

**SIXTH FRAMEWORK PROGRAMME**  
**Human Resources & Mobility**  
**FP6-2003-MOBILITY-CENTRES**  
**EUROPEAN NETWORK OF MOBILITY CENTRES**

**Deliverable 3.4**

**RMC Self-training materials**

**WP3 Bulgarian Network of RMC**

Project acronym: **BulRMCNet**

Project full title: **Bulgarian Network of Research Mobility Centres**

Proposal/Contract no.: **MOBI-CT-2004-510971**

Sofia, Bulgaria, July 2005

**EU FP6 BulRMCNet Project**  
**“Bulgarian Network of Research Mobility Centres**

**Training Seminar**

**Sofia, 18-19 May 2005**

**Conditions and procedure for entry and stay of foreigners**  
**in the Republic of Bulgaria**

# CONDITIONS AND PROCEDURE FOR ENTRY AND STAY OF FOREIGNERS IN THE REPUBLIC OF BULGARIA

## 1. Conditions and procedure for entry of foreigners in the Republic of Bulgaria

Admission of foreigners<sup>1</sup> into the territory of certain state is a matter falling exclusively within the competence of that state. It is not only an important issue on its own, but also regulates the legal status of the foreigners in the state.

There are no legal regulations in the international legislation governing the admission by a state of foreigners to stay in or transit its territory. Movement of persons from one state into another, however, has been recognized as a necessity in international communication. This principle refers primarily to peacetime conditions<sup>2</sup>.

Based on the principle of sovereignty, each state has the authority to establish the conditions and procedure for admission of foreigners into its territory. In this sense, a state may refuse entry to certain persons and this would not be considered a breach of the international law. It should be noted in this regard that restrictions on admission must not be based on race, religion or language<sup>3</sup>.

Moreover, the state can restrict admission of foreigners to certain parts of its territory, without having to provide reasons for such measures<sup>4</sup>. The international cooperation principles and sovereign equality between the states proclaimed by the International bill of human rights<sup>5</sup> create the framework for the regimes of admission of foreigners, especially the discriminating ones.

In this sense, unreasoned refusal as well as ungrounded restrictions are qualified as unfriendly acts. In this respect, states should abide by the principles of mutual respect and reciprocity.

The abovementioned fundamental principles relating the admission and entry of foreigners in the territory of a state have been established for quite a long time<sup>6</sup>, however, each state applies them depending on its adopted policy. In this connection, in the international practice, numerous instances are known of unfair or discriminating restrictions imposed by different states with respect to persons from Asia and Africa, based on considerations of racial or social and political nature, which are humiliating to human personality and dignity<sup>7</sup>.

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<sup>1</sup> According to Art. 2, para 1 of the Foreigners in the Republic of Bulgaria Act (FRBA), a foreigner as per this Foreigners in the Republic of Bulgaria Act is any person who is not a Bulgarian citizen.

A foreigner is also a person who is not considered a citizen of any state under its respective legislation and is a holder of a legal document certifying such capacity.

<sup>2</sup> In the present elaboration we consider only the regime of peacetime admission of foreigners. A state of war imposes specific conditions that are not subject of this presentation.

<sup>3</sup> See International Convention on the Elimination of All Forms of Racial Discrimination, Human rights: Compilation of international instruments, UN New York 1992.

<sup>4</sup> Thus, by a decision of the State Department of France, starting from 27.01.1960, the prefects are authorized to restrict the right of foreigners to stay in certain parts of the country's territory., See D. Mashev, Legal status of foreigners in the People's Republic of Bulgaria, S, 1977.

<sup>5</sup> See International bill of human rights

<sup>6</sup> When codifying international regulations applicable to the regime for foreigners, the rules for admission and entry of foreigners in the territory of a state were treated as well. Thus, according to the Resolution of the International Law Institute of 1982, "The State preserves the right to restrict or temporarily ban entry of foreigners in times of war, internal disorders or epidemics. Each state shall establish by means of laws or regulations the procedure for admission and movement of foreigners. See more details in Al. Yankov, On the legal status of foreigners, temporarily residing in the People's Republic of Bulgaria and international Foreigners in the Republic of Bulgaria Act requirements, Pravna Miasal, No. 4, 1964.

<sup>7</sup> Ibid.

The passport/permission system for admission of foreigners adopted in our country is democratic and legitimate. It provides for alleviations that are in full compliance with the common principles and standards of the contemporary international law. Moreover, the admission of foreigners in Bulgaria is not aggravated by any discriminating restrictions and unreasoned obstacles and complexities with respect to any state's citizens. In this respect, Bulgaria adheres to the principle of expansion of the international cooperation by reducing the requirements for admission of foreigners into the country to the indispensable minimum allowed.

The abovesaid answers the question why the boundaries of our state are crossed by nearly 10 mln foreigners per year<sup>8</sup>. More than a half of the crossings are in inward direction. For the year 2000, their number is 4 922 047, for 2001 – 5 100 928 and for 2002 – 5 570 714.<sup>9</sup> The sustainable trend shows a definite interest of foreigners in our country. Moreover, certain increase of their number is observed. The main reason are the ongoing democratic transformations in our country which are the guarantee for the essential rights and freedoms of any person in the jurisdiction of the Republic of Bulgaria.

### 1.1. Documents needed by a foreigner to enter the Republic of Bulgaria

If a foreigner wishes to visit the Republic of Bulgaria, he has to meet certain conditions specified in FRBA, Art. 8, para. 1, namely:

- have a valid overseas travel document or a substitute, and
- have an entry, residence or transit visa, if required.

The use of the expression “entry, residence or transit visa” is appropriate, as transiting the territory of a state in fact involves entering in and leaving, and why not staying (though temporarily), in the territory, so we consider the expression “entry, residence or transit” exhausting<sup>10</sup>. Besides, the replacement of the expression “valid overseas travel passport or a substitute”<sup>11</sup> by “valid overseas travel document or a substitute and a visa” is relevant, as except for passport, a foreigner may enter our state by presenting a substitute document, as specified in the Act<sup>12</sup>.

Consequently, admission of a foreigner into our state is only possible if both prerequisites specified in the Act – valid overseas travel document or a substitute and visa – are in place, cumulatively.

Furthermore, the availability of a valid overseas travel document is a prerequisite for the issuance of entry permission, that is, without an overseas travel document no visa may be issued.

#### 1.1.1. Types of passports

The primary identity document of a foreigner wishing to obtain permission for entry in the Republic of Bulgaria is his foreign passport. The passport of a foreigner may be:

*ORDINARY*, which in its turn may be individual, family or group passport

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<sup>8</sup> See Report on the activity of the National Border Police Service.

<sup>9</sup> Ibid.

<sup>10</sup> Such proposal was made by the author in his publications in the period 1996-1997. See Timchev L., Stay of foreigners in the Republic of Bulgaria, S., 1997; Conditions and procedure for entry of foreigners in the Republic of Bulgaria, S, 1999.

<sup>11</sup> See Art 4, para 1 of LSFRB of 1972, abolished.

<sup>12</sup> This is also a proposal made by the author to legislators, in the view of making legal regulations treating the conditions and procedure for entry of foreigners in our state more precise. See Timchev L., Stay of foreigners in the Republic of Bulgaria, S., 1997; Conditions and procedure for entry of foreigners in the Republic of Bulgaria, S, 1999.

*SERVICE*, called also official, which is issued to certain officials travelling on service. In some states, such as Sweden, there is a list of official positions allowing to their holders to travel abroad using an official passport.

*DIPLOMATIC*, issued to notified, i.e. diplomatic consular representatives of a foreign state in our country.

Whatever the type of the passport, it shall be issued by the respective competent authorities of the state whose citizen is the foreigner or where his permanent place of residence is.

### *1.1.2 Passport substitutes*

*NATIONAL IDENTITY CARD*, accompanied by a overseas travel supplement – only for foreigners from states having bilateral agreements with the Republic of Bulgaria for admission with such type of documents. The documents are issued on the grounds of a signed agreement between both states, based on the reciprocity principle.

*DOCUMENT FOR RETURN IN THE STATE* whose citizen is the foreigner, or which is the state of permanent residence of the foreigner. Such documents may be a temporary passport, laissez passer, travel pass, passavant, etc. Most frequently such papers are issued in case of loss, theft or damage of the passport. They are used only for the return of the holder to the respective state, and should afterwards the person wish to travel abroad again, he would have to obtain a new foreign passport.

Cross border pass, permits etc. issued under a bilateral international agreement<sup>13</sup>.

### *OVERSEAS TRAVEL DOCUMENT OF PERSONS WITHOUT CITIZENSHIP*

It should be noted that a foreigner who have entered or stays in the Republic of Bulgaria using false or forged overseas travel documents or substitute may be subject to compulsory taking to the border (LFRB, Art. 41).

### *1.1.3 Visa concept. Types of visa*

The second precondition, except for the overseas travel document, needed for admission of a foreigner into the territory of the Republic of Bulgaria, is the availability of a visa.

In its substance, a visa is a PERMIT<sup>14</sup> issued by the competent Bulgarian authorities to a foreigner allowing his entry (stay) or transit through the territory of our state or his airport transfer<sup>15</sup>. Visa is not required if the Republic of Bulgaria has concluded a bilateral agreement for visa exemption regime, or there is a unilateral decision of the Council of Ministers of the Republic of Bulgaria for visaless regime for admission of foreigners with a view of the purpose of their visit to our state.

The adoption of a visaless admission regime between two states is an expression of their mutual endeavour to strengthen and expand their cooperation in the spirit of understanding and mutual support.

Visa is not required for a foreigner who is a Bulgarian citizen.<sup>16</sup> For this purpose, the respective person should submit his foreign overseas travel document and the identity card of a citizen of the Republic of Bulgaria. In our opinion, the implementation of such a hypothesis contradicts the applicable Bulgarian legislation, and particularly the Foreigners in the Republic of Bulgaria Act. Our reasons for this statement are based on the definition of a foreigner. As we already emphasized, a foreigner in this state is any person who is not a

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<sup>13</sup> Notably, a document of this type shows the state and the border check point where the foreign person in question is allowed to pass through.

<sup>14</sup> See D. Mashev, Legal status of foreigners in the People's Republic of Bulgaria, S, 1977.

<sup>15</sup> LFRB, Art. 9, and Art. 1 of the Ordinance on the conditions and procedure of issue of visas.

<sup>16</sup> See LFRB, Art. 8, para 4.

Bulgarian citizen. Consequently, any person that is a citizen of the Republic of Bulgaria shall be deemed to be a Bulgarian citizen. In addition, according to Art. 12, para 2 of the Bulgarian Identity Documents Act, a Bulgarian citizen who is in possession of an identity document issued by authorities of another state, when contacting Bulgarian state bodies must certify his identity by presenting also his Bulgarian identity document.

Based on the above, it could be concluded that in the territory of this state, Bulgarian citizens should refer to their Bulgarian citizenship certified by Bulgarian identity documents. It is a well known rule, that the citizens of the Republic of Bulgaria enter and leave the state without any permit (visa) required for this purpose.

With the adoption of the Foreigners in the Republic of Bulgaria Act of 1998 and the Ordinance on the conditions and procedure for issuing visas of 1999, new types of visas were introduced. The accession of Bulgaria to the Schengen non-visa domain required further synchronisation of our legislation in this direction. Thus, in 2002, a new Ordinance on the conditions and procedure for issuing visas was adopted, approved by Decree No. 104 of the Council of Ministers<sup>17</sup>.

According to Art. 6 of the Ordinance, the competent Bulgarian authorities issue the following types of visa:

- airport transfer visa (Type A);
- transit visa (Type B);
- short-term visa (Type C);
- group visa;
- long-term visa (Type D);
- border visa.

Diplomatic and consular representative offices of the Republic of Bulgaria issue the following types of visa:

➤ **limited stay visa:**

- *short-term stay visa* (single entry visa) – Type C<sup>18</sup>

It is issued to a foreigner for a single entry or multiple entries in the country and 90 days total period of stay, within 6 months from the date of the first entry. A multiple entry short-term visa has a 12-month term of validity unless otherwise provided for in an international agreement enforced in the R. of Bulgaria or a deed of the Council of the Ministers. It should be noted that such visa may be issued to a foreigner, who:

- maintain regular business contacts with Bulgarian natural or legal persons or trade representative offices of foreign legal entities registered in Bulgaria. For the issuance of the visa a document must be submitted to prove the above mentioned contacts;
- has made investments amounting to more than EUR 50 000 in the Republic of Bulgaria, proven by a certificate issued by the Foreign Investments Agency;
- is an authorised representative of the above mentioned persons;
- meets the requirements of Art. 24, para 1, s.2, 4, 6 and 11 of the Foreigners in the Republic of Bulgaria Act for stay of foreigners in the Republic of Bulgaria and can prove this<sup>19</sup>, while retaining his permanent residence abroad.

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<sup>17</sup> See S.G., No. 49 of 2002, and the following Amendment, No. 118 of 2002.

<sup>18</sup> See Art. 9, para. 1 of the Ordinance.

<sup>19</sup> Art. 24. (1) A permission for long stay shall be able to receive the foreigner who:

2. (Amend., SG No. 42 of 2001; suppl., SG No. 37 of 2003) carry out commercial activity in the country according to the legally established order, and as a result of this activity at least 10 job positions have been opened for Bulgarian citizens, unless agreed otherwise by an international agreement, ratified, promulgated and enacted in the Republic of Bulgaria;

4. are foreign specialists staying in the country under certain international agreements to which the Republic of Bulgaria is a party;

- has made significant instalments to the development of the bilateral relations with the Republic of Bulgaria;

- is a family member or up to second generation direct relative in descending or ascending line - while retaining his permanent residence abroad;

- is a holder of multiple-entry short-stay visa issued by the state under special provisions, unless its validity is less than 12 month.

- *long-term stay visa* – Type D<sup>20</sup>

*It is issued to a foreigner who wishes to stay continuously or permanently in the territory of the Republic of Bulgaria after obtaining a permit from the Consular Relations Directorate of the Ministry of Foreign Affairs, in coordination with the authorities for administrative control of foreigners.*

A long-stay visa is valid for up to 6 months from the date of issue and permits a foreigner a single entry in this country and stay until being granted a permit for continuous or permanent stay, but not more than 90 days from the date of entry. The long-stay visa becomes invalid upon leave of the territory of the Republic of Bulgaria, upon expiry of the term of stay permitted thereunder, or upon expiration of its validity term<sup>21</sup>.

*A non-expired **long-stay** visa is withdrawn by the authorities for administrative control of foreigners upon granting a long-stay permit.*

A non-expired long-stay visa issued to an accredited assistant of a diplomatic or consular representative office of a foreign state or a representative office of an international organisation domiciled in the territory of the Republic of Bulgaria is withdrawn by the Consular Relations Directorate upon granting a long-stay permit, if required.

- *Type B transit visa*

*It is issued to a foreigner who is entering the Republic of Bulgaria from one state and leaving the territory of this country within 24 hours en route to another state.*

- single-entry – valid up to 3 months and giving the right of a single pass through the territory of the state;

- double-entry transit visa - valid up to 3 or 6 months and giving the right of two passes through the territory of the state;

- multiple-entry transit visa - valid up to 3, 6 or 12 months and giving the right of unlimited number of transit passes through the territory of the state;<sup>22</sup>

Transit pass visas are valid for 12 months from the date of issue. A foreigner who is granted such a visa is permitted one, two or more transit passes.

