sup> Council of Ministers, *National Strategy for Reducing Poverty and Promoting Social Inclusion 2020*, 2013, [https://www.mlsp.government.bg/index.php?section=POLICIES&lang=\\_eng&P=279](https://www.mlsp.government.bg/index.php?section=POLICIES&lang=_eng&P=279).

<sup>83</sup> For more information about the National Council on Social Inclusion, see [http://saveti.government.bg/web/cc\\_201/1](http://saveti.government.bg/web/cc_201/1).

<sup>84</sup> For information about *Human Resource Development Operational Programme 2014-2020*, 2013, see <http://esf.bg/>.

<sup>85</sup> Ministry of Labour and Social Policy, *Human Resource Development Operational Programme 2014-2020*, 2013, <http://esf.bg/informatsiya/>.

based on the principle of non-discrimination of labour rights through a multi-stakeholder engagement (e.g. representatives of the national institutions of employees and workers and those of employers, represented on national level; bodies of the state and local authority)<sup>86</sup>.

The main goals of the national employment policy in 2019 include reducing the number of economically inactive persons of working age and the effective inclusion of the unemployed of the most unequal social groups through the acquisition of skills<sup>87</sup>. To this end, the *2019 Action Plan* of the National Employment Agency sets as a priority the improvement of workforce quality and the reduction in regional and structural inequalities in the workforce provision through:

- Enhancing the qualification and skills of unemployed persons, in order to better match the labour market demands and employers' needs.
- Enhancing the skills of employed persons in order to facilitate job transition<sup>88</sup>.

The target groups covered by the active labour market policy as defined in the *National Employment Action Plan 2019* include:

1. Long-term unemployed.
  - Lacking qualification and with low level of education, including Roma.
  - Unemployed on social security benefits.
2. Unemployed youth aged 29 or under.
  - Unemployed aged 25 or under.
  - Neither working, nor studying youth.
  - School dropouts.

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<sup>86</sup> Ministry of Labour and Social Policy, *Human Resource Development Operational Programme 2014-2020*, 2013, <http://esf.bg/informatsiya/>.

<sup>87</sup> Ministry of Labour and Social Policy, *National Employment Action Plan 2019*, <https://www.mlsp.government.bg/index.php?section=POLICIESI&I=249>.

<sup>88</sup> National Employment Agency, *2019 Action Plan*, <https://www.az.government.bg/pages/planove-i-programi/>.

3. Unemployed lacking qualification or having qualification that does not match market demands irrespective of their age.
  - Unemployed lacking qualification from regions with a higher unemployment rate than the national average.
  - Unemployed lacking key competencies.
  - Unemployed with a low level of education (including Roma).
  - Unemployed on social security benefits.
4. Unemployed aged 50 or above.
  - Lacking qualification or with a low level of education.
  - Approaching retirement age.
  - Having a qualification that does not match employers' demands.
5. Unemployed with disabilities.
  - Unemployed having qualification but in need for labour activation.
  - Unemployed lacking qualification.
6. Economically inactive persons willing to work including discouraged persons.
  - From regions with a higher unemployment rate than the national average.
  - Lacking qualification with a low level of education.
  - Economically inactive for more than two years<sup>89</sup>.

## **2.2. Gender Equality and Equal Opportunities for Men and Women and Persons with Different Gender Identity and/or Sexual Orientation**

The principle of equality between men and women is embedded in international law. *The Convention on the Elimination of All Forms of Discrimination against Women* adopted by the United Nations General Assembly in 1979 defines “discrimination against women” in terms of any distinction, exclusion or

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<sup>89</sup> Ministry of Labour and Social Policy, *National Employment Action Plan 2019*, <https://www.mlsp.government.bg/index.php?section=POLICIESI&I=249>.

restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field (Art.1)<sup>90</sup>. The implementation of the *Convention* is overseen by the Committee on the Elimination of Discrimination against Women operating within the compass of the Office of the High Commissioner for Human Rights (UN Human Rights). The Committee comprises 23 experts on women's issues from around the world. Its primary tasks are to review the reports on the national implementation of the *Convention* that States Parties submit and to develop recommendations on any issue affecting women to which States Parties should devote more attention<sup>91</sup>. At an international level, the rights of women and the principle of equal opportunities for men and women in the workplace are guaranteed by the conventions of the International Labour Organisation (ILO) (Table 4).

In 2006 a distinguished group of human rights experts from 25 countries unanimously adopted the *Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity*<sup>92</sup>. The Principles address a broad range of human rights standards and their application to issues of sexual orientation and gender identity confirming the right of an individual choice of sexual orientation and gender identity ensuring protection against discrimination.

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<sup>90</sup> For full text of the Convention, see <https://www.un.org/womenwatch/daw/cedaw/cedaw.htm>.

<sup>91</sup> For more information about the Committee on the Elimination of Discrimination against Women, see <https://www.un.org/womenwatch/daw/cedaw/committee.htm>.

<sup>92</sup> For full text of the Principles, see <https://yogyartaprinciples.org/>.

**Table 4: International Instruments regarding Gender Equality and Equal Opportunities for Men and Women and Persons with Different Gender Identity and/or Sexual Orientation**

International Instrument	Implementing Agency	Date of Adoption	Date of Ratification in Bulgaria
Convention 100: Equal Remuneration Convention <sup>93</sup>	International Labour Organisation	1951	1955
Convention on the Political Rights of Women <sup>94</sup>	UN Commission on the Status of Women, ECOSOC	1952	1954
Declaration on the Elimination of Discrimination against Women <sup>95</sup>	United Nations General Assembly	1967	The document does not require ratification.
Convention on the Elimination of All Forms of Discrimination against Women <sup>96</sup>	Committee on the Elimination of Discrimination against Women, Office of the High Commissioner for Human Rights	1979	1982
Convention 156 concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities <sup>97</sup>	International Labour Organisation	1981	2006

<sup>93</sup> For full text of Convention, see [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C100](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C100).

<sup>94</sup> For full text of the Convention see [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=XVI-1&chapter=16&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVI-1&chapter=16&lang=en).

<sup>95</sup> For full text of the Declaration, see [https://www.lawphil.net/international/treaties/dec\\_nov\\_1967.html](https://www.lawphil.net/international/treaties/dec_nov_1967.html).

<sup>96</sup> For full text of the Convention see <https://www.un.org/womenwatch/daw/cedaw/cedaw.htm>. For the full text of the Optional Protocol, see <https://www.un.org/womenwatch/daw/cedaw/protocol/>.

<sup>97</sup> For full text of the Convention see [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C156](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C156).

International Instrument	Implementing Agency	Date of Adoption	Date of Ratification in Bulgaria
Declaration on the Elimination of Violence against Women <sup>98</sup>	United Nations General Assembly	1993	The document does not require ratification.
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women	Committee on the Elimination of Discrimination against Women, Office of the High Commissioner for Human Rights	1999	2006
Convention 183: Maternity Protection Convention <sup>99</sup>	International Labour Organisation	2000	2001
The Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity <sup>100</sup>	International Panel of Experts in International Human Rights Law and on Sexual Orientation and Gender Identity	2006 (amended with additions in 2017)	The document does not require ratification.
Resolution on the Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity <sup>101</sup>	UN Human Rights Council	2016	The document does not require ratification.

The EU takes a lead role in the protection against gender-based discrimination. The recognition of the social and economic significance of gender equality is further manifested in the centrality of this aspect in the *Charter of Fundamental Rights of the European Union*, as well as in other EU regulatory and guidance instruments concerning labour market (Table 5)<sup>102</sup>. The *Charter of Fundamental*

<sup>98</sup> For full text of the Declaration, see <https://www.un.org/documents/ga/res/48/a48r104.htm>.

<sup>99</sup> For full text of the Convention see [https://www.ilo.org/dyn/normlex/en/?p=1000:12100:0::NO::P12100\\_ILO\\_CODE:C183](https://www.ilo.org/dyn/normlex/en/?p=1000:12100:0::NO::P12100_ILO_CODE:C183).

<sup>100</sup> For full text of the Principles see <https://yogyakartaprinciples.org/>.

<sup>101</sup> For full text of the Resolution see <https://www.ohchr.org/en/issues/discrimination/pages/lgbtunresolutions.aspx>.

<sup>102</sup> EU Agency for Fundamental Rights and the Council of Europe, *Handbook on European Non-Discrimination Law*, 2010, <https://fra.europa.eu/en/publication/2011/handbook-european-non-discrimination-law-2011-edition>.

*Rights*<sup>103</sup> and the *Directive establishing a general framework for equal treatment in employment and occupation*<sup>104</sup> (sub-section 2.1) guarantee the right of individual choice of sexual orientation and ensure protection against discrimination on the grounds thereof.

**Table 5: EU Instruments regarding Gender Equality and Equal Opportunities for Men and Women and Persons with Different Gender Identity and/or Sexual Orientation**

Instrument	Date of Adoption	Description
Commission Recommendation on the Protection of the Dignity of Women and Man at Work <sup>105</sup>	27/11/1991	The Recommendation contains an Annex with a “Code of practice on measures to combat sexual harassment”.
Council Directive on the Introduction of Measures to Encourage Improvements in the Safety and Health at Work of Pregnant Workers and Workers Who Have Recently Given Birth or Are Breastfeeding <sup>106</sup>	19/10/1992	Under Article 3 of the Directive, the European Commission shall draw up guidelines on the assessment of the chemical, physical and biological agents and industrial processes considered hazardous for the safety or health of pregnant workers, workers who have recently given birth and workers who are breastfeeding. The guidelines referred to in the first subparagraph shall also cover movements and postures, mental and physical fatigue and other types of physical and mental stress connected with the work done by pregnant workers, workers who have recently given birth and workers who are breastfeeding. Article 8 of the Directive guarantees the right of maternity leave.
Council Directive 97/81EC concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC <sup>107</sup>	15/12/1997	The purpose of the Framework Agreement is: a) „to provide for the removal of discrimination against part-time workers and to improve the quality of part-time work; b) to facilitate the development of part-time work on a voluntary basis and to contribute to the flexible organization of working time in a manner which takes into account the needs of employers and workers.”