It should be noted that the number of transit passes through the territory of the this country permitted by a multiple-entry transit visa may not exceed 90 within 6 months.

➤ *airport transfer visa* – **Type A** (airport transit visa):

It is valid for 3 months and gives a foreigner the right to pass through the international transit areas of airports in this country during the stay (en route landing) of the aircraft or for flight change, without being admitted into the territory of the Republic of Bulgaria.<sup>23</sup>

A foreigner who is granted such a visa is deemed non-admitted into the territory of the sate. Therefore, he can not leave the international flights transit area. To ensure the observance of this requirement, the border passport control bodies retain the travel documents

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6. (Amend. SG No. 42 of 2001) are representatives of foreign trade companies registered with the Bulgarian Chamber of Commerce and Industry;

11. (Amend, SG No. 37 of 2004) carry out activities under the Foreign Investment Act

<sup>20</sup> See Art. 9, para. 1 of the Ordinance.

<sup>21</sup> Ibid. para 2.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

of such foreigners until their departure from the country. *The term of stay in the transit area is up to 24 hours.*

It should be noted that no airport transfer visa is needed by a foreign citizen who:

- is a holder of a valid entry visa or valid permit for stay in a state if his return to that state is ensured.

- is a holder of a diplomatic or office passport issued by the Ministry of Foreign Affairs of that state;

- is a citizen of a state which is a party to the Chicago Convention for International Civil Aviation, if he is a member of the crew of an aircraft operating a regular flight, and can certify such capacity as per the requirements of the International Civil Aviation Organisation (ICAO), under reciprocity conditions<sup>24</sup>.

#### *Group visa*

It is issued to foreigners who are citizens of one and the same state and have formed a group before departure, possess a **group passport** or other valid group travelling document and enter, stay and leave the territory of the Republic of Bulgaria as a group. A group visa may be only granted for a single- or double-entry and a short-term stay, for a **total period of 30 days**.<sup>25</sup>

The type of visa is predetermined by the number of permitted entries and the place of issue. Thus, competent to issue visas are both our overseas diplomatic and consular representative offices, and the border passport control bodies. This type of visa as well as long-stay visas are issued in coordination with the authorities for administrative control of foreigners.

It is necessary to emphasise, however, that visas are issued at border check points as an exception only, subject to the provisions of Art. 9, para 6, of the Foreigners in the Republic of Bulgaria Act, namely only when necessitated by:

- state interests;
- force majeure circumstances;
- humanitarian reasons;
- emergency
- provisions of ratified international agreement binding for the Republic of Bulgaria.

Visas are issued by the *border passport control bodies* in coordination with the authorities for administrative control of foreigners or the Consular Relations Directorate of the Ministry of Foreign Affairs. Only single-entry are issued and in strictly limited cases. Such visas are issued only for:

- airport transfer;
- transit passing;
- short-stay up to 10 days.

The conditions and procedure for granting visas are set forth by the Council of Ministers.

It should be noted that there are some discrepancies in this respect between the provisions of the Foreigners in the Republic of Bulgaria Act and the Ordinance on the conditions and procedure for issuing visas.

For example, in the FRBA, it is stipulated that, when issuing visas, border passport control bodies shall coordinate their actions with the authorities for administrative control of foreigners or the Consular Relations Directorate of the Ministry of Foreign Affairs. Such provision is not included in the Ordinance. Moreover, after the creation of the Migration Directorate, which will be a body to control specifically the stay of foreigners in this country, and future changes of the legislation in this connection, coordination with its units shall also be provided for.

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<sup>24</sup> See Art. 7, para 4 of the Ordinance

<sup>25</sup> See Art. 10 of the Ordinance

The second discrepancy relates the issuance of short-stay visas. In the Foreigners in the Republic of Bulgaria Act, it is specified that in that case the short-stay shall be up to 10 days. Such restriction is not provided for in the Ordinance.

The Ministry of Foreign Affairs issues diplomatic and official multiple-entry visas to foreign citizens who are accredited as assistants to diplomatic representative offices or members of the consular offices of foreign states in the Republic of Bulgaria, and to members of their families.<sup>26</sup>

## 1.2. Grounds for refusal of admission of a foreigner into the Republic of Bulgaria.

### 1.2.1 *Grounds for an imperative refusal*

According to Art. 10, para 1, a foreigner is refused a visa and admission into this country when:

- with his actions he has endangered the security or the interests of the Bulgarian state or when there is information available that he acts against state security;
- with his actions he has discredited the Bulgarian state or derogated the prestige and dignity of the Bulgarian people;
- there is information available that he is a member of a criminal group or organisation or that he is involved in terrorist activities, contraband and illegal trading in arms, explosives, ammunition, strategic raw materials, goods and technologies with possible double use, as well as illegal traffic of narcotic and psychotropic substances and precursors, and raw materials for their production;
- there is information available that he is involved in sale of human beings and illegal smuggling of persons into and out of this country;
- he has been expelled from the Republic of Bulgaria less than 10 years ago and has not reimbursed in a 6-month period from the expel the costs incurred by the state therefor;
- he has perpetrated a wilful offence in the territory of the Republic of Bulgaria, which under the Bulgarian law is subject to a sentence of more than three years of imprisonment;
- he has attempted to enter the country or pass through it by using false or forged documents;
- he may be expected to disseminate a serious infectious disease, or suffers a disease which, according to the criteria of the Ministry of Health or the World Health Organisation, represents a threat for public health, or he has no certificate of vaccination, or comes from a region of aggravated epidemic and epizootic situation;
- he has no means of subsistence and the required obligatory insurances for the period of stay in this country, as well as funds to ensure his return back;
- at his previous entry and stay, he has systematically breached the border, passport-visa, currency or customs regimes of the Republic of Bulgaria;
- at his previous stay he has breached labour or tax regulations of this state;
- he does not possess visas or tickets for the following countries on the route.
- there is a compulsory administrative measure imposed prohibiting him from entering the country, and this measure is in full effect;
- he is included in the state's register of unwanted foreigners kept by the Ministry of Interior and the Ministry of Foreign Affairs;

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<sup>26</sup> Ibid.

- he applies for an entry visa by submitting a document for final leaving of the territory of another state where he has been staying by the moment.

Visa is refused to be issued to a foreigner who fails to submit the required documents specified by an act of the Council of Ministers to certify his grounds for entering the country.

### *1.2.2 Grounds for a possible refusal*

Art. 11 specifies the grounds for a possible refusal to grant a visa and admit a foreigner into the country. According to its provisions, a foreigner may be refused to be granted a visa if:

- there is information available that he wants to enter the country in order to commit a crime or breach of the public order;
- at previous stay in the country he committed breach of the public order;
- his entering the country could hamper the relations of the Republic of Bulgaria with another state;
- there is information available that the purpose of his entering is to remain in the country as an immigrant without having a special permission to this effect;
- there is information available that the purpose of his entering is to use the country as a transit point for migration to a third country.
- during a previous stay in the country he was socially supported by the state;
- he is not in position to substantiate reliably the declared purpose of travelling.
- there is an enacted penal provision for imposed fine under this Act, which has not been paid.

## **2. Conditions and regulation of the stay of a foreigner in the Republic of Bulgaria**

### 2.1 Categories of foreigners

The Foreigner's Stay in the Republic of Bulgaria Act (FSRBA) of 1972; abolished (art. 3, para 2 and 3) defined two basic categories of foreigners, staying in our country:

- permanent residents, who have permission to settle in the country without a fixed term for leaving it.
- transit travellers, who have given a 30 hour term to cross the country under the condition to pass through a border passport control point from one country and leave through a border check point to another country.

With the adoption of the FRBA of 1998, corrections were made in this respect. For example, according to Art. 23, para 1, foreigners stay in the Republic of Bulgaria either for a short or long term. This general break-down of the categories of foreigners is the basis for division of the foreigners into subcategories depending on the term of stay.<sup>27</sup> The long-term stay on its turn may be continuous and permanent.

The stay of a foreigner in the Republic of Bulgaria is based on:<sup>28</sup>

- visa issued under Art. 9, para 3;
- international agreements for visa exemption or alleviated visa regime;
- permission by the authorities for administrative control of foreigners.<sup>29</sup>

<sup>27</sup> Annual statistics show that most of the foreigners stay in big cities, such as Sofia, Plovdiv, Varna and Bourgas. The explanation may be sought in the opportunities for employment and spending summer holidays. In the same time, the least numbers of foreigners are in the towns of Lovetch and Targovishte. See the attachments at the end of this paper.

<sup>28</sup> See Art. 22, para 1, of the Foreigners in the Republic of Bulgaria Act

<sup>29</sup> It should be noted that, according to paragraph 1, s. 5. of the supplementary provisions of the Foreigners in the Republic of Bulgaria Act, the authorities for control of foreigners are statutory state bodies empowered under this Foreigners in the Republic of Bulgaria Act. Therefore, competences to control foreigners are given to all

It should be noted that a foreigner who has entered the country following the statutory procedure may apply for extension of the term of stay by a permit issued by the authorities for administrative control of foreigners.<sup>30</sup>

To a foreigner enjoying diplomatic or consular immunity the above permission is issued by the Ministry of Foreign Affairs.

**Short-term stay** is limited up to 90 days from the date of entry in this country. The term may be extended by the authorities for administrative control of foreigners for reasons of humanitarian nature.

**Long-term stay** may be:

- *continuous* – up to one year permitted term
- *permanent* – unlimited permitted term.

#### *2.1.1. Continuous stay of foreigners in Bulgaria*

A. Grounds for granting permission for a continuous stay of foreigners in the Republic of Bulgaria

**A continuous stay permission** may be granted to a foreigner who:<sup>31</sup>

- wishes to work under an employment contract subject to permission by the bodies of the Ministry of Labour and Social Policy;
- is involved in commercial activity in the country according to the legally established order, and as a result of this activity at least 10 job positions have been opened for Bulgarian citizens, unless agreed otherwise by an international agreement, ratified, promulgated and enacted in the Republic of Bulgaria;
- is admitted as a regular student in accredited education institutions;
- is a foreign specialist staying in this country under an international agreement to which the Republic of Bulgaria is a party;
- has grounds to be granted permanent stay or has married a Bulgarian citizen or a foreigner who is granted permanent stay in this country;
- is a representative of a foreign company registered with the Bulgarian Chamber of Commerce and Industry;
- is a self-sufficient parent of a Bulgarian citizen or foreigner who is granted permanent stay in this country;
- has been admitted for long-term treatment into a health institution and is in possession of adequate funds to cover the cost of hospital treatment and accommodation;
- is a correspondent of foreign mass media accredited in the Republic of Bulgaria;
- is a pension-ensured person having sufficient means of subsistence in this country;
- carries out activities under the Investment Promotion Act;
- is a member of the family of a foreigner who is granted long-stay permission;
- is a parent of a foreigner or lives in concubinage with a foreigner who is granted continuous stay permission on the grounds of Art. 28, para 6;
- wishes to practise free-lance profession upon permission by the bodies of the Ministry of Labour and Social Policy in compliance with art. 24a;

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national services of the Ministry of Interior, as well as other bodies outside the Ministry. It is necessary to indicate this, as a new Migration directorate is created as a special authority to control the stay of foreigners in this country. With this explanation we are trying to say that control over foreigners may be exercised not only by officers of Migration directorate.

<sup>30</sup> See Art. 22, para. 2 of the LFRB

<sup>31</sup> See Art. 24, para. 1 of the LFRB

- wishes to carry out non-profit activity upon permission by the Ministry of Justice under conditions and procedure determined by an ordinance of the Minister of Justice, in coordination with the Minister of Interior.

It is important to emphasise that the Foreigners in the Republic of Bulgaria Act requires that the above persons have ensured their accommodation, means of subsistence, compulsory insurance policies and social insurance as required by the Bulgarian law. The applicable regulations are set forth in acts of the Council of Ministers.

A foreigner applying for continuous stay in the territory of Republic of Bulgaria for the purpose of practicing free-lance profession may be granted a *long-term visa* or a *long-term stay permit* if he is eligible under the statutory requirements for entry and stay in this country and submits to the respective diplomatic or consular representative office, or the authorities for administrative control of foreigners, the following documents:<sup>32</sup>

- application form;
- freelancer licence

It is necessary to note that freelancer licences are issued by the Ministry of Labour and Social Policy.

The conditions and procedure for issue, refusal or withdrawal of freelancer licenses of foreigners are determined by an ordinance of the Minister of Labour and Social Policy, in coordination with the Minister of Interior and the Minister of Finance.<sup>33</sup>

Long-stay visas for practicing free-lance professions by foreigners are not issued in the cases falling under Art. 24. para 1, s.1-13 and 16. Those are foreigner who:

- wish to work under an employment contract upon permission by the bodies of the Ministry of Labour and Social Policy
- are family members of a foreigner granted long-stay permission;
- wish to carry out non-profit activities upon permission by the Ministry of Justice or under conditions and procedure determined by an ordinance of the Minister of Justice, in coordination with the Minister of Interior.

This matter, however, was subject to our comments above, so we are not going to not discuss it here.

Foreigners who are eligible for practicing free-lance activities under the statutory requirements are exempt from applying for permission if so provided for by an international agreement to which the Republic of Bulgaria is a party.

It is possible for foreigners to be exempted from applying for freelance activity permission when so stipulated in an international agreement to which the Republic of Bulgaria is a party. Such foreigners, however, must meet the statutory requirements for practicing the respective freelance profession.

#### B. Procedure for granting continuous stay permission to a foreigner in Bulgaria

In order to obtain a permit for continuous stay, a foreigner presents a valid overseas travel document to the territorial authorities for administrative control of foreigners and submits:

- standard application form;
- document certifying the payment of the fee under art. 10, para 4 of Tariff No 4 for the fees collected by the Ministry of Interior according to the State Taxes Act;
- copy of the pages in his overseas travel document containing the photo, the personal data, the entry visa and the stamp for the last entry in Bulgaria;
- proofs for ensured accommodation for the period of stay in this country<sup>34</sup>;

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<sup>32</sup> See Art. 24a of the FRBA

<sup>33</sup> See Ordinance No. 1 on the conditions and procedure for issuing of non-profit activity permits to foreigners in the Republic of Bulgaria, S.G. No. 81, 2002.

- documents proving the availability of means of subsistence during his stay in this country;

- certificate of registration with the National Insurance Institute.<sup>35</sup>

At a subsequent request of permission for continuous stay on the same grounds, the foreigner submits only:

- certificate of actual status of the registered activity;

- certificate of declared financial results and paid taxes issued by the respective tax administration in the place of domicile;

- certificate by NII that the person has no outstanding liabilities to it;

- documentary evidences of availability of means for subsistence during the stay in this country.<sup>36</sup>

The number of students in Bulgaria increased extremely in the last years. For this reason, a special procedure is enacted, applicable to this category of foreigners. A foreigner who is **admitted for regular study** in schools established under a statutory procedure, when submitting a request for continuous stay, besides the documents under art. 13, submits also:

- document certifying that he has been admitted for regular study and will attend the respective school during the academic year;

- documents containing proofs of adequate means of subsistence during his stay in this country.<sup>37</sup>

The above documents are not required if the foreigner is a Bulgarian national.

A foreigner **residing** in Bulgaria as an expert by virtue of **an international agreement** to which the Republic of Bulgaria is a party, when requesting permission for continuous stay, in addition to the documents under Art. 13, submits a document issued by the competent authorities and certifying that he is to reside in this country pursuant to an international agreement.<sup>38</sup>

A foreigner who is granted a license to practise a free-lance profession is required, besides the documents under Art. 13, to submit also a notarised copy of the license. Such licenses are issued by the Ministry of Labour and Social Policy.