<sup>103</sup> Charter of Fundamental Rights of the European Union, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012P%2FTXT>.

<sup>104</sup> Directive 2000/78/EC, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32000L0078>.

<sup>105</sup> For full text of the Recommendation, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A31992H0131>.

<sup>106</sup> Directive 92/85/EEC, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31992L0085>.

<sup>107</sup> Directive 97/81/EC, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31997L0081>.

Instrument	Date of Adoption	Description
Council Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services <sup>108</sup>	13/12/2004	Article 3 (1): "Within the limits of the powers conferred upon the Community, this Directive shall apply to all persons who provide goods and services, which are available to the public irrespective of the person concerned as regards both the public and private sectors, including public bodies, and which are offered outside the area of private and family life and the transactions carried out in this context."
Directive 2006/54/EC of the European Parliament and of the Council on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) <sup>109</sup>	05/07/2006	This Directive "contains provisions to implement the principle of equal treatment in relation to: a) access to employment, including promotion, and to vocational training; b) working conditions, including pay; c) occupational social security schemes. It also contains provisions to ensure that such implementation is made more effective by the establishment of appropriate procedures."

<sup>108</sup> Directive 2004/113/EC, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32004L0113>.

<sup>109</sup> Directive 2006/54/EC, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32006L0054>.



Instrument	Date of Adoption	Description
European Parliament resolution on educational discrimination against young women and girls 2006/2135(INI) <sup>110</sup>	01/02/2007	<p>The resolution:</p> <p>11. "Refers to the fact that the discrepancy in pay between women and men remains at an unacceptably high level and shows no significant signs of being reduced; points out that on average women earn 15 % less than men, which is the result both of non-compliance with equal pay legislation and a number of structural inequalities such as labour market segregation, differences in work patterns, access to education and training, biased evaluation and pay systems and stereotyping;</p> <p>12. Calls on the Commission and the Member States to use all available means to eliminate common stereotypes that discriminate against women in the workplace, something which is particularly in evidence in the field of science and technology, where women are very poorly represented, to pay particular attention to gender issues and to monitor and evaluate data regularly;</p> <p>13. Calls on the Member States to encourage women's access to positions of responsibility and decision-making in public and private undertakings, paying particular attention to academic positions;"</p>
Communication from the Commission, <i>A Strengthened Commitment to Equality between Women and Men, A Women's Charter</i> <sup>111</sup>	05/03/2010	<p>The following principles are enshrined in the <i>Women's Charter</i>: – equal economic independence;</p> <ul style="list-style-type: none"> <li>- equal pay for equal work and work of equal value;</li> <li>- equality in decision-making;</li> <li>- dignity, integrity, and an end to gender-based violence;</li> <li>- gender equality beyond the Union.</li> </ul>

<sup>110</sup> 2006/2135(INI), <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A52007IP0021>.

<sup>111</sup> COM (2010) 78, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52010DC0078>.

Instrument	Date of Adoption	Description
Council Directive 2010/18/EU implementing the revised Framework Agreement on parental leave concluded by BUSINESS-EUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC <sup>112</sup>	08/03/2010	The revised Framework Agreement “lays down minimum requirements designed to facilitate the reconciliation of parental and professional responsibilities for working parents”. “This agreement entitles men and women workers to an individual right to parental leave on the grounds of the birth or adoption of a child to take care of that child until a given age up to eight years to be defined by Member States and/or social partners.”
Working Party on Human Rights: <i>Toolkit to Promote and Protect the Enjoyment of all Human Rights by Lesbian, Gay, Bisexual and Transgender (LGBT) People</i> <sup>113</sup>	17/06/2010	The document aims to enable the EU to proactively react to cases of human rights violations of LGBT people and to the structural causes behind these violations.
Directive 2010/41/EU of the European Parliament and of the Council on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC <sup>114</sup>	07/07/2010	Article 1 (1): “1. This Directive lays down a framework for putting into effect in the Member States the principle of equal treatment between men and women engaged in an activity in a self-employed capacity, or contributing to the pursuit of such an activity.”

<sup>112</sup> Directive 2010/18/EU, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32010L0018>.

<sup>113</sup> 11153/13 COHOM 125 COPS 240 PESC 728, <http://data.consilium.europa.eu/doc/document/ST-11492-2013-INIT/bg/pdf>.

<sup>114</sup> Directive 2010/41/EU, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32010L0041>.

Instrument	Date of Adoption	Description
Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Gender balance in business leadership: a contribution to smart, sustainable and inclusive growth <sup>115</sup>	14/11/2012	“As the reasons for the under-representation of women in business leadership are multifaceted, the Commission proposes a set of accompanying measures to improve the gender balance in business leadership in order to help Member States implement legislative proposals and improve gender equality in decision-making at all levels.”

<sup>115</sup> COM (2012) 615, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52012DC0615>.

Instrument	Date of Adoption	Description
European Parliament resolution on eliminating gender stereotypes in the EU, 2012/2116 (INI) <sup>116</sup>	12/03/2013	<p>The resolution:</p> <p>2. “Notes that, despite the EU’s commitment to equality between men and women, there is still a gap in legislation providing for non-discrimination against women and gender equality in the areas of social security, education and the media, employment and wages; emphasises the need to step up implementation of existing legislation in these areas and bring in new legislation; calls on the Commission to mainstream the issue of gender equality in all policy fields, as this will enhance the growth potential of the European labour force;</p> <p>31. Draws attention to the growing concern about the negative influence of gender stereotypes on the gender pay gap of 16,4 % and calls on the Commission and the Member States to consider this concern when developing new policies;</p> <p>33. Stresses the need for awareness-raising activities in order to inform employers and employees of the link between gender stereotypes and the gender pay and job gap, to inform other stakeholders in society of the fact that gender stereotypes reduce women’s opportunities both on the labour market and in their private lives, to encourage transparency in public and private companies and agencies, and to guarantee equal pay for equal work and work of equal value;</p> <p>39. Reminds the Commission that elderly women are particularly affected by the gender pay gap as it also affects pensions, which increases the risk of extreme and persistent poverty once women have reached retirement age;”.</p>

<sup>116</sup> 2012/2116(INI), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52013IP0074>.

Instrument	Date of Adoption	Description
Council of the European Union: <i>Guidelines to Promote and Protect the Enjoyment of All Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Persons</i> <sup>117</sup>	24/06/2013	“These guidelines aim to provide officials of EU institutions and EU Member States, with guidance to be used in contacts with third countries and with international and civil society organisations, using a case-by-case approach, in order to promote and protect the human rights of LGBTI persons within its external action. They seek to enable the EU to proactively promote the human rights of LGBTI persons, to better understand and combat any structural discrimination they might face, and to react to violations of their human rights. In doing so, they will further contribute to reinforcing and supporting the EU’s human rights policy in general.”
Commission Recommendation on strengthening the principle of equal pay between men and women through transparency, 2014/124/EU <sup>118</sup>	07/03/2014	2. “Member States should encourage public and private employers and social partners to adopt transparency policies on wage composition and structures. They should put in place specific measures to promote wage transparency.”
European Parliament resolution on empowering girls through education in the EU 2014/2250(INI) <sup>119</sup>	09/09/2015	14. “Encourages all Member States to invest consistently in information, awareness-raising and educational campaigns and to improve the provision of career guidance for girls and boys, addressing stereotyped perceptions of gender roles, as well as gender stereotypes in vocational and professional orientation, notably in science and new technologies; recalls that this would reduce gender segregation on the labour market and strengthen the position of women whilst permitting them to benefit fully from the human capital represented by girls and women in the EU and promoting discussions of educational and career choices in schools and in the classroom;”

<sup>117</sup> 11153/13 COHOM 125 COPS 240 PESC 728,

<http://data.consilium.europa.eu/doc/document/ST-11492-2013-INIT/bg/pdf>.

<sup>118</sup> 2014/124/EU, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32014H0124>.

<sup>119</sup> 2014/2250(INI), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52015IP0312>.

Instrument	Date of Adoption	Description
European Parliament resolution on the EU Strategic Framework on Health and Safety at Work 2014-2020, 2015/2107(INI) (INI) <sup>120</sup>	25/11/2015	<p>38. "Stresses the importance of occupational health and safety measures to target the specific challenges and risks of women in the workplace, including sexual harassment; calls on the Commission and the social partners to ensure that men and women are more equally represented in all social dialogue processes; urges the Commission to take the gender-equality dimension into account as part of the 2016 review of the OSH strategic framework; calls on the Commission to develop a European strategy to combat violence against women in the workplace and as part of this process to evaluate if Directive 2006/54/EC should be revised to broaden the scope of the Directive to cover new forms of violence and harassment; calls on the Member States to implement Commission Recommendation 92/131/EEC to promote awareness of sexual harassment and other forms of sexual misconduct; [...]</p> <p>42. Emphasises that women must be included in the decision-making processes in relation to the development of better health and safety practices in their work environments."</p>
Strategic Engagement for Gender Equality 2015-2019 <sup>121</sup>	03/12/2015	<p>EU policy regarding gender equality is focused on five priority areas as follows:</p> <ul style="list-style-type: none"> <li>- "increasing female labour-market participation and the equal economic independence of women and men;</li> <li>- reducing gender pay, earnings and pension gaps and thus fighting poverty among women;</li> <li>- promoting equality in decision-making;</li> <li>- combating gender-based violence and protecting and supporting victims;</li> <li>- promoting gender equality and women's rights across the world."</li> </ul>

<sup>120</sup> 2015/2107(INI), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52015IP0411>.

<sup>121</sup> SWD(2015) 278, <https://publications.europa.eu/bg/publication-detail/-/publication/24968221-eb81-11e5-8a81-01aa75ed71a1>.

Instrument	Date of Adoption	Description
European Commission: <i>List of Actions by the Commission to Advance LGBTI Equality</i> <sup>122</sup>	12/2015	Among the priority activity domains of the document is guaranteeing the right to work and protection from discrimination at the workplace, including through promotion of diversity management.
Council Conclusion on LGBTI Equality	16/06/2016	The document encourages EU Member States to “take action to combat discrimination on the grounds of sexual orientation and gender identity.”
Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, <i>An Initiative to Support Work-Life Balance for Working Parents and Carers</i> <sup>123</sup>	26/04/2017	<p>Priority areas of action:</p> <ul style="list-style-type: none"> <li>- improving the design and gender-balanced take up of family-related leaves and flexible working arrangements (proposal for a Directive on improving work-life balance of parents and carers);</li> <li>- improving the quality, affordability and access to childcare and long-term care.</li> <li>- addressing economic disincentives for parents and carers to work.</li> </ul>

<sup>122</sup> 9948/16 SOC 393 GENDER 26 ANTIDISCRIM 39 FREMP 107, <http://data.consilium.europa.eu/doc/document/ST-10417-2016-INIT/bg/pdf>. The Council Conclusions are available at <https://www.consilium.europa.eu/en/press/press-releases/2016/06/16/epsco-conclusions-lgbti-equality/>.

<sup>123</sup> COM (2017) 252, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52017DC0252>.

Instrument	Date of Adoption	Description
<p>Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee, <i>EU Action Plan 2017-2019: Tackling the Gender Pay Gap</i><sup>124</sup></p>	<p>20/11/2017</p>	<p>The <i>Action Plan</i> covers the following strands of action:</p> <ul style="list-style-type: none"> <li>- “Improving the application of the equal pay principle;</li> <li>- Combating segregation in occupations and sectors;</li> <li>- Breaking the glass ceiling: initiatives to combat vertical segregation;</li> <li>- Tackling the care penalty;</li> <li>- Better valorising women’s skills, efforts and responsibilities;</li> <li>- Fighting the fog: uncovering inequalities and stereotypes;</li> <li>- Alerting and informing about the gender pay gap;</li> <li>- Enhancing partnerships to tackle the gender pay gap.”</li> </ul>

<sup>124</sup> COM (2017) 678, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52017DC0678>.



Instrument	Date of Adoption	Description
European Parliament resolution on empowering women and girls through the digital sector, 2017/3016(RSP) <sup>125</sup>	17/04/2018	<p>The resolution:</p> <p>5. “Calls on the Commission and the Member States to address the gender gap in the ICT sector by stressing the business case for diversity and by creating additional and stronger incentives for both companies and women such as providing role models, mentoring programmes and career paths, in order to increase the visibility of women; encourages Member States to support and take action on, among other things, the development of online content that promotes gender equality, the promotion of access to and the use of ICT as tools to combat gender discrimination in areas such as gender violence, and the attainment of work-life balance;</p> <p>15. Encourages the Member States and the Commission to promote, in particular by means of information and awareness-raising campaigns, the participation of women in business sectors that are stereotypically considered ‘male’, as in the case of digitalisation; [...]”</p>

At national level in Bulgaria the principle of gender equality and equal opportunities for men and women and the persons with different sexual orientation is guaranteed by the *Protection against Discrimination Act* (Art. 4)<sup>126</sup> and the *Labour Code* (Art. 8)<sup>127</sup>. Under the *Gender Equality Act*, the national policy in the area of gender equality is directed towards the provision of equal opportunities for men and women in all spheres of social, economic, and political life, as well as equal access to public resources; ensuring equal treatment of men and women, prevention of gender-based discrimination and violence, and balanced gender representation in all decision-making bodies; and the fight

<sup>125</sup> 2017/3016(RSP), [http://www.europarl.europa.eu/doceo/document/TA-8-2018-0102\\_EN.pdf](http://www.europarl.europa.eu/doceo/document/TA-8-2018-0102_EN.pdf).

<sup>126</sup> Protection against Discrimination Act (Prom. SG 86/30 September 2003; amended. SG 7/19 January 2018), <https://lex.bg/laws/ldoc/2135472223>.

<sup>127</sup> Labour Code (Prom. SG 26/1 April 1986; amended. SG 92/6 November 2018), <https://lex.bg/laws/ldoc/1594373121>.

against gender stereotypes (Art. 2)<sup>128</sup>. The Act contains provisions for the development and adoption of a National Gender Equality Strategy by the Council of Ministers (Art. 5 (1)) and the establishment of a National Gender Equality Council with the task of holding consultations and promoting collaboration and coordination among the national and local executive authorities and civil society sector (Art. 6 (1)). The Ministry of Labour and Social Policy organises and coordinates the execution of government policies in the area of gender equality at national level<sup>129</sup>. Since 2004, a specialised unit, “Equal Opportunities, Antidiscrimination and Social Assistance Benefits” has been established within the Ministry. The Unit also serves as a Secretariat to the National Gender Equality Council.

*The National Strategy for the Promotion of Gender Equality 2016 – 2020* is a key principal programme document which sets out specific goals for achieving gender equality in all sectors, the bodies responsible for achieving the goals, the priority areas for action, and the indicators for monitoring and assessing the strategy implementation (Art. 12, *Gender Equality Act*). The *National Strategy* is implemented through national action plans (Art. 13, *Gender Equality Act*). The priority areas as defined by the *National Strategy* include increasing the participation of women in labour market and achieving an equal level of economic independence; reducing the gender pay and income gap; and promoting gender equality in decision-making<sup>130</sup>. With regard to increasing the participation of women in labour market, the *National Strategy* envisages the following steps:

- Promoting measures for effective work-life balance, including dependent or household care;
- Improving the application of leave and flexible-working-hours laws in order to achieve a better work-life balance for parents and people taking care of dependents;
- Introducing a systematic approach for child and dependent care;

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<sup>128</sup> Gender Equality Act, (Prom. SG 33/ 26 April 2016), <https://www.lex.bg/bg/laws/ldoc/2136803101>.

<sup>129</sup> For more information see [https://www.mlsp.government.bg/index.php?section=POLICIES&I=308&lang=\\_eng](https://www.mlsp.government.bg/index.php?section=POLICIES&I=308&lang=_eng).

<sup>130</sup> Ministry of Labour and Social Policy, *National Strategy for the Promotion of Gender Equality 2016 – 2020*, <https://www.mlsp.government.bg/index.php?section=POLICIES&I=409>.

- Achieving gender equality in the policies and measures aimed at the development of rural areas;
- Raising awareness and promoting of entrepreneurship among women;
- Overcoming female unemployment, including job loss.

With regard to overcoming the differences in the gender pay and income gap, the *National Strategy* envisages the following steps:

- Raising public awareness of the linkage between pay/income and relevant social rights, including pension rights;
- Introducing additional measures for improving gender balance in economic sectors;
- Raising awareness of educational and vocational training opportunities;
- Promoting gender equality at all stages and in different forms of education and training through the utilisation of the existing mechanisms and policies for cooperation and financing;
- Developing measures for overcoming gender discrepancies concerning pensions;
- Affirming the role and significance of collective bargaining agreements in overcoming the gender pay and income gap.

With regard to promoting gender equality in decision-making, the *National Strategy* envisages the following steps:

- Cooperation with all relevant stakeholders on achieving gender balance in leadership positions in order to raise awareness and facilitate the exchange of best practices;
- Data collection, analysis of the existing tendencies, dissemination of information about decision-making through European and national databases, and regular reporting;
- Development and implementation of measures for enhancing gender balance in political decision-making;
- Development and articulation of recommendations for the business sector, in order to reach a rate of 40% female representation in the senior and medium management of companies.

The *Labour Code* contains provisions for the special protection of pregnant and nursing women (Art. 307-310)<sup>131</sup>. Female employees with small children are entitled to working from home with the same or another employer until their children turn 6 (Art. 312 (1)). The employer cannot assign work travel to female employees with children under the age of 3 without the employees' written consent (Art. 310). The father is entitled to the right to work from home and the right to refuse to undertake work travel in case the mother is not in a position to take advantage of these rights (Art. 313). The right to parental leave is defined by Art. 163 – Art. 167a of the *Labour Code*. Female employees are entitled to maternity leave of 410 days for each child and it is obligatory that 45 days of the total amount of leave are used prior to childbirth (Art. 163 (1)). When the mother and the father are married or live in the same household, the father is entitled to a 15-day parental leave from the date the child is discharged from the medical establishment (Art. 163 (8)). With the consent of the mother, when the child turns 6 months, the father may use the remaining days of the 410-day parental leave allowance instead of her (Art.163 (10)).

Under the *Family Code*, spouses have equal rights and obligations in marriage (Art. 13)<sup>132</sup>. The *Protection against Domestic Violence Act* defines “domestic violence” in terms of any act of physical, sexual, mental, emotional or economic violence, as well as the attempt at such violence, coercive restriction of personal life, personal liberty and personal rights committed against individuals, who are related, who are or have been in a family relationship or in de-facto conjugal cohabitation (Art. 2 (1))<sup>133</sup>. The *Act* guarantees the right of the victims of domestic violence to seek protection from the court (Art. 4 (1)).

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<sup>131</sup> Labour Code (Prom. SG 26/1 April 1986; amended. SG 92/6 November 2018), <https://lex.bg/laws/ldoc/1594373121>.

<sup>132</sup> Family Code (Prom. SG 47/ 23 June 2009; amended. SG 24/22 March 2019), <https://www.lex.bg/laws/ldoc/2135637484>.

<sup>133</sup> Domestic Violence Act (Prom. SG 27/29 March 2005; amended. SG 24/22 March 2019), <https://lex.bg/en/laws/ldoc/2135501151>.

### 2.3. Equality and Equal Opportunities for Those Belonging to Ethnic Minorities

The need for guaranteeing the right of equality and equal opportunities for those belonging to an ethnic minority is recognised and regulated by international law. According to the provisions of the *International Convention on the Elimination of All Forms of Racial Discrimination* adopted by the United Nations General Assembly in 1965, “racial discrimination” is defined as “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life” (Art. 1)<sup>134</sup>. In compliance with the *Convention*, “States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law” including in the enjoyment of the “rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration” (Art. 5).