The submission of documents by a foreigner who have been granted permission to carry out non-profit activity is regulated in a similar way. In this case, in addition to the documents required under Art. 13, a notarised copy of the permit to carry out such activity is to be submitted. The permit is issued by the Ministry of Justice.<sup>39</sup>

In order to be granted permission for continuous stay, a foreigner who is a representative of a foreign entity having registered a representative office with the Bulgarian Chamber of Commerce and Industry (BCCI), in addition to the documents under Art. 13, is required to submit also:

- certificate of actual status of the registration of the representative office with BCCI, issued not earlier than one month prior to submission;

- notarised copy of the tax registration certificate;

- documents containing proofs of availability of means for subsistence during his stay in Bulgaria.<sup>40</sup>

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<sup>34</sup> See Art. 13 of the Rules for Application of the Foreigners in the Republic of Bulgaria Act.

<sup>35</sup> See Art. 16 of the Rules for Application of the Foreigners in the Republic of Bulgaria Act

<sup>36</sup> Ibid, para 2.

<sup>37</sup> See Art. 17 of the RFRBA

<sup>38</sup> Ibid. Art. 18.

<sup>39</sup> Ibid. Art. 18, a, b, c.

<sup>40</sup> Ibid. Art. 20

A foreigner who is a self-sufficient parent of a foreigner permanently residing in Bulgaria or a Bulgarian citizen, in addition to the documents under Art. 13, is required to submit also:

- official birth certificate of the descendant;
- certificate of residence permission issued by the authorities for administrative control of foreigners or certificate of Bulgarian citizenship for the persons under s. 1,
- documents containing proofs of availability of means of subsistence during his stay in Bulgaria.<sup>41</sup>

In order to be granted permission for **continuous stay**, a foreigner who is hospitalised for a long-term treatment in a **medical institution** and has adequate means of subsistence and treatment, in addition to the documents under Art. 13, is required to submit:

- certificate issued by the medical institution under the relevant procedure specifying the schedule for treatment and rehabilitation;
- documents containing proofs of availability of means of subsistence during his stay in Bulgaria.<sup>42</sup>

A foreigner who is a **correspondent** of a foreign media and is accredited in the Republic of Bulgaria is granted permission for **continuous stay** upon submission of the documents under Art. 13 and an accreditation certificate issued by the Ministry of Foreign Affairs.<sup>43</sup>

A foreigner who is a pensioner and has the necessary means of subsistence in Bulgaria is granted permission for continuous stay upon submission of the documents under Art. 13, and also:

- certificate issued by the competent authorities of the respective state, certifying that the person has a pension insurance;
- document issued by a bank in the territory of the Republic of Bulgaria, certifying that he has opened an account with that bank into which the respective pension payments will be remitted.

In order to be granted a **continuous stay** permission, a foreigner who has made a **direct investment**, in addition to the documents under Art. 13, is required to submit a certificate of direct investment issued by the Ministry of Finance.

### *2.1.1. Permanent residence of foreigners in Bulgaria*

A. Grounds for granting a foreigner permission for permanent residence in this country.

***Permission for permanent residence*** may be granted to a foreigner, who:<sup>44</sup>

- is a Bulgarian national;
- has married a Bulgarian citizen or foreigner residing permanently in Bulgaria, upon expiration of two years from the marriage;
- is a minor or underage child of a Bulgarian citizen or foreigner residing permanently in Bulgaria, and has not been married yet;
- is a parent of a Bulgarian citizen when he/she provides the support required by law, and in the case of acknowledgement or adoption - upon expiration of 3 years from the acknowledgement or adoption;
- has resided legally and without interruption in the territory of this country for the last 5 years, excluding the period of stay permitted under Art. 24, para. 1, s. 3;

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<sup>41</sup> See Art. 21 of RAFRBA

<sup>42</sup> Ibid. Art. 22

<sup>43</sup> Ibid., Art. 23

<sup>44</sup> See Art. 25 of FRBA

- has invested over 500 000 US dollars in this country in compliance with the applicable law;

- is not a person of Bulgarian origin born in the territory of the Republic of Bulgaria and having lost his Bulgarian citizenship by virtue of a migration agreement or by his own wish, who wishes to settle in the territory of this country.

The amendments of the Act introduced in 2001 allow for a foreigner to be granted permission to stay in this country without meeting the above requirements and the requirements of the FRBA as a whole. The provided option is applicable to foreigners who have rendered services to the Republic of Bulgaria in the public or economic fields, national security, science, technology, culture and sports.<sup>45</sup>

The provision for such an option complies with the legislations of the EU member states and opens further possibilities for continuous or permanent stay of persons who are not citizens of the Republic of Bulgaria.

#### B. Procedure for granting permission to a foreigner for permanent residence in Bulgaria

A foreigner who is eligible to apply for permission for **permanent residence** under FRBA, Art. 25, s.1 – 8, in addition to the documents under Art. 13, depending on the grounds, is required to submit also:

- documents proving the grounds for granting permanent residence
- certificate for permitted permanent stay of the spouse, child or parent(s) issued by the authorities for administrative control of foreigners;
- documents containing proofs of available means of subsistence for the period of his stay in this country;
- declaration by the parents – in the instances under Art. 25, s.3 of FRBA;
- birth certificate - in the instances under Art. 25, s.4 of FRBA
- document certifying that the applicant has been residing for at least 5 years without interruption - in the instances under Art. 25, s. 5 of FRBA
- birth certificate; certificate that the person is not a Bulgarian citizen, issued by the Ministry of Justice; certificate of entry in the population registry issued by the municipal administration of the municipality where the person lived before losing his citizenship,
- a copy of the pages in the overseas travel document, if any, certifying the entry and stay in the Republic of Bulgaria; in case that the person can not present such a document, the circumstances are verified with the information database of the Ministry of Interior; the bodies of Migration Directorate of the Ministry of Interior require for the foreigner to present a birth certificate, certificate of marriage or other document evidencing his stay in the Republic of Bulgaria, in the instances under Art. 25, s. 8 of FRBA.<sup>46</sup>

In the instances under Art. 25a of the FRBA, a document of the service rendered in the respective field is required, issued by the relevant Minister, unless they concern national security.

#### C. Refusal to extend the term of stay of a foreigner in Bulgaria.

The basic rule, set forth in the Foreigners in the Republic of Bulgaria Act, stipulates that extension of the term of stay of a foreigner in this country is refused in the instances falling under Art, 10 and 11<sup>47</sup>. As we already took the opportunity to discuss this matter, here

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<sup>45</sup> See S.G. No. 42 of 2001, and Art. 25 of FRBA.

<sup>46</sup> See Art.19 of RAFRBA

<sup>47</sup> See Art. 26 of FRBA

we will only mention that the provisions concern the imperative refusal to a foreigner to be admitted into this country, as well as<sup>48</sup> the conditions for such refusal.

Extension of long-term stay is refused or the permit for long-term stay of a foreigner in this country is withdrawn if it is found that the foreigner did not stay in the territory of the Republic of Bulgaria for at least 6 months plus one day during the past calendar year. This requirement was introduced in 2001 as a part of the process of harmonisation of our migration legislation with the law of the EU member states.

Amendments have been made applicable to marriages between foreigners and Bulgarian citizens. Thus, permission for long-term stay of a foreigner is refused or withdrawn, as applicable, if it is established that the marriage is concluded solely for the purpose of evading the legislation provisions regulating the regime of residence of foreigners in the Republic of Bulgaria and obtaining permission for stay.<sup>49</sup>

The judgement whether to refuse or withdraw the permission under paragraph 3 is made by the authorities for administrative control of foreigners, based on information giving grounds to draw the reasoned conclusion that the marriage has been concluded solely for the purpose of evading the legislation provisions regulating the regime of residence foreigners in the Republic of Bulgaria and obtaining permission for stay. Such information may include:

- the circumstance that the spouses do not live together;
- lack of instalment to the commitments ensuing from the marriage;
- the circumstance that the spouses did not know each other before the marriage;
- presentation of controversial information including personal data of the spouse (name, address, nationality, profession), circumstances of their acquaintance or other important personal data;
- the circumstance that the spouses do not speak a language understandable for both of them;
- payment of money for the contracting of the marriage beyond the usual dowry;
- the presence of previous marriages contracted for the purpose of evading the norms stipulating the regime for the foreigners.

The Act provides for the means used to establish such circumstances, namely

- interviews; It should be noted that such interviews must be held by officers of the authorities for administrative control of foreigners,
- statements of the concerned persons or third parties;
- documentary means;
- investigation and inspections carried out by government authorities.

With the view to defend the fundamental rights and legitimate interests of all persons under the jurisdiction of the Republic of Bulgaria, the authorities for administrative control of foreigners are obliged to hold a hearing of all concerned parties in order to take the right decision.

In order to be granted permission for permanent residence, a foreigner, in addition to the other documents, is required to submit a certificate of completed training course under the programs for learning Bulgarian, under paragraph 3, or a certificate of good command of Bulgarian.<sup>50</sup>

Such requirements definitely do not apply to foreigners who are Bulgarian nationals and apply for permanent residence permission under Art. 25, s. 1, 6 and 7. This applies also to cases where otherwise is stipulated in an international agreement. Provided, however, that the agreement is ratified, promulgated and enacted in the Republic of Bulgaria.

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<sup>48</sup> See SG, No. 42. 2001

<sup>49</sup> See SG, No. 42. 2001 and No. 37, 2003

<sup>50</sup> See Art. 26a of FRBA

To help foreigners to comply with the requirement of having good command of Bulgarian and their integration in this country, respective arrangements are undertaken. The authorities for administrative control of foreigners, jointly with the Ministry of Education and Science, assisted by government and non-government organizations, develop programs for learning Bulgarian by foreigners who apply for permanent residence permission and have no documents of good command of Bulgarian issued by an authorised educational institution. The programs are implemented by the Ministry of Education and Science. This is one of the forms for interaction of the authorities for administrative control of foreigners with other government bodies, non-government organizations and citizens. Setting up of such arrangements helps to legitimate our country before the EU institutions in with respect to the control of migration in this country.

Another essential rule concerning the control over the stay of foreigners in Bulgaria is that the term of stay of foreigners may be only extended on the same grounds as the grounds on which they have been admitted into the country. Exceptions to the rule are cases of emergency and marriage to a Bulgarian citizen. The Foreigners in the Republic of Bulgaria Act does not provide a definition of the term “emergency case”. This circumstance allows the officers authorised to take the decision to act in conditions of operative independence.

The term for stay of a foreigner may be extended up to 6 months before the expiry date of the foreigner’s national overseas travel document.

State authorities that are empowered by a regulatory act to register foreigners or activities of foreigners are obliged to verify the type and grounds of issue of visas granted to foreigners.<sup>51</sup> For any discrepancy established between the requested registration and the type and the grounds of the issued visa registration is suspended and the authorities for administrative control of the foreigners are informed immediately.

Officers who, in the course of implementing their duties, establish a change in the legal status or activity of a foreigner, immediately inform the authorities for administrative control of foreigners.<sup>52</sup>

In case of withdrawal or termination of the right of permanent residence of a foreigner the authorities for administrative control of foreigners immediately inform the bodies of civil registration thereof. This is another form of interaction between the authorities for administrative control of foreigners and other government bodies in this country.<sup>53</sup>

## 2.2. Certification of identity

The matter of establishing the identity of a foreigner is treated in detail in the Foreigners in the Republic of Bulgaria Act. Individual provisions on the matter are included in the Bulgarian Identity Documents Act.

Referring to the principle stating that a person who is not a Bulgarian citizen may not be a holder of an identity card of a citizen of the Republic of Bulgaria<sup>54</sup> we should note that, depending on the term of stay, a foreigner may certify his identity in two manners – by means of the identity document with which the foreigner was admitted into this country, or by a Bulgarian identity document. Which one of the specified documents should be referred to depends on the statute of the foreigner.

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<sup>51</sup> See Art. 26a of FRBA.

<sup>52</sup> Art. 27b, para 1, FRBA.

<sup>53</sup> The interaction between the authorities for administrative control of foreigners and other police bodies, including other bodies of the Ministry of Interior and other governmental bodies, non-government organizations and citizens will be further discussed hereinafter.

<sup>54</sup> The principle ensues from the requirements for issue of personal identity card to a citizen of the Republic of Bulgaria, one of which is the possession of Bulgarian citizenship.

For example, a foreigner who is granted permission for up to 3 months stay may certify his identity by presenting his passport or other substitute overseas travel document, with which the foreigner was admitted in the Republic of Bulgaria. In practice, this requirement applies to transit passing and short-staying foreigners.

If a foreigner is granted permission to stay for a period longer than 3 months or has a permanent resident statute, such foreigner must certify his identity by means of a Bulgarian identity document. In this relation, the law imposes the condition that the foreigner is over 14 years of age.

Bulgarian identity documents are not issued to foreigners who are under 14 years of age. Their identity data are only entered in the identity documents of their parents, accompanying persons or legal representatives.

To foreigners who are granted permission to stay in this country the following types of documents may be issued:

- *alien card for continuous stay* in the Republic of Bulgaria, It is issued by the bodies of the Ministry of Interior and is valid up to one year.

- *alien card for permanent residence* in the Republic of Bulgaria. This identity document is also issued by the bodies of the Ministry of Interior. Its validity depends on the validity of the national passport with which the person was admitted into this country.

- *refugee card*;

- *temporary refugee certificate*;

- *temporary certificate of a refugee while in summary proceedings*;

- *refugee overseas travel document*;

- *overseas travel document issued to a person without citizenship*. The document is issued by the bodies of the Ministry of Interior to foreigners having the statute of a person without citizenship who are granted permission for stay in the territory of this country.

- *temporary travel document for leaving the Republic of Bulgaria*;

- *temporary alien card*. It is issued by the bodies of the Ministry of Interior to foreigners whose national identity documents are confiscated in the cases provided for by the law.

- *alien certificate for return into the Republic of Bulgaria*;

- *alien humanitarian status card*;

- *alien temporary protection status card*;

- *overseas travel certificate of a foreigner who is granted humanitarian status*;

- *Bulgarian visa sticker*. It is issued to a foreigner by an overseas diplomatic or consular representative offices of the Republic of Bulgaria and serves for entering and passing in transit the country.<sup>55</sup> It should be noted that the sticker is only valid with a valid overseas travel document.<sup>56</sup>

When requested by an authorised body, a foreigner must present his identity documents.

In this connection, identity documents may be temporarily retained by such bodies as provided for in the FRBA.

- by the respective judicial bodies during a punitive procedure for committed crime of general character;

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<sup>55</sup> See Art. 59, para 1 of the BIDA. According to the Act, the competent Bulgarian government bodies issue also other identity documents to foreigners, such as temporary refugee card, refugee card, refugee overseas travel certificate. For the reason that the issue of asylum seekers and refugees is not subject to this article, we are not going to consider in detail their identity documents.

<sup>56</sup> In this respect, see Ordinance on the conditions and procedure for issue of a visa, S.G. No. 49, 2002, as amended No. 118, 2002, and the present article.