The *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief* proclaimed by the United Nations General Assembly in 1981 recognises the right to freedom of thought, conscience and religion which includes the freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching” (Art. 1).

The *Framework Convention for the Protection of National Minorities* adopted by the Council of Europe in 1995 contains provisions for guaranteeing the right of equality before the law and of equal protection of the law to persons belonging to national minorities (Art. 4).<sup>135</sup> States Parties to the Convention are obliged to create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs” (Art. 15).

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<sup>134</sup> For full text of the Convention, see <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>.

<sup>135</sup> For full text of the Framework Convention, see <https://www.coe.int/en/web/minorities/at-a-glance>.

The European Commission against Racism and Intolerance (ECRI) is a specialised human rights monitoring body with the Council of Europe<sup>136</sup>. The focus of ECRI's activity is on the fight against racism, racial discrimination, xenophobia, anti-Semitism and intolerance. The Commission comprises 47 independent experts nominated by the Council of Europe member states. One of the pillars of ECRI's standard-setting activities is the development of *General Policy Recommendations (GPR)*, that are addressed to the governments of all member States and provide guidance which policy-makers are invited to follow when developing national strategies and policies on different topics. An indicative list showing relevant *General Policy Recommendations*, as well as other international instruments regarding the principle of equality and equal opportunities for those belonging to ethnic minorities is presented in Table 6.

**Table 6: International Instruments regarding the Equality of and Equal Opportunities for Those Belonging to Ethnic Minorities**

International Instrument	Implementing Agency	Date of Adoption	Date of Ratification in Bulgaria
Convention on the Status of Refugees <sup>137</sup>	Office of the United Nations High Commissioner for Refugees	1951	1992
United Nations Declaration on the Elimination of All Forms of Racial Discrimination <sup>138</sup>	United Nations General Assembly	1963	The document does not require ratification.
International Convention on the Elimination of All Forms of Racial Discrimination <sup>139</sup>	UN Committee on the Elimination of Racial Discrimination	1965	1966

<sup>136</sup> For more information about the European Commission against Racism and Intolerance, see <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/home>.

<sup>137</sup> For full text of the Convention, see <https://www.unhcr.org/1951-refugee-convention.html>.

<sup>138</sup> For full text of the Declaration, see <http://www.un-documents.net/a18r1904.htm>.

<sup>139</sup> For full text of the Convention, see <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>.

International Instrument	Implementing Agency	Date of Adoption	Date of Ratification in Bulgaria
Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief <sup>140</sup>	United Nations General Assembly	1981	The document does not require ratification.
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families <sup>141</sup>	UN Committee on Migrant Workers	1990	The Convention has not been ratified.
Framework Convention Protection of National Minorities <sup>142</sup>	Council of Europe	1995	1999
General Policy Recommendation No.1: Combating racism, xenophobia, antisemitism and intolerance <sup>143</sup>	European Commission against Racism and Intolerance (ECRI), Council of Europe	1996	The document does not require ratification.
General Policy Recommendation No.3: Combating racism and intolerance against Roma/Gypsies	European Commission against Racism and Intolerance (ECRI), Council of Europe	1998	The document does not require ratification.
General Policy Recommendation No.5: Combating intolerance and discrimination against Muslims	European Commission against Racism and Intolerance (ECRI), Council of Europe	2000	The document does not require ratification.
General Policy Recommendation No.7: National legislation to combat racism and racial discrimination	European Commission against Racism and Intolerance (ECRI), Council of Europe	2002, (revised – 2007)	The document does not require ratification.

<sup>140</sup> For the full text of the Declaration, see <https://www.ohchr.org/en/professionalinterest/pages/religionorbelief.aspx>.

<sup>141</sup> For the full text of the Convention, see <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CMW.aspx>.

<sup>142</sup> For the full text of the Convention, see <https://www.coe.int/en/web/minorities/at-a-glance>.

<sup>143</sup> Full text of the General Policy Recommendations of the Council of Europe is available at <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/ecri-standards>.

International Instrument	Implementing Agency	Date of Adoption	Date of Ratification in Bulgaria
General Policy Recommendation No.9: The fight against antisemitism	European Commission against Racism and Intolerance (ECRI), Council of Europe	2004	The document does not require ratification.
Recommendation CM/Rec(2008)5 on policies for Roma and/or Travellers in Europe	Committee of Ministers, Council of Europe	2008	The document does not require ratification.
General Policy Recommendation No.13: Combating anti-Gypsyism and discrimination against Roma	European Commission against Racism and Intolerance (ECRI), Council of Europe	2011	The document does not require ratification.
General Policy Recommendation No.14: Combating racism and racial discrimination in employment	European Commission against Racism and Intolerance (ECRI), Council of Europe	2012	The document does not require ratification.

At EU level, the *Directive establishing a general framework for equal treatment in employment and occupation* of 27 November 2000 contains provisions for protection against discrimination on the grounds of religion or conviction<sup>144</sup>. The *Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin* of 29 June 2000 aims to establish a framework for countering discrimination on the grounds of race or ethnicity<sup>145</sup>. The EU further devotes special attention to Roma integration and the need for guaranteeing the rights of Roma people and promoting their active participation in the labour market (Table 7). Since 2017, the European Commission has been implementing the *Employers Together for Integration* initiative which aims to promote the inclusion of refugees and third-country nationals in the EU labour market<sup>146</sup>.

<sup>144</sup> Directive 2000/78/EC,  
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32000L0078>.

<sup>145</sup> Directive 2000/43/EC,  
<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32000L0043>.

<sup>146</sup> For more information about the Employers Together for Integration Initiative,  
[https://ec.europa.eu/home-affairs/what-we-do/policies/legal-migration/european-dialogue-skills-and-migration/integration-pact\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/legal-migration/european-dialogue-skills-and-migration/integration-pact_en).



**Table 7: EU Instruments regarding the Equality of and Equal Opportunities for Those Belonging to Ethnic Minorities**

Instrument	Date of Adoption	Description
<p>Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin<sup>147</sup></p>	<p>29/06/2000</p>	<p>This Directive shall apply to all persons, as regards both the public and private sectors, including public bodies, in relation to:</p> <ul style="list-style-type: none"> <li>a) conditions for access to employment, to self-employment and to occupation, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion;</li> <li>b) access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience;</li> <li>c) employment and working conditions, including dismissals and pay;</li> <li>d) membership of and involvement in an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations;</li> </ul>
<p>Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law<sup>148</sup></p>	<p>28/11/2008</p>	<p>“The purpose of this Framework Decision is to ensure that certain serious manifestations of racism and xenophobia are punishable by effective, proportionate and dissuasive criminal penalties throughout the European Union (EU). Furthermore, it aims to improve and encourage judicial cooperation in this field.”</p>

<sup>147</sup> Directive 2000/43/EC,

<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32000L0043>.

<sup>148</sup> 2008/913/JHA, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32008F0913>.

Instrument	Date of Adoption	Description
<p>European Parliament resolution on the social situation of the Roma and their improved access to the labour market in the EU 2008/2137(INI)<sup>149</sup></p>	<p>11/03/2009</p>	<p>The resolution:</p> <p>21. "Calls on the governments of the Member States, inter alia, to generate incentive systems through fiscal advantages, for undertakings that employ Roma women;</p> <p>28. Supports the proposal by the EU institutions that, with request to the principle of equal treatment, the number of Roma working in public services should be increased; points out, however, that in order to make this possible it is necessary not only for governments to pursue personnel and labour-force training policies which promote it but also to make special efforts and provide active support to facilitate public acceptance of the principle;</p> <p>30. Calls on the Member States to take appropriate measures to eliminate racial hatred and incitement to discrimination and violence against the Roma in the media and in every form of communication technology, and urges the mass media to establish good practices with respect to staff recruitment in such a way as to reflect the make-up of the population as a whole;</p> <p>36. Opposes the view that subsidies designed to help the long-term unemployed (including many Roma) to find work, whether paid to employers or employees, violate the principle of competitive neutrality, as the reintegration of the Roma is a social policy objective, the pursuit of which requires that subsidised market positions be created; expresses the view that subsidising jobs on the labour market in order to reintegrate Roma workers is preferable to subsidising the long-term unemployed;"</p>

<sup>149</sup> 2008/2137(INI), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52009IP0117>.

Instrument	Date of Adoption	Description
<p>Communication from the Commission to the European Parliament, the Council, the European and Social Committee and the Committee of the Regions, <i>An EU Framework for National Roma Integration Strategies up to 2020</i><sup>150</sup></p>	06/04/2011	<p>“Member States should grant Roma people full access in a non-discriminatory way to vocational training, to the job market and to self-employment tools and initiatives. Access to micro-credit should be encouraged. In the public sector, due attention should be given to employment of qualified Roma civil servants. Public Employment Services can reach out to the Roma by providing personalised services and mediation. This can help attract Roma to the labour market and thus increase the employment rate.”</p>
<p>Council Recommendation on Effective Roma Integration Measures in the Member States (2013/C 378/01)<sup>151</sup></p>	09/12/2013	<p>Access to employment</p> <p>1.4. Take effective measures to ensure equal treatment of Roma in access to the labour market and to employment opportunities. This goal could be attained by means of measures such as measures:</p> <ul style="list-style-type: none"> <li>a) supporting first work experience, vocational training, on-the-job training, lifelong learning and skills development;</li> <li>b) supporting self-employment and entrepreneurship;</li> <li>c) providing equal access to mainstream public employment services, alongside services to support individual job-seekers, focusing on personalised guidance and individual action planning and, where appropriate, promoting employment opportunities within the civil service;</li> <li>d) eliminating barriers, including discrimination, to (re)entering the labour market.”</li> </ul>

<sup>150</sup> COM (2011) 173,

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011DC0173&from=EN>.