- by the corresponding officers at accommodation in an imprisonment institution in implementation of a sentence;
- by bodies of the Ministry of Interior when there is reasoned doubt that the documents are false or forged;
- by bodies of the Ministry of Interior upon an order for expel, forcefully taking to the border or extradition from this country;
- by bodies of the Ministry of Interior in the cases of Art. 12, para 2 in the case of a foreigner with an air transfer visa. As we already emphasised, such foreigner is considered to have no admission into this country. For this reason, his overseas travel documents are retained by the border passport control bodies until his departure;
- by bodies of the Ministry of Interior in the cases of foreigners returned from another country.<sup>57</sup>

As can be seen from the text and with the aim to facilitate the work of the foreigners control authorities in this country, against each case the body authorised to implement the law is indicated.

It is important to note that upon retaining of identity documents on the grounds of the first hypotheses specified, the officers must draw a report. Based on the report, the authorities for administrative control of foreigners issue a temporary document to be used by the foreigner to certify his identity until the return of the retained document. It is so, because in no circumstances a foreigner must not be allowed to stay in the territory of this country without any identity document. Moreover, such foreigner will be subject to administrative punishing measures. Complying with this requirement is on the first place refers to the authorities for administrative control of foreigners whose actions should not give grounds for breaching the applicable national law. Under the rest hypotheses nor report, neither a new identity document of the foreigner is needed to be issued.

The identity document should be returned by the holder immediately after the legal reason for its retaining falls away. In addition, a foreigner must immediately inform the respective passport service of the Ministry of Interior in case of theft or destruction of his identity document.

In such case, on request by the foreigner, a certificate of declared loss is issued which is to be submitted to the respective diplomatic or consular representative office to issue a new identity document. Passports of foreigners who have diplomatic immunity in the Republic of Bulgaria may not be retained. Exception of this rule may be only allowed based on the reciprocity principle. Besides, irrespective of the permitted term of stay, a foreigner of such category does not need identity documents of the above specified type.

In conclusion on the issue of certifying the identity of a foreigner in the Republic of Bulgaria, we should point out that a foreigner using an invalid identity document is penalised with a fine. The same penalty is imposed on an employee of an airline, tourist or other office who has allowed on board a foreigner without valid documents (Art. 49, para 1, s. 1 and 3 of the FRBA).

### 2.3. Address registration

Together with identity documents, this is one of the fundamental components of the regime for stay of foreigners established in this country.

As we already noted, address registration is an activity of the competent authorities consisting of entering in the population registers the permanent or current addresses both of

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<sup>57</sup> See Art. 31, para 1 of FRBA.

Bulgarian citizens and foreigners staying in the Republic of Bulgaria.<sup>58</sup> Such activity is regulated by law.<sup>59</sup>

By recording addresses, the respective government control authorities receive information on the migration and residence of population within the territory of the Republic of Bulgaria.

The conditions and procedure for address registration differ between the different categories of citizens.

Thus, a foreigner who is granted permission for permanent residence in this country has, similarly to the Bulgarian citizens, the obligation not only to register his address of residence, but also to be entered in the registers of the respective municipality and notify all changes in his civil status. This obligation does not apply to the other categories of foreigners staying in this country.

There are differences with respect to the place and bodies performing address registrations.

If a foreigner is accommodated in a tourist facility (hotel, motel, tourist chalet), address registration is performed immediately on-site by the employee in charge. In all other cases this is performed at the local units for administrative control of foreigners in the place of residence.

Irrespective of the differences, in any case, a foreigner who has entered the territory of the Republic of Bulgaria, within 5 days from the entry must declare his address of residence, in writing.<sup>60</sup> The declaration is submitted to the local authorities for administrative control of foreigners or to the district police office in the place of residence. The foreigner declares his name, date of birth, citizenship, and the number and series of the identity document.

Moreover, a foreigner must notify the local authorities for administrative control of foreigners of any change in his address of residence. The procedure and term of notification are the same as applicable to the initial declaration.

A physical or legal person that has provided accommodation to a foreigner, within 5 days from the provision of accommodation, must notify in writing the local authorities for administrative control of foreigners or district police office of the fact and communicate the name, date of birth, citizenship, and number and series of the identity document of the foreigner.

Upon accommodation of a foreigner, the person operating hotel business or his employee in charge must immediately register the guest in a special register. The entry must include the name, date and year of birth, citizenship, number and series of overseas travel document, and the term of stay at the respective address. It is necessary to emphasise that the names of a foreigner are to be entered in the manner they are written in the overseas travel document with which the foreigner has been admitted into the country.

Information on the accommodated foreigners is provided on a daily basis by that person, by 06:00 o'clock to the local authorities for administrative control of foreigners or district police office.

In the cases under Art. 28, para 3 of the FRBA, the person in charge presents to the bodies of Migration Directorate of the Ministry of Interior or the relevant police office in the place of residence of the foreigner, his overseas travel document, if the foreigner does not appear in person, and two completed address forms. The submitted address forms are processed by the bodies of the Migration Directorate of the Ministry of Interior of the corresponding district police office and one of them is handed back to the foreigner.

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<sup>58</sup> See D. Mashev, *Legal status of foreigners in the people's Republic of Bulgaria*, Nauka I Izkustvo, Sofia, 1977.

<sup>59</sup> See Art. 91 of the Civil Registration Act.

<sup>60</sup> See Art. 28 of the Foreigners in the Republic of Bulgaria Act

Persons operating hotel businesses or their designated employees submit to the local police district office or to the bodies of Migration Directorate of the Ministry of Interior, address cards or a list of the accommodated foreigners on paper/diskette.

The organisation of the work of MI officers dealing with data processing under Art. 54, para 2, s.4 of the FRBA by using the automated database of the Ministry of Interior, is determined by the Minister of Interior.

It is worth noting that the control of a foreigner in the place of address registration is exercised by the local bodies of the National Police Service and the bodies of the Migration Directorate of the Ministry of Interior.

The abovementioned procedures do not apply to foreigners who are accredited members of foreign diplomatic, consular and commercial representative offices as well as representative offices of international organisations in the Republic of Bulgaria. The same are registered with the Ministry of Foreign Affairs.

**EU FP6 BulRMCNet Project**  
**“Bulgarian Network of Research Mobility Centres**

**Training Seminar**

**Sofia, 18-19 May 2005**

**Introduction into the social and health insurance**

The state public insurance fund provides indemnifications, aids and pensions upon the occurrence of the following **social risks**:

- temporary inability to work;
- temporarily reduced ability to work;
- disability;
- maternity leave;
- unemployment;
- old age
- death

**The following categories of persons are obligatorily insured for all insured social risks:**

1. workers and employees hired to work for more than 5 working days or 40 hours within a calendar month, regardless of the character of work, method of payment and source of funding;
2. civil servants;
3. judges, public prosecutors, investigators, bailiffs, judges responsible for registration entries and court employees;
4. regular military servicemen under the Defence and Armed Forces of the Republic of Bulgaria Act, civil servants - officers, sergeants and civil persons under the Ministry of Interior Act;
5. members of co-operative enterprises exercising labour activity and receiving labour remuneration in the co-operative enterprises;
6. persons working under a second or additional employment contract;
7. contractors in contracts for management and control of commercial companies;
8. persons who occupy elected positions and receive remuneration for their work.

Workers and employees hired by one or more employers for not more than 5 days (40 working hours) within a month must be insured against disability, old age and death, labour incidence and occupational diseases.

Obligatorily insured persons for inability caused by a general disease, old age and death are:

1. persons registered as practicing free-lance profession and/or craft activity;
2. persons working as sole entrepreneurs, owners of or partners in commercial companies;
3. doctorate students if not insured for pension on different basis;
4. registered farmers and tobacco growers
5. persons working without employment contract and receiving remuneration equal to or bigger than one minimum salary after deducting the normatively recognized expenses, in case they are not insured on different grounds for the respective month;
6. persons working without employment contract and insured on different grounds for the respective month, irrelevant of the amount of the received remuneration.

Persons practicing free-lance profession, sole entrepreneurs, owners of and partners in commercial companies and farmers may, at their discretion, also insure themselves against all insurable risks except for labour incident and occupational disease and unemployment.

Persons sent to work abroad by a Bulgarian mediator may insure themselves for disability due to general disease, old age and death on the basis of an insurable income, chosen by them, between the minimum and the maximum monthly extent of the income, specified in the Public Insurance Fund Budget Act.

**Insurer** is any individual, legal entity or its division as well as other organisation having obligation under a law to pay insurance instalments for other individuals.

**Self-insured** is an individual obliged to pay insurance instalments entirely at his expense.

**Legal entities** and their divisions, and sole entrepreneurs must register themselves with the territorial divisions of the National Insurance Institute, within 7 days from their entry in the court register or the deed of incorporation.

Self-insured persons must register themselves, within 7 days from the commencement of business activity, with the territorial divisions of the National Insurance Institute.

Upon request by an insured person or his representative, the insurer within 14 days from the request, issues the required documents certifying the person's insured length of service and income.

#### *Insurance instalments and insurable income*

Insurance instalments into the state public insurance fund:

1. **35,5 percent** plus a differentiated labour incident insurance instalment: for persons working in 3<sup>rd</sup> category of labour conditions and insured against all social risks;
2. **38,5 percent** plus a differentiated labour incident insurance instalment: for persons working in 1<sup>st</sup> and 2<sup>nd</sup> category of labour conditions and insured against all social risks;
3. **38,5 percent** plus a differentiated labour incident insurance instalment: for regular military servicemen and officers and sergeants under the Ministry of Interior;
4. **32 percent**: for persons practicing free-lance professions and sole entrepreneurs, insured against all social risks, excluding labour incident and occupational disease, and unemployment;
5. **29 percent**: for persons practicing free-lance professions and sole entrepreneurs, insured against for disability, old age and death;
6. **for persons born after 31.12.1959**, having a mandatory insurance with an universal pension fund – the second pillar – the **instalment is lower than the general instalment by 3 percent** which are transferred into the second pillar – UPF;
7. **between 0.4 and 1.1 percent for labour incidence and occupational disease**, as specified in the Public Insurance Fund Budget Act for the respective year by groups of economic activities.

The income on which insurance instalments are due includes all revenues and other labour activity remunerations. The Public Insurance Fund Budget Act specifies:

1. the maximal monthly amount of insurable income: for 2005 it is BGN 1300;
2. the minimal monthly amount of insurable income applicable to self-insured persons: for the year 2005 it is BGN 220;
3. the main economic activities and qualification groups of professions for which a minimum monthly insurable income is set by the Act; and the activities and groups of professions with the respective minimal insurable incomes applicable.

For workers and employees, the insurance instalments are calculated on the actually paid gross monthly salaries, but not less than on the minimum and more than on the maximum monthly insurable income. The insurance instalments for workers and employees are shared [between the insurer and the insured person] in proportion 70:30 in 2005, and respectively 65:35; 60:40; 55:45 in the next consecutive years to reach 50:50 in 2009.

The insurance instalments to the fund “Labour incidence and occupational disease” are paid wholly for the account of the insurers.

The instalment component paid for the account of the insurer is remitted into the public insurance fund at the time of payment of the due salary or part of it.

The instalment component paid for the account of the insured person is remitted into the public insurance fund at the time of payment of salary.

The insurance instalments of self-insured persons are paid in person or at insurance cash desks by the 10<sup>th</sup> day of the month following the month to which they apply.

The insurance instalments of persons working without labour contract are remitted by the insurer by the 10<sup>th</sup> day of the month following the month to which they apply.

#### *Insured length of service*

The insured length of service is calculated in hours, days, months and years. The insured length of service covers:

1. The period during which the person has worked full-time as required by law and the insurance instalments based on the received salary, but not less than on the minimum insurable income, have been paid or are due for that period; when the person has worked part-time, the insured length of service is calculated in proportion to the part-time to full-time ratio.
2. The period for which a self-insured person has paid his insurance instalments.

For calculation of the total insured length of service for pension, if more beneficial, a replacement may be made in the proportion: 5 years of third category labour for 4 years of the period during which they have worked under a full-time employment contract and an additional or second employment contract for not less than 3 hours per day, or have been acting as sole entrepreneurs, owners of or partners in commercial companies, or have practised free-lance profession and./or craft activity.

#### *Emergence, duration and termination of insurance obligations*

The insurance obligation emerges from the day on which a person starts labour activity and lasts until its termination.

#### *Persons who are insured against all social risks are entitled to:*

- monetary indemnifications for: temporary inability to work due to a general disease, labour incident, or occupational disease; sanatorium treatment and necessary medical examination, attendance of a member of the family who is ill or put under quarantine, indispensable accompanying of an ill member of the family for medical examination, testing or treatment, as well as to look after a healthy child not admitted to the kinder garden because of quarantine of the latter.

- monetary allowance: in case of general disease disability, where there are no grounds for payment of pension; for prophylactic and rehabilitation measures; for technical facilities related to the impairment;

- unemployment allowance;

- pension for insured length of service and age; pension for disability caused by a labour incident or occupational disease, and pension for disability caused by a general disease.

In case of death of an insured person, the spouse, children and parents are entitled to a one-off aid amounting to two minimal salaries, and an inherited pension.

If the insured person has not reached the insured length of service required for payment of pension for disability caused by a general disease, monetary aid for disability

caused by a general disease will be paid equal to the 60-day indemnification for temporary inability to work under Art. 41 of the Social Insurance Code.

#### *Right to indemnification*

Insured persons are entitled to receive monetary indemnification instead of work salary for the period of leave due to temporary inability to work, provided they have at least 6 month accrued insured length of service.

The above requirement does not apply to the right to monetary indemnification for a temporary inability to work caused by a labour incident or occupational disease, as well as to insured persons under 18 years of age.

#### **Remuneration on which the indemnification is calculated**

The daily monetary indemnification for temporary inability to work due to general disease, is calculated as 80 percent, and for temporary inability to work due to labour incident or occupational disease - as 90%, of the average daily remuneration or the average daily insurable income, on which the insurance instalments were made for the period of six calendar months immediately preceding the month of occurrence of inability. The daily monetary indemnification for temporary inability to work due to a general disease may not exceed the average daily net remuneration for the period over which the indemnification is calculated.

The average salary for the country is taken for the days included in the period, if the person is not insured against all social risks; or not insured against all social risks excluding labour incident, occupational disease and employment; or has been on unpaid leave which is included in the length of service; or has been on parental leave. For the period for which the person has received monetary indemnification from the public insurance fund for temporary inability to work or for pregnancy and maternity leave, the amount of that indemnification shall be taken for the calculations.

#### **Period covered by the indemnification**

The monetary indemnification for temporary inability to work due to general disease, labour incident or occupational disease is paid from the first day of the occurrence until the ability to work recovers or disability is established.

When the temporary inability to work due to general disease, labour incident or occupational disease has occurred within 2 months from the termination of the employment contract or insurance, the monetary indemnification is paid for the period of inability to work, but not more than 75 calendar days. In such case monetary indemnification is not paid to persons who receive a pension or unemployment allowance under the Labour Code, The Civil Servants Act or the Higher Education Act.

#### *Indemnification for pregnancy and maternity leave*

The insured person is entitled to indemnification for pregnancy and maternity leave if she has at least 6 months of insured length of service against all social risks; or all risks excluding labour incident, occupational disease and unemployment; or all social risks excluding unemployment.

The daily monetary indemnification for pregnancy and maternity leave is calculated as 90% of the average daily remuneration or the average daily insurable income, but not less than on the statutory minimal daily salary in this country and not more than the average daily net remuneration for the period over which the indemnification is calculated.

A mother insured against all social risks is entitled to monetary indemnification for a pregnancy and maternity leave of 135 calendar days, of which 45 prior to the estimated term

of delivery. The same right is given granted also to a mother who is not insured against labour incident, occupational disease and unemployment.

*Indemnification for parental leave*

The insured person is entitled to indemnification for leave for looking after an infant if the person has at least 6 months of insured length of service against all social risks; or all risks excluding labour incident, occupational disease and unemployment; or all social risks excluding unemployment. After the expiry of the pregnancy and maternity leave, during the additional paid leave for taking care of the infant the mother (adoption mother) is paid monthly indemnification in the amount specified by the Public Insurance Fund Budget Act – for 2005 it is BGN 130.

**Right to unemployment cash benefit** have persons who: have been insured against all social risks at least for 9 months within the last 15 months before termination of insurance and have registered themselves as unemployed with the respective territorial division of the Employment Agency; have not entitled to pension for insured length of service and age or professional pension for early retirement; do not exercise any labour activity subject to obligatory insurance.

The amount of the unemployment benefit is calculated as 60% of the average monthly insurable income, on which the insurance instalments have been paid or are due for the last 9 months, during which they have been subject to the obligatory insurance for all insured social risks, and may not be less than the minimum (BGN 80) and bigger than the maximum unemployment benefit (BGN 140).

Unemployment cash benefits are paid on a monthly basis, in the month following the month for which they apply, for a period depending on the insured length of service as follows:

Insured length of service (years)	Period of payment of cash benefit (months)
up to 3	4
from 3 to 5	6
from 5 to 10	8
from 10 to 15	9
from 15 to 20	10
from 20 to 25	11
over 25	12

*Insurance for labour incident and occupational disease*

Labour incident is any unexpected damage of person's health which occurred during or in connection with or on the occasion of the performed work, as well as any work performed in the interest of the enterprise, which has caused inability to work or death.

Labour incident is also any incident occurred to an insured person on his usual way to the working place or from the working place to: the principal place of dwelling or other additional permanent place of dwelling; the place where the insured person usually has meals on working days; the place for payment of remuneration.

The amount of the insurance instalments paid by the insurers is determined as a percentage of the monthly insurable income of the insured persons, based on specific methodology.

The Public Insurance Fund Budget Act specifies the insurance instalments for labour incidence and occupational disease for the different groups of economic activities.

## Pensions

The right to pension for insured length of service and old age is acquired upon reaching a preset age limit, which is different for men and women, and a preset number of points equal to the sum of the age and the insured length of service.

Since 31 December 2000, the pension age limits increase, on the first day of each consecutive calendar year, by 6 months both for men and women, until they reach 63 years for men and 60 years for women, and the sum of the insured years of service and the actual age increases by 1 until it reaches 100 for men and 94 for women.

If the sum of the insured years of service and the age is less than the above specified numbers, the right to pension is acquired upon achieving 15 insured years of service of which 12 years should be effective, and 65 years of age, both for men and women.

Regular military servicemen and officers, sergeants and civil officers of the Ministry of Interior, officers and sergeants of the National Investigation Service, and other persons employed in the special government bodies acquire the right to pension upon retirement irrespective of their age, if they have 25 years of service of which at least two thirds are regular military service.

Regular military servicemen and sergeants who have served 15 years as aircraft crew members, parachute troops, submarine crew members and divers, acquire the right to pension upon retirement, regardless of their age.

**The amount of the pension for insured length of service and age** is determined by multiplying the insurable income by the sum of: (1% of each full year of insured service plus the respective fraction of 1% for the months (incomplete year) of service.

The income, based on which the pension is calculated, is determined by multiplying the average monthly insurable income in this country for the last 12 months preceding the starting month of the pension by the individual coefficient of the person.

In order to calculate the individual coefficient of the person, the following quantities are determined:

1. the ratio between the average monthly insurable income of the person for the period before 31 December 1996, and the average monthly salary for this country, for the same period, announced by the National Statistical Institute (for the 3 most beneficial years, chosen by the person within the last 15 years); and

2. the ration between the average monthly insurable income of the person for the period after 31 December 1996, and the average monthly salary for this country, for the same period, till the date of retirement.

The amount of an individual pension for insured length of service and age may not be less than 115 percent of the social pension for old age, which is determined by a Decree of the Council of Ministers.

*At determining the pension under an international agreement, under which the Republic of Bulgaria is a party, the insurable income for the insured length of service acquired in accordance with the Bulgarian legislation is taken into consideration.*

For persons working under employment or official contracts, the average monthly income used for the calculation of the pension is based on the salary or the insurable income on which the due insurance instalments were paid, and for self-insured persons – on the income on which the insurance instalments were paid.

Insured persons acquire the right to **disability pension** if they have lost, partly or wholly, their ability to work forever or for a continuous period of time.

Insured persons acquire the right to **pension for disability caused by a general disease** if they have lost their ability to work and have insured length of service to the date of acquiring disability as follows:

1. up to 20 years of age – irrespective of the insured length of service; up to 25 years of age – one year of service; up to 30 years of age – 3 years and over 30 years of age – 5 years of service. Persons who have acquired the right to pension for insured service and age are not entitled to pension for disability caused by a general disease.

The amount of the pension for disability caused by a general disease, is determined by multiplying the income used for the calculation of the pension by a percentage equal of the number of years of insured service.

If by the date of acquiring disability the insured person is under the age specified in Art. 68, the difference between the actual age and the age under Art. 68. is recognized as insured service. For the calculation of the pension, the recognized years of insured service are multiplied by a coefficient as follows: for over 90 percent reduction of the ability to work – 0,9; for reduction of the ability to work between 71 and 90 percent - 0,7; for reduction of the ability to work between 50 and 70,99 percent - 0,5.

#### **Pension for disability due to labor incident or occupational disease**

Insured persons who have lost 50 or more than 50 percent of their ability to work due to labor incidence or occupational disease, are entitled to pension for disability due to labor incident or occupational disease, irrespective the length of their insured service.

#### **Right to inherited pension**

Personal pension, excluding social pensions for old age or disability, may be inherited. Entitled to inherited pension are the children, survived spouse and parents.

The inherited pension as percentage of the personal pension of the deceased insured person is determined as follows: in case of one inheritor – 50 percent; two inheritors – 75 percent; three and more inheritors – 100 percent.

An inherited pension is paid to all eligible persons and is distributed in equal parts between them. The amount of an inherited pension may not be less than 90 percent of the social pension.

The children are entitled to inherited pension while they turn 18 years of age, and afterwards, if they study – for the period of study as well as for the period they serve conscript military service, but not after turning 26 years of age; after these age limits – only if they were disabled till 18 or 26 years of age, respectively.

The survived spouse becomes entitled to inherited pension 5 years before reaching the minimal pension age, in the respective calendar year, or before that age, if the survived spouse is disabled.

**Additional compulsory social insurance within the second pillar** – it is implemented through participation in universal pension funds (for persons born after 31.12.1959) and/or occupational pension funds (for persons working in first and second category occupational conditions) , which are created and managed by pension insurance companies licensed under the procedure set forth in this Act. The insurance instalment paid into an universal fund is 3 percent, and in an occupational pension fund – 12 percent for persons working in first category occupational conditions, and 7 percent - for persons working in second category occupational conditions. In the respective pension funds, instalments are paid into the individual's account and the pension is calculated based on the accrued amount in the individual account and the investment yield.

## **Guidelines concerning NII activity on establishing and verifying the health insurance status of insured persons**

Bulgarian citizens who are also citizens of another state and reside permanently in the territory of this country are subject to health insurance under the Bulgarian legislation according to Art. 33. s. 2 of the Health Insurance Act. It is considered that such persons live permanently in the territory of this country if they effectively and permanently stay within it for more of 183 days in a calendar year.

The circumstance that a person lives permanently in this country is declared in a free-form declaration. The declaration is supported by a certificate issued by the MI stating the dates of entering and leaving the state for the person to be relieved from paying health insurance instalments, for the calendar years in which the person has stayed less than 183 days in this country. For the calendar years in which the person has lived permanently in this country, health insurance instalments are due for the whole year without interruption.

On the grounds of the document certifying the dates of entering and leaving this country, in a Supplementary Register the periods during which they have been abroad are verified and excluded. In case that the competent MI services have refused to issue a certificate of the dates of entering and leaving the country, these dates may be established from the person's passport.

In the issued certificate of continuous health right of the person, it is stated that the holder is a Bulgarian citizen with double citizenship and is leaving permanently in this country.

Foreign citizens who are granted permission for permanent residence in the territory of this country, owe health insurance instalments since the effective date of the permission to reside permanently in Bulgaria.

They certify this by a document issued by the respective service of the Ministry of Interior. The legislation does not provide for suspension of the insurance when foreign citizens are outside the territory of this country.

On the grounds of the certificate issued by MI, in a Supplementary Register the periods during which they have not been granted permission for permanent residence are verified and excluded.

In the issued certificates for continuous health insurance rights of such persons, additional entry is made showing that the holder is a foreigner and the date since which the holder resides permanently in this country.

According to Art. 67 and Art. 74 para 1 of the Higher Education Act, the statute of a student or doctorate student is lost upon leave, successful completion of the training course or quitting, or move. In order to determine the end date of health insurance of students and doctorate students at higher educational institutions, the rules of the respective institution is taken into account.

In the Supplementary Register the periods of training of the student or doctorate student at higher educational institution are entered also in the case the person has not submitted a health insurance declaration to that institution. In the latter case the person is requested to submit a declaration of lack of income or lack of other grounds for the obligation to pay health insurance instalments.

On the grounds of Art. 33, para 1 of the Health Insurance Act, subject to obligatory insurance with the National Health insurance Fund are all Bulgarian citizens who are also not citizens of other states. If such persons work under employment or service contracts, they owe instalments based on the received gross remuneration. The employer or the government organisation pays the instalments at the time of payment of remunerations.

If no remuneration is paid, no instalment is owed. This circumstance does not exclude the affected workers and employees from the circle of insured persons and do not deprive them from right to insurance. Such workers and employees may submit to the respective territorial divisions of NII their employment book or certificate issued by their employer and certifying the existence of an current employment or service contract After the documented data are entered in a Supplementary Register the person is issued a certificate for uninterrupted health insurance rights. As the insured persons can not pay the instalments owed for non-insured members of their families for the same period, the documented data are entered in the files if the uninsured family members, if any, for the period till the end of 2002.

### **Guidelines on the payment of health insurance instalments in connection with the recent amendments of the Health Insurance Act**

I. Amendments in effect since 21 December 2004, the date of promulgation of the Amendment Bill to the Health Insurance Act, S.G., No. 111, 2004.

#### Health insurance rights

In the amended Art. 109, a period is specified, for which a person should be insured in order to be entitled to health insurance rights.

Art. 109 (1). Insured persons who are obliged to pay insurance instalments for their account (sole entrepreneurs, persons practicing free-lance professions, farmers, etc.) shall pay for the rendered medical services, if they have more that 3 outstanding monthly instalments for the period of 15 months till the beginning of the month preceding the month in which the medical services are provided. The health insurance rights of such persons shall be reinstated since the date of payment of the outstanding instalments without reimbursement of the amounts paid for the medical services so provided.

(2) If the obligation for payment is of the employer or any other person, failure to pay the insurance instalments shall not deprive the respective insured persons from their insurance rights.

(3) Paragraph (1) shall not apply to the persons under Art. 40a (Bulgarian citizens having resided more than 183 days abroad for a calendar year).

The right of the self-insured persons to medical services is verified for a period of 15 months backward from the beginning of the month preceding the month of provision of the medical services. For example, if the person is provided medical services in May 2005, the 15-months period to be verified spans from 1 January 2004 till 1 April 2005.

The health insurance right of self-insured persons, including the persons under Art. 40, para 4 of the HIA, and the persons on non-paid leave paying instalments for their account are only interrupted if they have more than three outstanding monthly instalments for the period of 15 months till the beginning of the month preceding the month in which the medical services are provided. The health insurance rights of such persons are reinstated after they pay at least 12 monthly instalments for these 15 months.

Procedure for verification of the health insurance rights under Art. 109, para 1 of HIA.

Upon applying to the TD of the NII, the insured person receives information on the periods for which there are no health insurance data entered.

The amount of the outstanding payment is calculated, including the principal sum and the accrued interest for the months within the 15-month period;

At the territorial division in the place of residence, persons who need to immediately receive a certificate of uninterrupted health insurance rights submit the receipt for the paid-in

amount. The officer in charge enters in the Supplementary Register the data from the document submitted by the persons who have paid off their outstanding liabilities to comply with the requirements of Art. 109, para 1, HIA;

The persons insured under the procedure set forth in Art. 40, para 1, s.2 , HIA, present data under Instruction No. 1 of NII on the paid insurance instalments.

#### Reinstatement of health insurance rights

On the grounds of §13, para 1 of the Transitional and Final Provisions of the Amendment Bill to the Health Insurance Act, persons whose health insurance rights have been suspended due to more than 3 monthly instalments owed by them before of effective date of the Act, may reinstate their rights if by 31 January 2005 they pay a lump sum equal to 3 health insurance instalments calculated on the minimal monthly insurable income for self-insured persons as specified in the Public Insurance Fund Budget Act by the moment of payment. For the instalments so paid no declaration is required to be submitted under Instruction No. 1 of NII. The health insurance status is reinstated solely based on the data in the payment document.

Persons who have reinstated their health insurance rights under the above procedure are obliged to pay regularly their subsequent instalments. The health insurance rights of a person having reinstated his health insurance rights by paying-in 3 minimal instalments, who fails to pay more than 3 regular instalments owed at his expenses, for the period from 1 February 2005 to 1 January 2006, will be suspended and the respective person will have to pay in full for the medical services to their providers. With respect to such persons, since 1 January 2006, the requirement for at least 12 monthly insurance instalments for the last 15 months will apply (Art. 109. para 1 of the HIA).

The provisions in §13, para 1 of the Transitional and Final Provisions of the Amendment Bill to the Health Insurance Act, do not apply to persons, whose rights have been suspended due to more than 3 monthly instalments outstanding, but who also do not meet the requirement to have 12 insured months for the last 15 months preceding the beginning of the month of provision of medical services. Such persons may reinstate their rights under the new requirements of Art. 109, para 1 of the HIA.

*The payment of the three monthly health insurance instalments may not be used by a self-insured person to pay-off health insurance instalments in arrear as well as current instalments owed (§13, para 1 of the Transitional and Final Provisions of the Amendment Bill to the Health Insurance Act).*

Example: When rights are reinstated by paying 3 monthly instalments in January 2005, the current insurance instalments for January 2005 are also owed. The arrear liabilities remain and, if not paid voluntarily, actions will be taken for their collection by issuing obligatory instructions and deficiency in account orders and bringing the case before the State Receivables Collection Agency, after 1 January 2006,

#### **Insurance of Bulgarian citizens residing for a long time abroad**

After the enactment of the Amendment Bill to the HIA (21.12.2004) the insurance of Bulgarian citizens residing for a long period abroad, including lecturers, scientific researchers, etc., is subject to a different procedure, according to Art. 40a, specifying the procedure for insuring Bulgarian citizens, including holders of double citizenship, residing abroad for more than 183 days in one calendar year.

“Art. 40a (1) Bulgarian citizens, including holders of double citizenship, who are obliged to insure themselves and reside abroad for more than 183 days in one calendar year

may be exempted from payment of health insurance instalments till the end of the respective calendar year starting from the date of leaving Bulgaria, and for each consecutive year, upon a prior application to the National Insurance Institute.