<sup>151</sup> See <https://eur-lex.europa.eu/legal-content/BG/ALL/?uri=CELEX%3A32013H1224%2801%29>.

Instrument	Date of Adoption	Description
Communication from the Commission to the European Parliament, the Council, the European and Social Committee and the Committee of the Regions, <i>Action Plan on the Integration of Third Country Nationals</i> <sup>152</sup>	07/06/2016	<p>Ensuring access to the labour market and vocational training are among the chief priorities of the EU policy for assisting the integration of third country nationals. "In strengthening their integration policies, Member States are encouraged to:</p> <ul style="list-style-type: none"> <li>- Support fast track insertion into the labour market of newly arrived third-country nationals, through for example early assessment of skills and qualifications, combined language and on-the-job training, specific guidance and mentoring.</li> <li>- Remove obstacles to ensure effective access to vocational training and to the labour market for refugees and, where there are good prospects of granting them protection, for asylum seekers.</li> <li>- Assess, validate and recognise as soon as possible skills and qualifications of third country nationals, making full use of tools available at EU level.</li> <li>- Encourage entrepreneurship through tailored business training and mentoring and by opening up to third country nationals mainstream entrepreneurship support structures."</li> </ul>

In Bulgaria the principle of equality and equal opportunities for those belonging to ethnic minorities is enshrined in the supreme law – the Constitution, as well as in different specialised acts. According to the *Constitution of the Republic of Bulgaria*, all Bulgarian citizens irrespective of their race, national or social origin, ethnic self-identity, and religion are equal before the law (Art. 6 (2)) and the freedom of conscience, the freedom of thought, and the choice of religion and of religious or atheistic views are inviolable (Art. 37 (1)).<sup>153</sup>

Under the *Religious Denominations Act*, no person can be persecuted or have their rights restricted on the grounds of religious convictions, and any restrictions or privileges based on religious affiliation or the refusal thereof are pro-

<sup>152</sup> COM (2016) 377, <https://eur-lex.europa.eu/legal-content/BG/TXT/?uri=COM:2016:0377:FIN>.

<sup>153</sup> Constitution of the Republic of Bulgaria, (Prom. SG 56/13 Jul 1991; amended. SG 100/18 December 2015), <https://www.lex.bg/laws/ldoc/521957377>.

hibited (Art. 3 (1))<sup>154</sup>. The *Labour Code* grants employees professing religion other than Eastern Orthodox, the right to use, as they choose, some of their paid or unpaid annual leave for the days of the respective religious holidays (Art. 173 (2)).<sup>155</sup>

The *Constitution* guarantees the right of everyone to avail themselves of the national and universal human cultural values and to develop their own culture in accordance with his ethnic self-identification (Art. 54 (1)) and prohibits organisations which incite racial, national, ethnic or religious enmity (Art. 44 (2))<sup>156</sup>. Cultural diversity is further guaranteed by the *Protection and Development of Culture Act* (Art. 2 (6))<sup>157</sup>.

Under the *Criminal Code*, propagating and inciting discrimination, violence or hatred on the grounds of race, nationality or ethnic origin constitute crimes that are punishable by imprisonment from one to four years and a fine from BGN 5,000 to 10,000 (Art. 162 (1))<sup>158</sup>. Propagating or instigating discrimination, violence or hatred on religious basis is punishable by imprisonment for up to four years or probation and a fine of up to BGN 10,000 (Art. 164 (1)).

The National Council for Cooperation on Ethnic and Integration Issues (NCCEII) to the Council of Ministers is a coordinating and consultative body which aims to facilitate the development and execution of the national policy on ethnic and integration issues<sup>159</sup>. The National Council assists with the cooperation, coordination, and consultation among different stakeholders regarding the integration of ethnic minorities in Bulgaria. In performing its functions, the National Council collaborates with government institutions, including the Commission for Protection against Discrimination, the Ombudsman of the Republic of Bulgaria, the Council for Electronic Media, relevant Parliamentary Committees, the Administration of the President of the Republic of Bulgaria, the judiciary and other government agencies; with local self-government bodies, including

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<sup>154</sup> Religious Denominations Act (Prom. SG 120/29 December 2002; amended. SG 34 on 23 April 2019), <https://lex.bg/laws/ldoc/2135462355>.

<sup>155</sup> Labour Code (Prom. SG 26/1 April 1986; amended. SG 92/6 November 2018), <https://lex.bg/laws/ldoc/1594373121>.

<sup>156</sup> Constitution of the Republic of Bulgaria, (Prom. SG 56/13 Jul 1991; amended. SG 100/18 December 2015), <https://www.lex.bg/laws/ldoc/521957377>.

<sup>157</sup> Protection and Development of Culture Act (Prom. SG 50/1 June 1999; amended. SG 103/13 December 2018), <https://www.lex.bg/laws/ldoc/2134664704>.

<sup>158</sup> Criminal Code (Prom. SG 26/2 April 1968; amended. SG 16/22 February 2019), <https://lex.bg/bg/laws/ldoc/1589654529>.

<sup>159</sup> For more information about the National Council for Cooperation on Ethnic and Integration Issues, see <http://nccedi.d8.gateway.bg/bg>.

regional councils for cooperation on ethnic and integration issues; higher education institutions, research institutes and no-profit entities that work in the field of interethnic relations and human rights<sup>160</sup>. NCCEII coordinates and monitors the implementation of the *National Roma Integration Strategy of the Republic of Bulgaria (2012-2020)*, as well as other programme documents in the field of interethnic relations and the protection of the rights of Bulgarian citizens belonging to ethnic minorities<sup>161</sup>.

The *National Roma Integration Strategy of the Republic of Bulgaria (2012-2020)* adopted by the Council of Ministers in 2012 is a policy framework document, laying down the guidelines for the implementation of the social integration policy of Roma people<sup>162</sup>. The *Strategy* applies an integrated targeted approach to the citizens of Roma background in vulnerable condition, which falls within the framework of a more general strategy for combating poverty and exclusion, and it does not exclude rendering support to disadvantaged persons from other ethnic groups. One of the operational objectives of the *Strategy* is to improve the access of Roma to the labour market and raise the Roma employment rate. A particular emphasis is laid on the following aspects:

1. Ensuring that Roma people have access to the labour market and to various self-employment instruments and initiatives. Promoting the qualification and re-training of unemployed Roma, as well as of employed Roma to meet the demand for specific professions at the labour market.
2. Promoting employment by educating unemployed persons and equipping them with key skills.
3. Promoting entrepreneurship.
4. Applying concrete mechanisms for ensuring sustainable employment of Roma people of working age together with representatives of the employers, trade unions, local governments and Roma organisations.
5. Promoting social and civil dialogue as a way of enhancing Roma work performance.

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<sup>160</sup> Council of Ministers, *Regulations on the structure and activities of the National Council for Cooperation on Ethnic and Integration Issues to the Council of Ministers*, 2 June 2015, <http://nccedi.d8.gateway.bg/index.php/bg/node/109>.

<sup>161</sup> For more information about the National Council for Cooperation on Ethnic and Integration Issues, see <http://nccedi.d8.gateway.bg/bg>.

<sup>162</sup> Council of Ministers, *National Roma Integration Strategy of the Republic of Bulgaria (2012-2020)*, 1 March 2012, <http://nccedi.d8.gateway.bg/bg/node/85>.

6. Introducing legal and economic incentives for employers to hire persons of Roma origin, including through the mechanisms of corporate social responsibility, subsidised employment, etc.
7. Activating persons experiencing long-term unemployment and economically inactive persons by promoting work mediation.
8. Encouraging “green employment” by subsidising the creation of jobs in environmental activities with a view to creating quality employment and environment protection<sup>163</sup>.

Specific measures for achieving the goals set out by the *Strategy* are outlined in the *Action Plan for the Implementation of the Strategy* (until 2014 this is the *National Action Plan* developed under the international initiative, *Decade of Roma Inclusion 2005 – 2015*). These include organising training courses, roundtables, seminars, discussions and campaigns in three priority domains: (1) motivation for active job searching; (2) career orientation; and (3) professional qualification<sup>164</sup>.

As concerns the formation, execution, and oversight of the implementation of the national policy for the equal integration of Roma people in society, NCCEDI is assisted by the Commission for the implementation of the *National Roma Integration Strategy of the Republic of Bulgaria*<sup>165</sup>. The Commission aims to:

- Plan adequately resourced and integrated activities for the implementation of the policy for Roma integration;
- Facilitate, consider, and monitor the implementation of the envisaged measures and the achievement of results based on the priorities of the *National Roma Integration Strategy of the Republic of Bulgaria, 2012 – 2020*;
- Initiate and propose legal amendments in support of the implementation of the *National Roma Integration Strategy of the Republic of Bulgaria, 2012 – 2020*.

The implementation of the *National Roma Integration Strategy of the Republic of Bulgaria* is assessed through an electronic monitoring and oversight system<sup>166</sup>.

<sup>163</sup> Council of Ministers, *National Roma Integration Strategy of the Republic of Bulgaria (2012-2020)*, 1 March 2012, <http://nccedi.d8.gateway.bg/bg/node/85>.

<sup>164</sup> Council of Ministers, *Action Plan for the Implementation of the National Roma Integration Strategy of the Republic of Bulgaria (2012-2020)*, 5 January 2012 r, <http://nccedi.d8.gateway.bg/bg/node/85>.

<sup>165</sup> For more information about the Commission for the implementation of the *National Roma Integration Strategy of the Republic of Bulgaria*, see <http://nccedi.d8.gateway.bg/bg>.

<sup>166</sup> For more information about the electronic system for monitoring and oversight, see <https://nrcpsystem.government.bg/>.