(2) The health insurance rights of the persons under para 1, after their return to Bulgaria, shall be reinstated upon the expiry of 6 consecutive months during which the person is insured under the procedure of Art. 40 of the Health Insurance Act.

(3) Apart of the instances falling under para 2, the health insurance rights of the persons under para 1 after their return to this country may be reinstated upon one-off payment of the lump sum of 12 health insurance instalments, as determined under Art. 29, para 3, on the minimal insurable monthly income for self-insured persons, as determined by the Public Insurance Fund Budget Act by the moment of payment.

(4) The amounts under para 3 shall be paid under the procedure set in Art. 41.

(5) Till reinstatement of their health insurance rights, the persons under para 1 shall pay in full the cost of the medical services provided to them in this country to the respective providers.”

The provision of Art. 40a allows for Bulgarian citizens, including holders of double citizenship, residing abroad for more than 183 days in one calendar year, if they wish so, not to pay health insurance instalments from the date of leave of the country till the end of the year, and for each consecutive year, in case that before leaving they have submitted an application to the respective territorial division of NII. For their health insurance rights to be reinstated, it is necessary that health insurance instalments for a six-month period are paid-in after their return to Bulgaria. Till reinstatement of their health insurance rights, the persons pay in full the cost of the medical services provided to them in this country.

The rights of Bulgarian citizens having resided abroad for more than 183 days in a calendar year are reinstated immediately if they pay a lump sum 12 health insurance instalments based on the minimum monthly insurable income for self-insured persons as determined by the Public Insurance Fund Budget Act by the moment of payment by the moment of payment.

It should be taken into account that if no application is submitted prior to leaving for abroad, insurance instalments are due for the whole period of residence outside this country.

The payment of the lump sum of 12 health instalments nor settles arrear liabilities for non-paid health insurance instalments of the self-insured person, neither current liabilities for payment of instalments.

#### Procedure for reinstatement of health insurance rights under Art. 40a of the HIA

Before leaving Bulgaria the concerned persons submit an application form to the respective territorial division of NII in the place of residence. In the application, the persons indicate the date of leaving the country. The application is submitted in duplicate, and after being filed one counterpart is handed back to the person.

Upon return to this country the person submits a notification form to the respective TD of NII and a document certifying the dates of leave from and entry into this country, for a each calendar year. The years in which the person has been abroad for more than 183 days are entered in the Supplementary Register as health insured periods. Health insurance instalments are due for the years in which the persons have been abroad for less than 183 days, and a summary of the outstanding instalments is issued. If the submitted document for a year shows a period of stay abroad less than 183 days, the document data are not entered in the Supplementary Register.

In case that the person opts for immediate reinstatement of the health insurance rights, he pays a lump sum equal to 12 health insurance instalments calculated on the minimum monthly insurable income for self-insured persons. The amount is to be remitted under UBC

§280218. Upon presenting a payment document, the person is issued a certificate for uninterrupted health insurance rights.

The health insurance status of the applicants under Art. 40a is checked for the period from the beginning of 2000 up to the moment of submission of the application. If non-paid instalments are found, a deficiency in account statement is issued to that person.

2.2. Insurance of Bulgarian citizens residing abroad prior to the enactment of the Amendment Bill to the Health Insurance Act.

On the grounds of §16 of the Transitional and Final Provisions of the HIA, Bulgarian citizens obliged to self-insure themselves who by the moment of enforcement of the Amendment to the Act have resided abroad for more than 183 days at least in one calendar year and have not paid-in the due health insurance instalments for that period, may reinstate their health insurance rights under the term and procedure of Art. 40a, without submitting an application to the National Insurance Institute. In this case their rights are reinstated upon one-off payment of 12 health insurance instalments based on the on the minimal monthly insurable income by the moment of payment, or after 6 consecutive months during which the person is insured under Art. 40 of the HIA.

*The arrear instalments of such persons accrued in the period before the enactment of the Bill remain due, as the provisions of Art. 40a have no retroactive effect.* If in 2004 and each of the calendar years after the enactment of the Bill such persons stay more than 183 days abroad, they are not required to submit an application for exemption from payment of health insurance instalments. Their health insurance rights are settled upon their return in this country.

Procedure for reinstatement of health insurance rights of Bulgarian citizens, including double citizenship holders, who have the obligation to insure themselves and have spent abroad more than 183 days in the calendar year prior to the entry into force of the Act.

Upon return to this country, the person submits a notification form to the respective TD of NII and a document certifying the dates of leave and entry into this country for the period spent abroad, for each calendar year. The person is issued a summary of the due insurance instalments for the period before the enactment of the Act and afterwards, if the stay abroad is under 183 days.

In case that the person opts for immediate reinstatement of the health insurance rights, he pays a lump sum equal to 12 health insurance instalments calculated based on the minimum monthly insurable income for self-insured persons, under UBC §280218. Upon presentation of the payment document, the person is issued a certificate for uninterrupted health insurance rights.

C changes in force since 1 January 2005.

1. According to Art. 40, para 1, s. 1b, for persons on non-paid leave who are not subject to insurance on other grounds the instalments is calculated based on a half of the minimal monthly insurable income for self-insured persons (for 2005 – BGN 110). The instalment is wholly for the account of the insured person (including for civil servants and persons insured under special laws) – when the non-paid leave is on request of the insured person, and for the account of the employer – when the non-paid leave is parental leave or due to production necessity or outage.; the instalment is paid through the employer enterprise or organisation by the end of the month following the month to which it applies.

2. Since 2 January 2005, persons who are to be insured under the procedure set in Art. 40, para 4, HIA, pay insurance instalments based on the income determined for self-insured persons by the Public Insurance Fund Budget Act for the respective year. For 2005 the

income in question is BGN 110, and the instalment is BGN 6,60. The same persons apply annual recapitulation of their insurance income based on data from their income tax revenue statement under the Individuals' Income Taxation Act, for the income received after 2004.

3. The income is unified used as a basis for the calculation of social and health insurance instalment of both persons working without employment contracts (civil contracts). If such a person is employed solely under a civil contract in the month and receive less than the minimum salary for this country after deducting the statutorily allowed expenses, no instalments are due on the remuneration, and the person pays for his account an insurance instalment under the procedure of Art. 40 para 4 – BGN 6,60 for 2005. If the remuneration is greater than the specified, the due insurance instalment is calculated based on the actual income. In case the person is insured on other grounds under Art. 4 of Social Insurance Code, the insurance instalment is paid based on the remuneration after deducting the statutorily allowed expenses, irrespective of its amount, but not more than the maximal insurable income, specified in the Public Insurance Fund Budget Act for the respective year.

Attachment: Application form under Art. 40a, para 1, HIA

APPLICATION

under Art. 40a, para 1, of the Health Insurance Act

from .....

(Name, Surname, Family Name)

Unified Civil No. .... identity card No. .... issued on ..... by  
.....

Address:

.....  
(residential settlement, postal code, county, street address)

I declare that, starting from ....., I leave this country and reside for more than 183 days abroad in the calendar year ..... I am informed that I owe health insurance instalments for any calendar year in which I spend less than 183 days abroad.

I declare that I will notify you upon my permanent return to the Republic of Bulgaria and will submit proofs of the period of stay abroad.

I am aware that I am liable for any untrue data under Art. 313 of the Criminal Code.

Place: .....

Date: .....

**Guidelines on the application of HIA, Art. 40, para 1, s.1 (S.G., No. 111, 2004)  
enacted since 1.01.2005**

1. For persons working as freelancers, who are not subject to health insurance on other grounds under the HIA:

a) health insurance instalments are paid if the total remuneration received (from one or more clients) in a calendar month is equal to or greater than the minimal salary for this country, after deducting the statutorily allowed expenses. The due instalments are paid by the client and the freelancer in proportion 70:30.

b) freelancers, who are not insured on other grounds under the HIA and have received for a calendar month a remuneration (from one or more clients) which is less than the minimal salary, after deducting the statutorily allowed expenses, ensure themselves for their account under the procedure of Art. 40 para 4, HIA. In such cases the clients do not withheld and pay-in health insurance instalments from the remuneration paid. The health insurance instalment in this case is in the amount of BGN 6,60, i.e. 6% of a half of the minimal insurable income for self-insured persons, for 2005 (BGN 110).

2. Persons insured on the grounds of Art. 40, ara 1, s. 1 of HIA, who receive in the same time remuneration as freelancers owe health insurance instalments, irrespective of the amount of the remuneration, after deducting the statutorily allowed expenses, but not more than based on the maximal monthly insurable income for the respective period. The instalment component that is for the account of the freelancer is withheld at the payment for the assigned work.

3. For self-insured persons (freelancers or craftsmen, sole entrepreneurs, owners of or partners in commercial companies, registered farmers and tobacco growers) health insurance instalments are not paid-in by the client nor are they withheld from the remuneration. Self-insured persons declare their income in the annual tax revenue statement under Art. 40 of the Individuals' Income Taxation Act and pay health insurance instalments as determined in the statement after the calculation of the final annual insurable income.

4. For pensioners who work as freelancers health insurance instalments are paid if the total remuneration received (from one or more clients) in a calendar month is equal to or greater than the minimal salary for this country, after deducting the statutorily allowed expenses. The instalment owed by the person is withheld at payment of the remuneration, irrespective of the fact that the person is insured under the procedure of Art. 40, para 1 of HIA. In this case the sum of the remuneration and the pension should not greater than the maximal insurable income for the respective period.

If pensioners working as freelancers receive in a month remuneration with is less than the minimal salary after deducting the statutorily allowed expenses, they do not owe health insurance instalments for the free-lance activity. Instalments under the procedure of Art. 40, para. 4 of HIA are not paid in this case, as the pensioners are insured for the account of the state budget.

5. Persons who are insured for the account of the state budget under the under the procedure of Art. 40, para. 2 of HIA and receive income as freelancers, owe health insurance instalments, if the received remuneration (from one or more clients) in a calendar month is equal to or greater than the minimal salary for this country, after deducting the statutorily allowed expenses. The instalment component owed by such persons is withheld at the payment of remuneration.

If persons who are insured for the account of the state budget have received remuneration (from one or more clients) in a calendar month which lower than the minimal salary, after deducting the statutorily allowed expenses they do not owe health insurance

instalments for the freelance activity. Health instalment under the procedure of Art. 40, para. 2 of HIA is not owed, because the person is insured for the account of the state budget.

Starting from 1 January 2005, persons insured on the grounds of Art. 40, para 1, s. 1, of HIA, when staying abroad for more than 183 days in a calendar year while on voluntary unpaid leave, may take benefit of the provisions of Art. 40, para. 1 of HIA.

### **Documents required for the conclusion of an employment contract**

I. For employment under an employment contract according to Ordinance No. 4/93, the documents to be submitted from the conclusion of the contract are as follows:

1. passport or substitute identity document, which is handed back to the holder immediately
2. certificate of completed education, specialty, qualification, licence, scientific title or degree, if required for the job or the position the person applies for;
3. certificate of length of service in the specialty if required for the job or the position the person applies for;
4. certificate of medical examination if the person is to start working under an employment contract for the first time ever, or if the person has not been working under an employment contract for more than 3 months.
5. certificate of conviction record, where a law or regulation requires that the conviction record is certified;
6. the employer may request also other documents to be presented.

A permit from the Employment Agency should have been obtained (Art. 70 of the Employment Promotion Act).

The concluded employment contract is notified by the employer notifies to the respective territorial division of NII.

The person is considered insured since the first working day under the employment contract.

The person is entitled to indemnification in case of labour incident even after just one day of insured practice and to indemnification for temporary inability to work, but only after 6 months of insured practice.

When there is an agreement signed between the state whose citizen is the lecturer and the Republic of Bulgaria with respect to social insurance, the length of practice will be taken into account for pension in accordance with the said agreement.

II. If the lecturer is employed under a civil contract, there are no regulatory requirements for documents to be presented to the employer or the concluded contract to be registered with the territorial division of NII in order to be valid. Our educational institution, however, may specify its own conditions and requirements to the lecturer.

The person is considered insured from the effective date of the contract.

The person may be entitled to pension rights only if there is an agreement between both states.

III. Bulgarian lecturers working in Higher education institutions broad not through the agency of a Bulgarian organisation or Higher Education institution (HEI) may not be insured with the Bulgarian Public Insurance Fund under the Bulgarian legislation. (health insurance was discussed above – under general terms, paying insurance instalments for their account).

If there is an agreement signed between both states – certain pension rights may ensue (mutual recognition of insured practice).

## **BILATERAL REGULATORY DEEDS IN FORCE IN THE FIELD OF SOCIAL SECURITY CONCLUDED BETWEEN THE REPUBLIC OF BULGARIA AND OTHER STATES**

1. Social Security Agreement between the People's Republic of Bulgaria and the People's Republic of Albania – in force since 1 May 1953;
2. Social Security Convention between the People's Republic of Bulgaria and the Federal People's Republic Yugoslavia – promulgated in *Izvestiya*, No 69 of 29.08.1958, in force since 1 September 1958;
3. Social Security Agreement between the People's Republic of Bulgaria and the Union of the Soviet Socialistic Republics - promulgated in *Izvestiya*, No 39 of 13.05.1960, in force since 1 May 1960; Renounced by an Act of the National Assembly, prom. S.G. No. 63 of 15.07. 2003, terminated since 1 January 2005;
4. Convention between the Government of the People's Republic of Bulgaria and the Government of the Romanian People's Republic - promulgated in *Izvestiya*, No 75 of 16.09.1960, in force since 31 May 1960;
5. Agreement between the People's Republic of Bulgaria and the Hungarian People's Republic for co-operation in the social policy field - promulgated in *Izvestiya*, No 3 of 09.01.1962, in force since 1 January 1962;
6. Agreement for co-operation in the social policy field between the People's Republic of Bulgaria and the Polish People's Republic - promulgated in *Izvestiya*, No 61 of 31.07.1962, in force since 1 April 1962;
7. Agreement the People's Republic of Bulgaria and the Libyan Arab Jamahiriya on the social security - promulgated in *S.G.*, No 101 of 29.12.1987, in force since 1 August 1985;
8. Agreement the Republic of Bulgaria and the Federal Republic of Germany on the social security - promulgated in *S.G.*, No 10 of 05.02.1999, in force since 1 February 1999;
9. Agreement the Government of the Republic of Bulgaria and the Government of the Republic of Turkey on the payment of Bulgarian pensions in the Republic of Turkey - non-promulgated, in force since 1 March 1999;
10. Agreement the Republic of Bulgaria and the Czech Republic on the social security - promulgated in *S.G.*, No 113 of 28.12.1999, in force since 1 January 2000;
11. Agreement the Republic of Bulgaria and the Slovak Republic on the social security - promulgated in *S.G.*, No 63 of 28.06.2002, in force since 1 July 2002;
12. Agreement the Republic of Bulgaria and Ukraine on the social security - promulgated in *S.G.*, No 26 of 21.03.2003, in force since 1 April 2003;
13. Agreement the Republic of Bulgaria and the Republic of Macedonia on the social security - promulgated in *S.G.*, No 63 of 15.07.2003, in force since 1 August 2003;
14. Agreement the Republic of Bulgaria and the Kingdom of Spain on the social security - promulgated in *S.G.*, No 88 of 7.10.2003, in force since 1 November 2003;
15. Agreement the Republic of Bulgaria and the Republic of Croatia on the social security - promulgated in *S.G.*, No 88 of 7.10.2003, in force since 1 November 2003;

16. Agreement the Republic of Bulgaria and Serbia and Montenegro on the social security - promulgated Ratification Act in *The State Gazette*, No 18 of 5.03.2004, not promulgated so far.

**STATES WITH WHICH THE REPUBLIC OF BULGARIA IS IN NEGOTIATIONS  
FOR CONCLUSION OF SOCIAL SECURITY AGREEMENTS**

1. Republic of Austria
2. Republic of Greece
3. Republic of Cyprus
4. The Kingdom of Netherlands – the agreement is to cover only export if social security payments
5. Republic of Hungary
6. Swiss Confederation
7. Republic of Poland

# COMPULSORY INSURANCE OF FOREIGN LECTURERS IN THE REPUBLIC OF BULGARIA AND BULGARIAN LECTURERS ABROAD

## *1. Compulsory insurance of foreign lecturers in the Republic of Bulgaria*

### **Legislative framework**

By a decision of its Faculty Board, each higher education school may attract guest scientists and lecturers from abroad to participate for a limited period in its scientific research work.

The relationship of a guest lecturer with the higher education school is regulated by a contract with a term up to one year, which may be extended (Art. 52, para 3 of the Higher Education Act).

The procedure and conditions for the appointment of foreign lecturers to occupy job positions in this country are settled in bilateral agreements (Art 86. of the Rules of implementation of the Scientific Degrees and Titles Act).

According to the regulatory framework, a foreign lecturer may be only appointed if there is a bilateral agreement between the state in which the lecturer is employed and the Republic of Bulgaria, **and** a contract is concluded with the lecturer. It follows from the fact that the type of the contract is not imperatively specified, that it could be either employment or civil contract.

**A). If an employment contract is concluded** (subject to the provisions of Art. 70 of the Employment Promotion Act) with a lecturer who is a foreign citizen sent to work in Bulgaria, the compulsory insurance is to be arranged for as follows:

**1. compulsory social insurance** – under the procedure of Art. 4, para 1, s.1 of the Social Insurance Code (SIC). The insurance instalments cover all social risks and their amount is determined in Art. 6, para 1 of SIC – for 3<sup>rd</sup> category of labour the insurance instalment is 36,2 percent (35.5 percent plus 0,7 percent for labour incident and occupational disease).

The income based on which insurance instalments are calculated includes all remunerations and other revenues from the activity, but not more than the maximal monthly insurable income for the respective calendar year – which is BGN 1300 for 2005. The minimal monthly insurable income should be also considered which depends on the type of basic economic activity and profession qualification group. If the received monthly remuneration under the employment contract is lower than the respective minimal insurable income (insurance threshold) for that basic economic activity, the insurance instalments are calculated based on the threshold.

The insurance instalments are distributed between the employer and the employed person – in 2005, in 70:30 proportion – and are paid-in by the employer at the time of payment of remuneration, including advance payment.

The component of the insurance instalments paid for the account of the insured person is also paid-in at the time of payment of remuneration, but not at advance payments, unless only advance payment is made in the month.

**2. health insurance** - under the procedure of Art. 40, para 1, of the Health Insurance Act, only if **permanent residence in the Republic of Bulgaria** has been granted. The insurance instalment is 6 percent of the received remuneration. The same rules apply to

determining the insurable income and paying-in insurance instalment as those applicable to the compulsory social insurance.

3. **additional compulsory social insurance** – if the person is born after 31.12.1959, he/she may choose the preferred universal pension fund, otherwise it would be specified by default. The instalment amounts to 3 percent and is distributed in the same proportion, and paid-in in the above described manner – together with the social insurance instalments. The amount of the instalment is deducted from the total pension and social security instalment, which in this case is 36,5 percent (35.5 percent plus 0,7 percent for labour incident and occupational disease).

If the person is employed to work up to 5 days or 40 hours in a month, the insurance instalment is 29,7 percent – covering the risks of disability due to a general disease, old age or death, and labour incident and occupational disease.

#### **B) If a civil contract is concluded with a lecturer who is a foreign citizen:**

1. **compulsory social insurance** – under the procedure of Art. 4, para 3, s.5 of the Social Insurance Code covering the risks of disability due to a general disease, old age or death; if the received remuneration is equal or greater than the minimal salary for this country the insurance instalments are calculated on the basis of the taxable income, after deduction of the statutorily allowed expenses (Most probably, this will be the insurance hypothesis, as lecturers receive remuneration which is equal or greater than the minimal salary and are not insured on other grounds for the respective month). The insurance instalment amounts to 29 percent covering disability due to a general disease, old age or death. In case the person is a pensioner, no social insurance instalments are owed.

*The insurance instalments are calculated on the basis of the remuneration after deduction of the statutorily allowed expenses and also distributed between the employer and the employed person in 70:30 proportion,. They are paid-in by the insurer by the 10<sup>th</sup> day of the month following the month to which they apply.*

2. **health insurance** - under the procedure of Art. 40, para 1, s.3a of the Health Insurance Act, only if permanent residence in the Republic of Bulgaria has been granted and the received remuneration is equal or greater than the minimal salary for this country, after deduction of the statutorily allowed expenses, the insurance instalment is 6 percent. The distribution and terms of payment are as for the compulsory social insurance. If the person who is granted permanent residence permission receives less than the minimal salary for this country, after deduction of the statutorily allowed expenses, the insurance instalments for his account are owed on a half of the minimal insurable income for self-insured persons –on BGN 110, for 2005.

3. **additional compulsory social insurance** – if the person is born after 31.12.1959, he/she may choose the preferred universal pension fund, otherwise it would be specified by default. The instalment amounts to 3 percent and is distributed in the same proportion, and paid-in in the above described manner – together with the social insurance instalments. The amount of the instalment is deducted from the total pension and social security instalment, which in this case is 29.

C) If the foreign lecturer is sent to work in the Republic of Bulgaria under an agreement between both states, but is paid remuneration only by the higher school abroad where he/she is employed, no obligations ensue for paying instalments for social, pension or health insurance.

**II. Insurance of Bulgarian lecturers abroad** (the provisions of the Ordinance on the social insurance of self-insured persons and Bulgarian citizens working abroad are applied)

**A) if the person is sent to work abroad under an employment contract with a Bulgarian insurer**

The persons must be insured under the Bulgarian legislation for all social risks.

The insurance instalments for pension, labour incidence and occupational disease are paid based on the remuneration, in the above specified percentages and proportions, by the employing organisation by the 10<sup>th</sup> days of the month following the month to which they apply.

The instalments are calculated based on the BGL equivalent of the remuneration paid in a different currency, at the exchange rate of the Bulgarian National Bank on the day of payment, but on not more than the maximal monthly insurable income specified by the Public Insurance Fund Budget Act for the respective year – BGN 1300, for 2005.

In addition, health insurance instalments are owed.

**A) if the person is sent to work abroad through the agency of a Bulgarian organisation, but has concluded a contract under the legislation of the foreign country**

The person may pay insurance instalments for his own account after having declared in written before the intermediate agency acting as the insurer for that person the desire to be insured against disability due to general disease, old age and death, based on the insurable income chosen between the minimal and the maximal monthly insurable income indicated in the Public Insurance Fund Budget Act for the respective year – i.e. between BGN 220 and BGN 1300 for 2005.

The insurance instalment amount to 29 percent and is paid-in by the 10<sup>th</sup> day of the days of the month following the month to which it applies, or in advance within specific preset terms in the calendar year.

Health insurance instalments are owed on an insurable income not less than a half of the minimal insurable income for self-insured persons, specified by the Social Insurance Act for the respective year (art. 40, para 4 of the Health Insurance Act) – i.e. 6 percent on BGN 110 for 2005. Such persons may take benefit of the provision of Art. 40a of HIA exempting them from payment of health insurance instalments if they reside for more than 183 days abroad within a calendar year.

The same provisions apply to scientists (Bulgarian citizens), who do not give lectures in educational institutions abroad, but work **under an employment contract with a Bulgarian insurer or have been sent abroad through the agency of a Bulgarian organisation and have concluded there a contract under the legislation of the foreign state.**

**Qualifying for and payment of a pension under an international agreement**

The legal grounds for qualifying for pension of persons insured in one or more states with which the Republic of Bulgaria has concluded international agreements on the social security include the Social Insurance Code – Art. 98, 117-102; International Agreements of the Republic of Bulgaria with other states in the field of social security, and the Ordinance on the pensions and insured lengths of service – Art. 1, 37, 78-83.

The concerned parties are the person claiming a pension under an international agreement and the International Agreements General Directorate in the Central Office of the National Insurance Institute.

Several fundamental principles govern the calculation of pensions under international agreements

A. *Integration principle* – its essence is that only one of the states where the person is insured is assigned with the competence to pay the pension and the other are relieved of that duty. The state in question may be: the last state where the person was insured; the state where the person resides by the moment of granting a pension; or the state which the most part of the insured practice was gained.

B. *Pro rata principle* – meaning that: first, the amount of the pension is determined so as if the total insured practice gained in all the states – parties to the agreement, has been gained in one only of them (theoretical amount), and, second, in each of the two states the proportional part (actual amount) of the pension is paid corresponding to the proportion of the years of insured practice in each and the total insured practice in both countries (so called proportion factor)

Competent to pay the pension are all the states whose insurance legislation the concerned person has been subject to, or the states where the person has gained insured practice insofar as there is no minimal length of practice limit in the agreements under which the insurance rights are acquired.

C. *Direct calculation principle* – the pension is calculated by the insurance authority in each of the both contracting states, under its national legislation applied only to the periods insured in the respective country and the income received from these periods. Here it is not necessary to apply the pro-rata rule, because instead of calculating the theoretical amount of the pension, directly the amounts corresponding to the insured practice in each of the countries are obtained.

Granting, changing, updating, suspension, termination and resuming the payment of pensions under international agreements is made by an order of an officer in charge in the Central Office of NII, within one month from the receipt of all the necessary documents and data related to the application for granting a pension.

The person who is to qualify for pension under an international agreement submits to the International Agreements General Directorate in the Central Office of the National Insurance Institute the following documents:

1. Pension application form;
2. Employment book, duly certified and sealed;
3. UP-3 certificate – standard form – completed only for the length of service which is not reflected or not duly certified in the employment book;
4. UP-2 certificate of the gross remuneration or income based on which the insurance instalments are paid in for 3 consecutive years within the last 15 years of insured practice chosen by the pensioner up to 31.12.1996 and of the gross remuneration or income based on which the insurance instalments are paid from 1.01.1997 till the date of retirement.
5. Military service book – for men
6. Insurance book, if the person is working as a self-employed person, with certified length of service in it.
7. Certificate of insurance termination
8. Documents certifying the insured practice gained in the territory of the other state – party to the agreement, with translations in Bulgarian.

The International Agreements General Directorate in the Central Office of the National Insurance Institute verifies and processes data in the submitted documents for granting a pension.

If there are invalid or missing documents to the application for pension under an international agreement, the applicant is notified within 15 days of the deficiencies. If, within a six-month period the deficiencies are not rectified, the officer in charge with the management of the activities related to granting and paying pensions under international agreement issues an order based on the available documents.

The pension is granted starting from the date of emergence of the right to pension, and for pension for insured practice and old age – from the date of termination of the insurance (i.e. termination of employment), if the application and the required documents is submitted within the statutory 6-month term from these dates. If the documents are submitted after the statutory terms, the pension is granted starting from the date of application.

NII pays pensions abroad if there is an international social security agreement concluded with the respective state.

The pensions are remitted through the foreign insurance institution into a bank account of the institution or directly to the concerned person, as provided for in the international agreement.

Persons residing abroad and receiving pensions under the Bulgarian legislation are required to submit a declaration of living according to the provisions of the respective international contract. If a pensioner fails to submit such a declaration, payment of the pension is suspended.

Pension payment is resumed upon presentation of the declaration.

Pensions granted under international agreements to Bulgarian citizens as well as to foreign citizens residing permanently or continuously in the Republic of Bulgaria by the territorial divisions of NII.

Pensions paid under international agreements by foreign insurance institutions to foreign citizens residing permanently or continuously in the Republic of Bulgaria are paid through NII or directly by the respective foreign insurance institution to the pensioner by means of money orders or remittances into a personal bank account.

In order to collect the required proofs of insured length of service of a person, the International Agreements General Directorate sends a letter to the respective foreign insurance institution to verify the insured practice gained abroad. Such letters are sent by the respective foreign competent authorities to the Bulgarian insurers with which the person had employment contractual relations before coming to Bulgaria.

When calculating the amount of a pension granted under an international agreement to which the Republic of Bulgaria is a party, the insurable income is taken into account for the insured length of service under the Bulgarian legislation.

The insured practice gained abroad is taken into account according to the provisions of the respective international social security agreement to which the Republic of Bulgaria is a party. The length of practice is verified based on original documents issued by the competent authorities of the respective foreign state.

### *Health insurance*

According to Art. 33 of the Health Insurance Act (HIA), subject to obligatory health insurance with the National Health Insurance Fund are:

1. all Bulgarian citizens, who are not citizens of another state as well;
2. Bulgarian citizens who are citizens of another state as well and permanently reside in the territory of the Republic of Bulgaria;
3. foreign citizens or persons deprived of citizenship, who are permitted long-term stay in the Republic of Bulgaria, unless otherwise provided in an international agreement to which the Republic of Bulgaria is a party;
4. persons who are granted refugee statute, humanitarian statute or right to asylum.

On the grounds of Art. 34, para 1 of HIA, the insurance obligation emerges:

1. for all Bulgarian citizens – since the entry into force of the act, and for newborn ones – from the date of birth. On the grounds of §2, para 1 of the Transitional and Final Provisions of the HIA, collection of health insurance instalments started since 1999.
2. for foreign citizens or persons deprived of citizenship who are granted long-term permission to stay in the Republic of Bulgaria – from the date of issue of the long-term permission.
3. for persons who are granted refugee statute, humanitarian statute or right to asylum- from the date of opening of legal proceedings.

## **Health insurance of persons receiving income on which they owe health insurance instalments**

### **1. Persons working under employment contracts**

The procedure for paying-in the instalments owed by persons working under employment contract is specified in Art. 40. para 1, s.1. of HIA.

For the period from 01.07.1999 to 31.12.2002 the persons working under employment contract pay health insurance instalments based on the taxable income according to Art. 19, para 1 of the Individuals Income Taxation Act (IITA). The taxable income of a person includes all payments, including any monetary and/or tangible awards received by the individual in the respective calendar month. Taxable income are also indemnifications paid on the grounds of Art. 224 and Art. 225 of the Labour Code. Health insurance instalments are not owed on amounts paid from the social security fund of the enterprise and any amounts under Art. 19, para 2 of IITA. Health insurance instalments are not owed on indemnifications received under Art. 222, para 1 of the Labour Code, as they are paid to the individual for periods of suspended employment, i.e. lack of an employer.

Since 01.01.2003, for the persons who receive income under employment contracts, health insurance instalments are owed based on the income on which social insurance instalments are paid according to the Social Insurance Code (SIC). On the grounds of Art. 6, para 2 and 3 of SIC, social insurance instalments are owed on the received monthly income, but not less than on the minimal insurable income for the basic economic activity and qualification profession group, specified in the table in the appendix to Art. 8, para 1 of the Public Insurance Fund Budget Act for 2003.