Refugees constitute another vulnerable group that requires special attention. Refugees' rights in Bulgaria are guaranteed by the *Asylum and Refugees Act*<sup>167</sup>. According to this *Act*, no restrictions are allowed with regard to the rights or privileges of foreigners who seek or have been granted protection in the Republic of Bulgaria on the grounds of race, nationality, ethnic origin, sex, descent, religion, education, convictions, political affiliation, personal and social status or property status (Art. 20). Foreigners who have been granted a refugee status are entitled to the right of access to the labour market (Art. 32 (1))<sup>168</sup>. Foreigners who have been granted a temporary protection are also entitled to the right to work and vocational training (Art. 39 (1)). The State Agency for Refugees (SAR) to the Council of Ministers is a body of the executive power with special competence in the area of the implementation of the national policy for granting asylum in Bulgaria<sup>169</sup>. The State Agency for Refugees may, independently or jointly with bodies of the local self-government and administration, the Bulgarian Red Cross and other non-governmental organisations, organise supplementary economic activities whereby foreigners who seek or have been granted protection are offered opportunities for vocational training and work (Art. 56).

#### 2.4. Equality and Equal Opportunities for Persons with Disabilities

The *Convention on the Rights of Persons with Disabilities* adopted by the United Nations General Assembly in 2006 is an international instrument that seeks to ensure the full enjoyment of all human rights and fundamental freedoms of “persons [...] who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others” (Art. 1)<sup>170</sup>. States Parties to the *Convention* undertake to prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective

<sup>167</sup> Asylum and Refugees Act (Prom. SG 54/31 May 2002; amended. SG 34/23 April 2019), <https://lex.bg/laws/ldoc/2135453184>.

<sup>168</sup> For analysis on the access to labour market of foreigners who seek or have been granted asylum in Bulgaria, see Ministry of Finance, *Refugees in Bulgaria: labour market and budget costs*, August 2016, see <https://www.minfin.bg/bg/news/9633>; Catro Bulgaria, *Bulgarian Labour Market Needs as Key to Refugee Employment*, 2018, see <https://ec.europa.eu/migrant-integration/librarydoc/bulgarian-labour-market-needs-as-key-to-refugee-employment>; UNCHR Bulgaria, *When There Is a Will, There Is a Way: engaging the private sector with the employment of refugees*, 26 April 2017, <https://www.unhcr.org/bg/wp-content/uploads/sites/18/2016/12/Employment-for-Refugees-FINAL-BG.pdf>.

<sup>169</sup> For more information about the State Agency for Refugees, see <https://aref.government.bg/>.

<sup>170</sup> For full text of the Convention, see <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>.



legal protection against discrimination on all grounds (Art. 5). At the same time, States Parties to the *Convention* are under the obligation to take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life (Art. 26). The Convention further contains provisions for specific measures that States Parties can take, in order to safeguard and promote the right to work of people with disabilities. Such measures, *inter alia*, include (1) prohibition of discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions; (2) promoting employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment; and (3) promoting the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures (Art. 27).

The World Health Organisation (WHO) plays a key role in promoting policies and practices that are directed at guaranteeing the rights of people with disabilities. In the late 1970s WHO initiated a programme for enhancing the quality of life for people with disabilities and their families; meeting their basic needs; and ensuring their inclusion and participation. As of today, the initiative *Community-Based Rehabilitation (CBR)* multisectoral approach for increasing the coordination and cooperation among stakeholders on providing equal opportunities to people with disabilities<sup>171</sup>. In 2011, WHO, together with the World Bank published the ever first *World Report on Disability*<sup>172</sup>. The report takes an interdisciplinary approach in order to conduct an in-depth analytical assessment of the state of the rights of people with disabilities. Special attention is dedicated to the existing measures and approaches for overcoming the barriers to the effective social and professional integration of people with disabilities.

An indicative list of key international instruments regarding the equality and equal opportunities for people with disabilities is presented in Table 8.

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<sup>171</sup> See World Health Organization, *Community-Based Rehabilitation*, 2019, <https://www.who.int/disabilities/cbr/en/>.

<sup>172</sup> See World Health Organization and World Bank, *World Report on Disability*, 2011, [https://www.who.int/disabilities/world\\_report/2011/en/](https://www.who.int/disabilities/world_report/2011/en/).

**Table 8: International Instruments regarding the Equality and Equal Opportunities for Persons with Disabilities**

International Instrument	Implementing Agency	Date of Adoption	Date of Ratification in Bulgaria
Declaration on the Rights of Disabled Persons <sup>173</sup>	General Assembly United Nations	1975	The document does not require ratification.
World Programme of Action Concerning Disabled Persons <sup>174</sup>	General Assembly United Nations	1983	The document does not require ratification.
Resolution A/RES/46/119 regarding the protection of persons with mental illness and the improvement of mental health care <sup>175</sup>	General Assembly United Nations	1991	The document does not require ratification.
Standard Rules on the Equalization of Opportunities for Persons with Disabilities <sup>176</sup>	General Assembly United Nations	1994	The document does not require ratification.
Convention on the Rights of Persons with Disabilities (CRPD) <sup>177</sup>	UN Committee on the Rights of Persons with Disabilities	2006	2012
Optional Protocol to the Convention on the Rights of Persons with Disabilities	UN Committee on the Rights of Persons with Disabilities	2006	Signed – 2008. The Optional Protocol has not been ratified as of yet.

<sup>173</sup> For full text of the Declaration, see

<https://www.ohchr.org/en/professionalinterest/pages/rightsofdisabledpersons.aspx>.

<sup>174</sup> For more information about the World Programme, see

<https://www.un.org/development/desa/disabilities/resources/world-programme-of-action-concerning-disabled-persons.html>.

<sup>175</sup> For full text of the Resolution, see <https://www.un.org/documents/ga/res/46/a46r119.htm>.

<sup>176</sup> For more information about the Standard Rules, see <https://www.un.org/development/desa/disabilities/standard-rules-on-the-equalization-of-opportunities-for-persons-with-disabilities.html>.

<sup>177</sup> For full text of the Convention and the Optional Protocol, see

<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>.

International Instrument	Implementing Agency	Date of Adoption	Date of Ratification in Bulgaria
Community-Based Rehabilitation (CBR) <sup>178</sup>	World Health Organisation	2010	The document does not require ratification.
WHO Global Disability Action Plan 2014–2021 <sup>179</sup>	World Health Organisation	2015	The document does not require ratification.

At EU level, the *Charter of Fundamental Rights of the European Union* recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community. (Art. 26)<sup>180</sup>. The *European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe* adopted by the European Commission in 2010 aims to “empower people with disabilities so that they can enjoy their full rights, and benefit fully from participating in society and in the European economy, notably through the Single market”<sup>181</sup>. The Strategy covers eight main areas for action including (1) accessibility, (2) participation, (3) equality, (4) employment, (5) education and training, (6) social protection, (7) health, and (8) external action.

With regard to increasing the access of people with disabilities to the labour market, the Commission pays special attention to the transition of young people with disabilities from education to employment; intra-job mobility on the open labour market and in sheltered workshops; self-employment; quality jobs, including aspects such as working conditions and career advancement; and voluntary initiatives that promote diversity management at the workplace<sup>182</sup>.

<sup>178</sup> For more information about the Community-Based Rehabilitation Initiative, see <https://www.who.int/disabilities/cbr/en/>.

<sup>179</sup> For more information about the Global Disability Action Plan, see <https://www.who.int/disabilities/actionplan/en/>.

<sup>180</sup> Charter of Fundamental Rights of the European Union (2012), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012P%2FTXT>.

<sup>181</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe*, COM(2010) 636, 15 November 2010, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52010DC0636>.

<sup>182</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe*, COM(2010) 636, 15 November 2010, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52010DC0636>.

The European Disability Forum is an umbrella organisation of persons with disabilities that defends the interests of over 80 million Europeans with disabilities<sup>183</sup>. The Forum's principal goal is the provision of equal opportunities for all people with disabilities. By dint of a Council Decision dated 26 November 2009, the European Union ratified the *UN Convention on the Rights of Persons with Disabilities*, becoming the first regional integration organisation to sign up to any human rights treaty. All institutions and agents of the EU endorse the values of the *Convention* in all policies under their competence ensuring the mainstreaming of disability: from transport to employment and from information and communication technologies to development co-operation<sup>184</sup>. The EU Framework for the UN Convention on the Rights of Persons with Disabilities was established in 2012, in order to promote the implementation of the *Convention* within the Union<sup>185</sup>. The EU Framework is composed of the European Parliament, European Ombudsman, EU Agency for Fundamental Rights (FRA), and European Disability Forum.

At national level, the *Persons with Disabilities Act* guarantees the rights of people with disabilities in a way that respects human dignity and ensures equal treatment in personal, social, and political life through the application of an individual approach and an individual needs assessment (Art. 3)<sup>186</sup>. According to this Act, people with disabilities are entitled to assistance with their effective social integration including to services that support their professional realisation and access to employment (Art. 5). The Ministry of Labour and Social Policy and the National Employment Agency carry out the employment policy for people with permanent disabilities and, together with other stakeholders, develop and implement programmes and measures that provide equal opportunities through the social-economic integration of people with disabilities (Art. 36, (1)). These programmes and measures are aimed at providing incentives for employers to hire people with permanent disabilities (Art. 36 (2)). The provisions regarding the terms and conditions for providing incentives for employers to create jobs for permanently disabled people are set out in the *Employment Promotion Act* (Art. 30a, Art. 36, Art. 43a, Art. 51, Art. 52)<sup>187</sup>.

In order to guarantee the employment of permanently disabled people in the ordinary workplace, the *Persons with Disabilities Act* requires that employers hire

<sup>183</sup> For more information about the European Disability Forum, see <http://www.edf-feph.org/>.

<sup>184</sup> For more information, see <https://www.coe.int/en/web/compass/disability-and-disablism>.

<sup>185</sup> For more information about the EU Framework for the UN Convention on the Rights of Persons with Disabilities, see <https://fra.europa.eu/en/theme/people-disabilities/eu-crpd-framework>.

<sup>186</sup> Persons with Disabilities Act (Prom. SG 105/18 December 2018, amed. SG 24/22 March 2019), <https://www.lex.bg/bg/laws/ldoc/2137189213>.