Health insurance instalments are calculated on the minimal insurable income only in case that the received gross salary of the worker or employee is less than the minimal insurable income for the profession of that person depending on the basic economic activity of the insurer. Health insurance instalments are calculated and paid based on the minimal insurable income also in case that only when in the respective month only an advance has been paid, which is less than the minimal monthly insurable income. For individuals working under a part-time employment contract, the health insurance instalments are calculated based on the received salary, but not less than on the minimal insurable income in proportion to the part-time hours.

Due to equalisation of the income based on which are calculated both health and social insurance instalments of persons working under employment contract, since 2003, health and social insurance instalments are paid also on the amounts paid regularly to workers and employees from the social funds. For persons working under employment contracts up to 5 days or 40 hours per month, health and social insurance instalments are not owed on the amounts paid to them from the social funds.

### **2. Persons working under service contracts or contracts based on special legislation**

**The insurance instalments of persons working under service contracts or contracts based on special legislation are paid following the procedure in Art. 40, para 1 of HIA.**

### **3. Contractors to contracts for control and management of commercial companies**

From 01.01.2000 to 31.12.2002, health insurance of contractors under contracts for control and management of commercial companies is governed by the procedure set forth in the Health Insurance Act and applicable to persons working not under an employment contract, but rather than under an assignment contract.

Since 2003, for contractors under contracts for control and management of commercial companies health insurance instalments are paid following the procedure specified in Art. 40, para 1, s.1 of HIA. Health insurance instalments are paid based on the received remuneration after deducting the statutorily allowed expenses for that activity, but not less than the minimal insurable income for the basic economic activity of the insurer. For contractors under contracts for control and management of commercial companies who receive remuneration only for participation in management and supervisory boards, the insurance instalments are based on the received remuneration after deducting the statutorily allowed expenses for that activity, but not less than the proportion of the minimal insurable income corresponding to the number of days for which the remuneration is paid.

#### Sole entrepreneurs, individuals, sole limited liability company proprietors, partners in commercial companies and individuals registered as freelancers and/or craftsmen

Since 2000, sole entrepreneurs, individuals, sole limited liability company proprietors, partners in commercial companies and individuals registered as freelancers and/or craftsmen, including persons who pay patent tax, are insured under the procedure set forth in Art. 40, para 2 of HIA. For the period from 01.01.2000 to 31.12.2001 health insurance instalments are paid on a monthly insurable income which can not be less than the double amount of the minimal salary, or, for the whole year, on the taxable income according to the tax revenue statement. Since 01.01.2002, the monthly insurable income of such persons can not be less than the minimal insurable income specified in the Social Insurance Fund Budget Act for the respective year. Instalments are paid-in by the 10<sup>th</sup> day of the month following the month to which they apply.

Self-insured persons may pay-in their health insurance instalments in advance, for a period of time of their choice.

Self-insured persons do not owe health insurance instalments in this capacity if they have submitted a declaration for suspension or termination of their personal business activity to the respective local territorial division of NII.

#### 5. Farmers and tobacco growers

For the period from 01.01.2000 to 31.12.2001 these individuals pay-in monthly insurance instalments on an income of their choice, but not less than the double amount of the minimal salary for the period, under the procedure set forth in Art. 40, para 1, s. 14 of HIA, in the edition applicable until January 2002. Instalments are for their account and are paid-in by the 10<sup>th</sup> day of the month following the month to which they apply. If their income is subject to taxation under the IITA, end-year balancing of instalments is applied.

Since 1 January 2002, the minimal insurable income of farmers and tobacco growers may not be less than the minimal insurable income as specified by the Social Insurance Fund Budget Act for the respective year.

Since 2003, farmers and tobacco growers insure themselves under the procedure set forth in Art. 40, para 1, s. 2 of HIA. Persons involved solely in farming pay-in monthly insurance instalments on the insurable income specified for them in the Social Insurance Fund Budget Act and may not determine the final amount of their insurable income on their own.

#### 6. Persons receiving income without employment, who do not practice activities as self-insured

For the period from 01.01.2000 to 31.12.2002, on the grounds of Art. 40, para 1, s. 3 of HIA, the health insurance instalments are paid for the account of the persons and are calculated based on the received income after deducting the statutory allowed expenses for their activity. The instalments are withheld from the remuneration of the person and paid-in by the insurer enterprise or organisation by the 10<sup>th</sup> day of the month following the month to which they apply.

Since 2003, pursuant to the amended section 3 in paragraph 1 of Art. 40, HIA, the monthly insurance instalments are paid in proportion distributed between the client and the insured person based on the taxable income after deducting the statutory allowed expenses for the respective activity. The instalments are paid-in by the insurer enterprise or organisation by the 10<sup>th</sup> day of the month following the month to which they apply.

The same procedure applies also the contractors under contracts for management and control of non-commercial entities and organisations.

Since 2003, the health insurance instalments of members of co-operatives receiving income from the co-operative for work without employment contract are calculated based on the received remuneration prior to deducting the statutorily allowed expenses for the activity.

#### 7. Persons receiving indemnifications for temporary inability to work due to disease, pregnancy and maternity and parental leave.

For the periods for which the insured persons receive indemnification for temporary inability to work due to disease, pregnancy and maternity and parental leave, their health insurance instalments are paid-in by the employer based on the amount of the indemnification and from its account as follows:

Since the enactment of the SIA for employee working under service contracts and pursuant to special legislation, the health insurance instalments amount to 6 percent on the received remunerations and are paid-in by the respective government authority.

Since 01.01.2000, health insurance instalments are not owed for the indemnifications for temporary inability to work paid after termination of the contract.

For the period during which self-insured persons receive monetary indemnifications for temporary inability to work due to disease, pregnancy, maternity or paternal leave, they pay-in insurance instalments for their account as follows:

Since 2003, self-insured persons may pay the health insurance instalments for these periods in advance.

#### 8. Persons receiving income on different grounds

**For persons receiving income on different grounds, the instalments are based on the total income under the procedure as provided for by law for each type of income. The monthly insurable income may not exceed the specified maximal insurable income for the respective period.**

Procedure for health insurance of students

For students in higher education institutions, who have no income, the health insurance instalments until they reach 25-years of age, for the period from 01.07.1999 till 31.12. 1999 are paid from the State budget in the amount of 6 percent on 70 percents of the minimal salary set for this country. The change of the Act in 2000 increased the age until which the higher education institution pays-in instalments for students to 26 years. For 2000 and 2001, a higher education institution pays-in health insurance instalments in the amount of 6 percent on the one-off minimal salary, and for 2002 – on a half of the minimal insurable income specified by the SIFBA

Up to 31.12.2002 the HIA did not specified any requirement to the form or training of the students to be insured for the account of the state budget. The only condition was that they should not be subject to health insurance on different grounds. In this respect, in the beginning of each school year, they had to declare the latter circumstance.

Until the end of 2002, doctorate students in higher education schools and scientific institutions under Art. 47 of the Higher Education Act apply health insurance following the same procedure.

Since 1 January 2003, with the amendment in the Act, the students are to meet the following conditions in order to be subject to health insurance for the account of the state budget:

- to be enrolled as regular students;
- not to be subject to health insurance on other grounds;
- to be under 26 years of age.

For doctorate students to be insured for the account of the state budget, they are to be enrolled as regular doctorate students within the state quota and not be subject to health insurance on other grounds. Doctorate students are insured under this procedure whether or not they are trained in a higher education institution and irrespective their age.

The higher education institution pays-in the health insurance instalments for the whole period, during which the said persons have the statute of students or doctorate students, in the amount of 6 percent on a half of the minimal insurable income applicable to self-insured persons.

Bulgarian students sent abroad under agreements to which the Republic of Bulgaria is a party, for the period of training until they reach 26 years of age, are subject to insurance for the account of the State Budget.

For Bulgarian students abroad, until they reach 26 years of age, health insurance instalments are paid-in only for the periods during which they are in this country. Until 2002, for these periods their parents were to pay health insurance instalments under the procedure applicable to uninsured members of the family. Since 2003, these persons pay their health insurance instalments under the procedure set forth in Art, 40, para 4 of HIA.

Foreign students who studying Bulgaria under bilateral agreements to which the Republic of Bulgaria is a party are insured for the account of the State Budget. Alternatively, foreign students who are granted long-term permission to stay in this country insure

themselves under the procedure of Art. 40, para 4 of the Health Insurance Act, if not insured on different grounds.

#### Provision of information by health insured persons

According to Art. 39 of HIA, any person who under HIA has to pay-in health insurance instalments is obliged, starting from the emergence of the grounds for health insurance, to provide on a monthly basis data on the insured persons to the territorial divisions of NII, by means of declaration forms according to a standard approved by NII and NHIF – Declaration Form No. 1, Insured person data, and Declaration Form No. 3, Data of a health insured persons for the account of the State Budget and Unemployment Fund.

In case that a person pays advance instalments, a declaration is submitted stating the period of advance payment, also following an approved standard Declaration Form No. 4, Health insurance instalments paid in advance.

The procedure and manner of submission of insurance data are specified in the Instruction No. 1 of NII on the collection of data from insurers concerning the persons insured with them and self-insured persons.

**EU FP6 Project BulRMCNet**  
**Bulgarian Network of Research Mobility Centers**

**Training Seminar**

**Sofia, 18-19 May 2005**

**Usage of the National Research Mobility web Portal for  
provision of information and services**

### **Case study 1**

A Latvian Researcher will take up a position in one of the Institutes of the Bulgarian Academy of Sciences for two years.

His wife and two children will move with him. They do not speak Bulgarian, but one child is already at school (primary), the other would need kindergarten.

He would like to get advice on the following:

- What is the procedure and the necessary documents for obtaining a Visa and permission for 2 years stay in Bulgaria for him and his family.
- Problems related to the welcome and happiness of his family and of the children: schooling, language courses, kindergarten

**Please describe below where you find the necessary information.**

### **Case study 2**

A Polish doctoral candidate (just started the doctorate) is moving to Bulgaria as she received a Marie Curie grant to carry out part of the doctoral training in a lab in Varna.

She intends to stay for 3 years and to possibly carry out most of the research work.

Please help her for finding accommodation in Varna, and provide her advice on the necessary visa and long-stay arrangements.

**Please describe below where you find the necessary information.**

### **Case study 3**

A German Professor will take up a position at the Technical University of Sofia for two years.

He does not speak Bulgarian, but would like to study during his stay.

He would like to get advice on the following:

- Work permit, what does he need to do ?
- Finding accommodation?
- Bulgarian language courses for foreigners

**Please describe below where you find the necessary information.**

#### **Case study 4**

A French doctoral candidate (just started the doctorate) is moving to Rousse as he received a Marie Curie grant to carry out part of the doctoral training in a lab in Rousse.

He intends to stay for 2 years and to possibly carry out most of the research work.

He is married and would like to find a position for his wife, who is currently working as an engineer in a postdoc position with a short term contract.

He would like to bring her car with her.

Please advise him on the necessary paper work for entering Bulgaria with a car, and driving in Bulgaria with a foreign driving license.

Secondly: please help him to find a job for his wife.

**Please describe below where you find the necessary information.**

#### **Case study 5**

A researcher from the USA is invited as a guest professor at Sofia university. He will stay 6 months in Sofia and will need accommodation.

He needs also information related to visa and working permit for his stay.

Please help him to solve his problems with accommodation and the necessary documents for entry and work in Bulgaria.

**Please describe below where you find the necessary information.**

#### **Case study 6**

An Albanian researchers intends to move to Bulgaria to carry out research work in Stara Zagora.

She intends to stay for 3 years.

She is afraid that the stay and work in Bulgaria would be not recognised by the Albanian social security authorities.

She would need a doctor and health insurance.

Please help her with advises about social security and pension rights transfer to Albania. Provide her help for obtaining health insurance and services.

**Please describe below where you find the necessary information.**

### **Case study 7**

A researcher from India got a research position at Bulgarian high tech company and she needs your assistance for the following:

Visa formalities and work permit as well as all the necessary information about taxes, as she intends to stay in Bulgaria for a maximum of 4 years.

**Please describe below where you find the necessary information.**

### **Case study 8:**

A Spanish researcher met the woman of his life and intends to move to Plovdiv as she still studies there.

He has already found a professor at Plovdiv university who would allow him to continue his doctorate, but he could not yet guarantee him a grant.

However, before moving he wants to know from the Spanish authorities whether they will recognise his PhD diploma obtained in Bulgaria? What about taxes in Bulgaria? And how to find a grant for his stay in Plovdiv?

It is now up to you to provide him with very detailed information which will help him to take this important decision.

**Please describe below where you find the necessary information.**

### **Case study 9**

A researcher from India is just finishing his 4 years postdoc in computer science and engineering. He would like to continue to stay in Bulgaria though he needs another position.

Meanwhile also his partner would like to move to Bulgaria and undertake a doctoral programme.

The question now is where to get the right information whether or not her degree would be recognised so that she could get a PhD position? And where could she find information about PhD positions.

Please can you help also the Indian researchers for finding a new job.

**Please describe below where you find the necessary information.**

### **Case study 10**

A researcher from Ukraina has got a position in one of the Institutes of the Bulgarian Academy of Sciences for two years.

His wife will move with him. They are expecting their first child.

The researcher would like to know all about social security in Bulgaria (health and pension insurance). He is interested if his work time spent in Bulgaria would be recognised back home. The other issue is to find a doctor and a hospital where his child will be born. Please advise him on the issues above.

**Please describe below where you find the necessary information.**

### **Case study 11**

A Bulgarian researcher is moving to Spain. He will take his wife and two children with him.

He would like to get advice on the following:

- What is the procedure and the necessary documents for obtaining a Visa and permission for 2 years stay in Spain for him and his family.
- Which is the procedure for recognition of their documents (school and university diplomas, other certificates) in Spain?

**Please describe below where you find the necessary information.**

### **Case study 12**

A Bulgarian researcher is moving to Slovakia. He has got a 2 years contract for doing a research work in Bratislava.

He would like to get advice on the following:

- What he needs to do for health and pension insurance in Slovakia? Will his working period in Slovakia be recognised for pension later on? How he will gain health rights in Bulgaria after coming back?
- What is the situation with taxes in Bulgaria?

**Please describe below where you find the necessary information.**

### **Case study 13**

A Bulgarian PhD student has got a grant for doing his PhD thesis in Germany. However, he would like after that to return in Bulgaria, as his wife will not move with him as she has a very good position in Bulgaria and would not like to lose it.

He would like to get advice on the following:

- What is the procedure and the necessary documents for obtaining a Visa and permission for 1.5 years stay in Germany?
- Which is the procedure for recognition of his diploma after coming back in Bulgaria?

**Please describe below where you find the necessary information.**

### **Case study 14**

A Norwegian doctoral candidate is moving to Bulgaria as she received a Marie Curie grant to carry out part of the doctoral training at UNWE in Sofia. She intends to stay for 3 years and to possibly carry out most of the research work.

Please help her for finding a student accommodation in Sofia, and provide her advice on the necessary visa and long-stay arrangements.

**Please describe below where you find the necessary information.**

### **Case study 15**

A Canadian Researcher will take up a position in one of the Institutes of the Bulgarian Academy of Sciences for three years. His wife and small child will move with him. They do not speak Bulgarian, and would like to study the language. They would need a kindergarten. The whole family would like to get knowledge about Bulgaria and Bulgarian culture. They intend to travel on their own on weekends and would need a car.

Please help them for the following:

- to find kindergarten for the child and a language course for the wife;
- advise them where to rent a car and to find information for sightseeing in Bulgaria.

**Please describe below where you find the necessary information.**