<sup>187</sup> Employment Promotion Act (Prom. SG 112/29 December 2001; amd. SG 24/22 March 2019r.), <https://lex.bg/laws/ldoc/-12262909>.

people with disabilities as the following quotas: (1) employers with 50 to 99 employees – one permanently disabled person; (2) employers with 100 and over 100 employees – two per cent of the middle-level staff (Art. 38 (1)). The *Labour Code* provides special protection for people with partial incapacity by ensuring the right to job reassignment for employees who, as a result of an illness or occupational accident, are no longer able to perform their job but are able to perform with no harm to their health another suitable job or the same job under alleviated conditions (Art. 314)<sup>188</sup>. Employers with more than 50 employees are obliged to provide jobs that are suitable for reassignment on an annual basis (Art. 315). The number of these jobs amounts to 4 to 10 per cent of the total number of employees depending on the business activity (Art. 315). The reassignment jobs created in accordance with the provisions of Art.15 of the *Labour Code* are considered separate from the jobs for permanently disabled people that employers need to hire, in order to meet the quota requirements defined in the *Persons with Disabilities Act* (Art. 38 (2))<sup>189</sup>. Permanently disabled people are to be employed to perform jobs that allow them to utilise and further develop their skills and knowledge and employers are obliged to provide reasonable accommodations in the workplace (Art. 39, Art. 40, *Persons with Disabilities Act*).

Under the *Persons with Disabilities Act*, the Minister of Labour and Social Policy coordinates the activities of state bodies for the realisation of the rights of people with disabilities, as well as develops, considers, and proposes the adoption and/or amendment of legal acts, strategic documents, programmes, and plans regarding the rights of people with disabilities (Art. 9 (1) and (2)). The Agency for People with Disabilities to the Ministry of Labour and Social Policy is a body of the executive power which develops and finances programmes and projects on the rehabilitation, integration, and building an accessible environment for people with disabilities, as well as business projects that are in the interest of people with disabilities (Art. 10 (7) and (8))<sup>190</sup>. The National Council for Integration of People with Disabilities to the Council of Ministers facilitates interagency cooperation on the development and implementation of the national policy for people with disabilities (Art. 17 (1))<sup>191</sup>. The National Council is a

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<sup>188</sup> Labour Code (Prom. SG 26/1 April 1986; amended. SG 92/6 November 2018), <https://lex.bg/laws/ldoc/1594373121>.

<sup>189</sup> Persons with Disabilities Act (Prom. SG 105/18 December 2018, amended. SG 24/22 March 2019), <https://www.lex.bg/bg/laws/ldoc/2137189213>.

<sup>190</sup> For more information about the Agency for People with Disabilities, see <https://ahu.mlsp.government.bg/home/>.

<sup>191</sup> For more information about the National Council for Integration of People with Disabilities, see [https://iisda.government.bg/ras/executive\\_power/council/945](https://iisda.government.bg/ras/executive_power/council/945).

consultative body which brings together state officials, representatives of organisations of and for people with disabilities, professional associations, trade unions, employers' organisations and the National Association of the Municipalities in the Republic of Bulgaria (Art. 17 (3)).

At national level, the implementation of the *Convention on the Rights of Persons with Disabilities* is monitored by the Council for Oversight which is an independent body with a four-year term (Art. 11, Art. 12 (1), *Persons with Disabilities Act*). The Council for Oversight (1) drafts statements, recommendations, and proposals addressed to the respective responsible state authorities, in order to counter and prevent violations of the rights of people with disabilities; (2) prepares annual reports on any actions undertaken for the implementation of the *Convention on the Rights of Persons with Disabilities*; (3) conducts periodic review and assessment of national legislation, practices, and draft legal acts in accordance with the provisions of the Convention; (4) carries out other activities with relevance to the purposes of the implementation of the *Convention* (Art. 14). The national implementation of the *Convention* is based on a five-year *Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities, 2015-2020*<sup>192</sup>.

The *National Strategy for Persons with Disabilities, 2016-2020* that was adopted by the Council of Ministers in 2016 is a key political document which sets priorities and measures aimed at improving the quality of life of people with disabilities, non-discrimination on the grounds of disability, ensuring their full and active participation in all areas of public life and promoting respect for their rights in all policies<sup>193</sup>. Fostering conditions for work and employment of people with disabilities is among the priority areas set out by the Strategy.

To this end, measures are envisaged in two directions: (1) providing appropriate forms of training and retraining and (2) providing appropriate forms of employment. The steps toward promoting training and retraining include creating incentives for employers that conduct training and retraining courses for people with disabilities, as well as training of employers and employees to work with people with disabilities. The steps toward promoting employment include sheltered and supported employment. Sheltered employment aims to provide jobs to people with severe and multiple disabilities, including through the establishment of sheltered workshops that are excluded from the competitive market. The steps toward promoting supported employment feature creating conditions for improving the com-

<sup>192</sup> Council of Ministers, *Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities, 2015-2020*, 2015, <https://www.mlsp.government.bg/index.php?section=POLICIESI&l=283&lang=>.

<sup>193</sup> Council of Ministers, *National Strategy for Persons with Disabilities, 2016-2020*, 2016, <https://www.mlsp.government.bg/index.php?section=POLICIESI&lang=&l=282>.

petitiveness of specialised enterprises and cooperatives of people with disabilities, including through the provisions of incentives. Steps are further envisaged for improving the conditions for job creation in the common working environment. These include providing additional incentives for employers to hire people with disabilities and to ensure reasonable accommodations for adapting the workplace to the needs of people with disabilities<sup>194</sup>.

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<sup>194</sup> Council of Ministers, *National Strategy for Persons with Disabilities, 2016-2020*, 2016, <https://www.mlsp.government.bg/index.php?section=POLICIESI&lang=&l=282>.

### 3. APPROACHES AND INITIATIVES FOR PROMOTING DIVERSITY MANAGEMENT IN BULGARIA

This section reviews different approaches and initiatives that are directed at promoting diversity management in the business sector in Bulgaria. An analytical assessment of the state of diversity management in Bulgaria is presented in *Diversity Management in Bulgaria: Perceptions, Practices, and Expectations*, a study that was carried out as part of the initiative *Launch and Implementation of a Diversity Charter in Bulgaria: DIVERSE.BG*.

In 2010 the Commission for Protection against Discrimination and the Ministry of Labour and Social Policy published a *Manual on Diversity in the Workplace: Guidance for Business* that was developed as part of a joint initiative within the framework of the EU PROGRESS (2007-2013) Programme<sup>195</sup>. Besides practical guidance on the application of key concepts related to diversity management, the *Manual* features a set of best practices for ensuring diversity in the workplace through collective bargaining agreements (CBAs) at sectoral and/or enterprise level. Collective bargaining negotiations constitute a critical element of the legal relations between trade unions and employers. The goal of collective bargaining is to provide additional rights and benefits to employees by guaranteeing improved social security, protection, and quality of working conditions than those prescribed by the established labour law standards<sup>196</sup>. Under the *Protection against Discrimination Act*, the employer, in cooperation with trade unions is obliged to take effective measures to prevent any form of discrimination in the workplace (Art. 18). Collective bargaining allows the business sector to raise awareness of the need for preventing discrimination in the workplace (Box 1).

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<sup>195</sup> The Manual has been developed as part of project *Equality Progress: National Effective and Innovative Practices for the Prevention of Discrimination*. For more information, see [http://kzd-nondiscrimination.com/progress2009\\_2010/](http://kzd-nondiscrimination.com/progress2009_2010/).

<sup>196</sup> For more information on collective bargaining, see <http://www.knsb-bg.org/index.php/deinosti1/2015-04-03-14-56-13>.



### Box 1: **Collective Bargaining Agreements (CBA) as a Means of Promoting Diversity Management**

Indicative CBA provisions designed to promote diversity and equality in the workplace include:

- avoiding discrepancies in the pay of men and women for an equivalent amount of work;
- providing equal access to job positions;
- preventing direct and indirect discrimination on any grounds in the workplace;
- providing vocational training for men and women returning from maternity/parental leave;
- providing opportunities for salary indexation for employees returning from maternity/parental leave;
- providing employment opportunities and access to any improvement in the working conditions for employees returning from maternity/parental leave;
- providing reasonable accommodations for people with disabilities when the disability occurs after the employee has been hired;
- providing opportunities for flexible working hours for mothers with small children;
- providing opportunities for simultaneous leave of spouses if both are employed by the same enterprise;
- providing opportunities for additional voluntary pension and health insurance to all employees<sup>197</sup>.

*Diversity Pays Off* is a joint initiative of the Open Society Institute – Sofia within its *Bridge to Business Programme* that brings together non-governmental organisations and business representatives who actively seek to implement and develop diversity policies and work toward the integration of diverse social groups in corporate environment<sup>198</sup>. The *Bridge to Business Programme* funded by the European Union works in close cooperation with representatives of the private sector who are interested in employing educated and qualified young people regardless of their ethnic origin<sup>199</sup>. The Programme facilitates the access of young Roma aged 18 to 35 to high qualified jobs in the private sector which correspond to their education and qualification. In 2019 within the framework of the Programme, a manual titled *Diversity in the Workplace: Why and How?* was published. The manual offers guidance

<sup>197</sup> Mikova, V. and Kurukafov, T. *Diversity on Labour Market Manual: Business Guidance*, 2010, <http://www.kzd-nondiscrimination.com/layout/index.php/layout-over-40-positions/publikacii/publikacii>.

<sup>198</sup> For more information about the *Diversity Pays Off* Initiative, see <http://bridgetobusiness.eu/public/portfolios/view.cfm?id=107>.

<sup>199</sup> For more information about the *Bridge to Business Programme*, see <http://bridgetobusiness.eu/public/portfolios/view.cfm?id=89>.

on developing and implementing diversity and inclusion policy. Among the partners of the *Diversity Pays Off* initiative is the *Work It Out* platform which aims to promote a positive business and economic case for the acceptance and inclusion of people with different sexual orientation (LGBT)<sup>200</sup>. In 2017 within the framework of the platform an *LGBT Employer's Guide* was developed which offers practical steps toward fostering an LGBT-inclusive work environment<sup>201</sup>.

Public-private partnerships constitute another vehicle for promoting diversity management in the workplace. In this case, companies interact with relevant state authorities that are in charge of implementing policies concerning specific social groups. An example of such a public-private partnership is the collaborative work of the State Agency for Refugees and businesses which show interest in employing individuals who seek or have already been granted asylum in Bulgaria<sup>202</sup>.

An integrated approach for promoting diversity management at company-level is the development and implementation of an institutional policy. The chief advantage of this approach is that it encompasses all management processes within the company, thus creating prerequisites for adopting new behavioural patterns and fostering an inclusive corporate culture. Hewlett Packard Enterprise invests in the development of a work environment that not only tolerates diversity but also accepts and actively embraces it both at global and local level<sup>203</sup>. The company has a designated "Diversity and Inclusion" Programme that appreciates individual differences (age; sex/gender; race; special abilities and needs) and promotes a sense of equality and inclusion among employees. Within the framework of this Programme, different resource groups have been set up. These groups bring together employees with common interests, culture, and experience and, at the same time help employees expand their professional networks, acquire new skills, and develop their talents. One example of such a resource group is *Women at Work*. The group organises training events, seminars, and meetings with high-level leaders of the business and public sectors that can serve as a source of knowledge and inspiration to group members. Besides *Women at Work*, another resource group that operates in Bulgaria is the *Young Employee Network*. Very often the events that the resource groups organise are open to all employees, so that everyone can discover something new and different for themselves and no one feels isolated.

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<sup>200</sup> For more information about the platform *Work It Out*, see <https://workitout.bg/>.

<sup>201</sup> For more information about the *LGBT Employer's Guide*, see <https://workitout.bg/portfolio-item/lgbt-workplace-digital-2-2/?lang=en>.

<sup>202</sup> UNCHR Bulgaria, *When There Is a Will, There Is a Way: engaging the private sector or with the employment of refugees*, 26 April 2017, <https://www.unhcr.org/bg/wp-content/uploads/sites/18/2016/12/Employment-for-Refugees-FINAL-BG.pdf>.

<sup>203</sup> Interview with Maya Peycheva-Takeva, Human Resources Manager, Hewlett Packard Enterprise, 20 May 2019.

Hewlett Packard Enterprise successfully collaborates with non-governmental organisations on promoting diversity management in Bulgaria. Together with the Council of Women in Business in Bulgaria, Hewlett Packard Enterprise holds an annual discussion forum titled “Women Talents in Business – Incredible You” which brings together companies that support the career development of women in business (Box 2). Another example of similar partnership is the collaboration between Hewlett Packard Enterprise and Jamba, a consultancy organisation and an online platform that supports the integration of people with disabilities in Bulgaria<sup>204</sup>. In 2018, within the framework of the platform an *Employer’s Guide to the Equality of People with Disabilities in the Workplace* was published<sup>205</sup>.

### Box 2: A Discussion Forum “Women Talents in Business – Incredible You”

“Women Talents in Business – Incredible You” is a joint initiative of Hewlett Packard Enterprise and the Council of Women in Business in Bulgaria. The initiative aims to create a platform that brings together women professionals striving for self-development and growth, and possessing leadership skills, creativity, and clearly stated determination to work on innovative issues<sup>206</sup>. The programme comprises three modules:

- Incredible Pioneers and Innovators.
- Incredible Leaders.
- Incredible Personal Stories.

The first edition of the Discussion Forum was held in 2018 with 60 participants. The following training seminars took place within the framework of the event:

- Communication skills.
- Development of leadership skills.
- Innovative thinking.
- Creativity.
- Defying the status quo.
- Business etiquette.
- Marketing.
- Personal branding.

The Discussion Forum is an annual event which contributes to enhancing the visibility of the employees of participating companies by highlighting their potential and personal and career qualities. At the same time, the Forum facilitates the development of a community for promoting knowledge sharing and mentorship.

<sup>204</sup> For more information about the JAMBA platform, see <https://jamba.bg/>.

<sup>205</sup> For more information about the *Employer’s Guide to the Equality of People with Disabilities in the Workplace*, see <https://jamba.bg/za-rabotodateli/>.

<sup>206</sup> For further information about the initiative, see <http://www.bblf.bg/initiatives/1/project/1692/>.

Codes of ethics (codes of conduct) are one of most popular forms of self-regulation in the workplace. The concept of a code of ethics is closely linked to the evolution of professions and constitutes an indispensable element of cultures of work. An example of an ethics code that dates back to antiquity is the Hippocratic Oath which medical professionals take at the start of their career. In the business sphere, the code of ethics functions as a system of principles which companies and their employees are bound to follow in their everyday work. Depending on the business activity of companies, codes of ethics cover issues such as a recommended dress code and conduct, communication with colleagues and clients, confidentiality and data protection policy, and community impact. Business ethics training is a vital component of embedding a code of ethics in everyday professional practice and ensuring its effective application. Codes of ethics provide a framework for promoting diversity management (Box 3).<sup>207</sup>

### Box 3: L'Oréal's Code of Ethics

#### **Code of Ethics: The Way We Work, 3rd edition**<sup>208</sup>

This Code of Ethics covers the duties and responsibilities of L'Oréal in three domains: (1) as a business; (2) as an employer; and (3) as a responsible corporate citizen.

As an employer, L'Oréal is committed to diversity which entails:

- Prohibition of discrimination or harassment/bullying on the basis of:
  - gender;
  - disability;
  - marital status or family situation;
  - sexual orientation;
  - age;
  - political and philosophical opinions;
  - religious beliefs;
  - union activity;
  - ethnic, social, cultural or national origin.

This prohibition against discrimination applies not only to recruitment, but also to all decisions relating to training, promotion, continued employment and working conditions in general, as well as the company's relationships with suppliers, clients, business partners and third parties.

<sup>207</sup> Mikova, V. and Kurukafov, T. *Diversity on Labour Market Manual: Business Guidance*, 2010, <http://www.kzd-nondiscrimination.com/layout/index.php/layout-over-40-positions/publikacii/publikacii>.

<sup>208</sup> L'Oréal, Code of Ethics: The Way We Work, 3rd edition, 20 November 2015, <https://www.loreal.com/group/governance/acting-ethically/code-of-ethics-and-speak-up-policy>.

Diversity Charters constitute a mechanism for promoting the voluntary implementation of diversity management policies within companies. The Charter is a short strategic document that defines a set of concrete steps and measures for embedding the principles of diversity, non-discrimination, and equal opportunities in the workplace<sup>209</sup>. The goals of a Diversity Charter include:

- Raising awareness of the importance of diversity and its socio-economic impact;
- Bringing together different stakeholders – companies, government agencies, professional associations, and academic and research organisations – regarding the need for an integrated approach and multilateral cooperation in the fight against discrimination and social exclusion;
- Supporting the signatories of the Charter in increasing their productivity and performance, creating favourable conditions in the workplace, and ensuring compliance with the established regulatory provisions;
- Developing tools for facilitating the practical implementation of diversity policies in companies;
- Supporting the exchange of experience and best practices among companies<sup>210</sup>.

To date, Diversity Charters have been adopted in 24 EU Member States. In Bulgaria a Diversity Charter is currently being developed<sup>211</sup>.

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<sup>209</sup> Mikova, V. and Kurukafov, T. *Diversity on Labour Market Manual: Business Guidance*, 2010, <http://www.kzd-nondiscrimination.com/layout/index.php/layout-over-40-positions/publikacii/publikacii>. See also European Commission, *Practical Guide to Launch and Implement a Diversity Charter*, 2015, Directorate General for Justice and Consumers, <https://publications.europa.eu/en/publication-detail/-/publication/d757b218-6302-4ff6-a11a-f24133b3305b>.

<sup>210</sup> European Commission, *Practical Guide to Launch and Implement a Diversity Charter*, 2015, Directorate General for Justice and Consumers, <https://publications.europa.eu/en/publication-detail/-/publication/d757b218-6302-4ff6-a11a-f24133b3305b>.

<sup>211</sup> For more information about the initiative *Launch and Implementation of a Diversity Charter in Bulgaria*, see [www.diverse-bg.eu](http://www.diverse-bg.eu).

## CONCLUSION

The report has outlined the main regulatory, policy, and institutional parameters that impact on diversity management in the workplace in Bulgaria. The existing legislation on countering discrimination and social exclusion and ensuring the rights of different social groups in Bulgaria provides prerequisites for promoting diversity management in the workplace. At the same time, it is worth noting that the effective implementation and application of the existing legal and regulatory instruments depends, inter alia, on the extent to which different stakeholders show active engagement in the development and promulgation of practices and norms of behaviour that foster a business environment, whereby diversity is recognised as a value and an asset.

The business has a defining role in the process of countering discrimination and altering social stereotypes which hinder the successful and sustainable integration and professional realisation of different social groups, including those at risk of social exclusion, women, persons with different sexual orientation, those belonging to ethnic minorities, and persons with disabilities. Diversity management encompasses a system of dynamic approaches which offer employers more opportunities to recruit talented and qualified individuals with a wide range of skills and knowledge, thus optimising the operational and production processes, enhancing efficiency, and finding new markets. The Diversity Charter should be regarded as an important instrument based on flexible approach for self-regulation which is suitable for large multinational companies, as well as small and medium enterprises (SMEs). Recruiting workforce from all social sectors creates a favourable environment for experience sharing, peer learning, and exchange of approaches for making decisions and resolving practical challenges, which in turn allows maintaining a high level of creativity and innovation within companies and ensuring continuity of novel product development. Last but not least, effective diversity management enhances the social standing and reputation of companies by underscoring their commitment to social responsibility and community impact. The net result of promoting diversity management therefore amounts to an increased degree of public trust and more potential for keeping already existing and attracting new customers.







