

LEGAL FRAME OF SOCIAL SECURITY SYSTEM IN BULGARIA

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INTRODUCTION

The institutionalization of the social security system of the Republic of Bulgaria is a long and complex process aimed at creating and operating the institutional framework of social security protection. The idea that the state is engaged in the management and financing of social security protection is one of the successfully solved problems of modern societies. This idea is an emanation of the concept of the social rights of citizens. From a philosophical point of view, this idea is based on the so-called positive freedoms of citizens. It is these freedoms that represent the claims of citizens to the state as a social organization to provide a system of legislative, administrative and financial measures to guarantee the right to social protection. Historically, this is the transition from traditional measures of protection in the relevant social organization (guild or clan for example) to modern means of protection against the occurrence of insured social risks. In modern countries, with dynamically developing economic, market and social relations and relations of dependence, a person cannot live independently and for their own sake. Coexistence predetermines solidarity in protection from various types of risks that arise in nature and society¹. The normal functioning of any society depends on empathy between its members².

1. Differentiation of the social function of the state

The concept of the generational differentiation of citizens' rights presents them as an expansion that takes place in terms of content and in a spatial dimension and aims to include more and more subjects who can benefit from the protection of rights in the course of European history³. In terms of content, a three-stage development is observed, according to which three types of rights are established – liberal rights, political rights, social rights⁴.

¹ Salchev, P., L. Georgieva. (2008) Principles and Practices in Health and Pension Insurance. Sofia, Optima – NMN Publishing House, p. 23.

² Hayek, Fr. (1998) Legal Norms and Legal Order. Sofia, St. Kliment Ohridski University Publishing House, 1998, p. 22.

³ Jotov, St. (2003). Ethics and Multiculturalism. Sofia, Agata-A Publishing House.

⁴ Vasak, K. (1977). A 30-year struggle; the sustained efforts to give force of law to the Universal Declaration of Human Rights. The UNESCO Courier: a window open on the world, XXX, 11, p. 28-29, 32, <https://unesdoc.unesco.org/>

Simultaneously with the increase in the protected perimeter of citizens, the requirements for the state also increase, and this process, in turn, determines the differentiation of the functions of the state (also known as state policies).

The content of the social function of the state is related to the development of state policies as social functions of a public nature⁵. They are related to the implementation of activities bound to education, healthcare, social security and assistance. Social protection can be defined as a set of management activities and specific policies undertaken by various social institutions to regulate relations between individuals and social groups in relation to satisfying their basic life needs and interests, reducing social inequality and achieving social security for all Bulgarian citizens. Social rights are guaranteed with the aim of improving the standard of living and social welfare of citizens.⁶

The UN Universal Declaration of Human Rights proclaims that everyone, as a member of society, has the right to social security and to the realization – through national efforts and international cooperation and in accordance with the organization and resources of the respective State – of the economic, social and cultural rights indispensable for his dignity and for the free development of his personality. (Article 22)⁷.

The Treaty on the Functioning of the European Union also guarantees the social rights of its citizens. The Union and the Member States, mindful of fundamental social rights, such as those enshrined in the European Social Charter,⁸ signed in Turin on 18 October 1961 and in the Community Charter of the Fundamental Social Rights of Workers of 1989, shall aim to promote employment, improve living and working conditions so as to achieve their harmonization while this improvement is being achieved, ensure adequate social protection, social dialogue, develop human resources with a view to a high and sustainable level of employment and combat exclusion from social life.⁹ (Article 151)

The fundamental legal source from which citizens derive their social rights is the International Covenant on Economic, Social and Cultural Rights, adopted by the United Nations in 1966, which entered into force for Bulgaria in 1970. The States Parties to this Covenant, through the provisions of Art. 9-12 recognize the following rights for their citizens – the right to social

⁵ Dachev, L. (2008). Essence and content of public administration, Scientific works of the University of Ruse, volume 47, series 7, p. 8. <https://conf.uni-ruse.bg/bg/>

⁶ Mrachkov, V. (2020). Social Rights of Bulgarian Citizens. Sofia, Ciela Publishing House.

⁷ <https://www.coe.int/bg/web/compass/the-universal-declaration-of-human-rights/> (Seen on 28.05.2025).

⁸ <https://www.coe.int/bg/web/compass/european-social-charter> (Seen on 28.05.2025).

⁹ <https://eur-lex.europa.eu/legal-content/BG/TXT/HTML/?uri=CELEX:12012E/TXT> (Seen on 28.05.2025).

security, including social insurance, the right to a satisfactory standard of living, the right to achieve the best possible state of physical and mental health¹⁰.

The social rights are guaranteed by constitutional and legal regulation in the Constitution of the Republic of Bulgaria of 1991¹¹. According to the provision of Art. 51, Bulgarian citizens have the right to social insurance and social assistance. Persons temporarily unemployed are socially insured under conditions and in accordance with the procedure determined by law.

The following provision of Article 52 provides that citizens have the right to health insurance, guaranteeing them accessible medical care, and to free use of medical services under conditions and in accordance with the procedure determined by law. This fundamental legal framework is embodied in various normative acts of a legal and regulatory nature, which provide the content of the insurance law sector.

One of the most important documents of European Community law is Regulation No. 883/2004, which lays down common rules for the protection of social security rights when moving within the European Union, as well as in Iceland, Liechtenstein, Norway and Switzerland¹². It defines the applicable legislation on insurance – social and health – for persons moving freely within the Community. According to Art. 11, par. 1 of the Regulation, the basic rule is that for an employed or self-employed person, the legislation of only one Member State is applicable, and this is the legislation of the State of employment, even if the person resides in another EU country. According to Art. 12, par. 2 of the Regulation, persons who normally exercise self-employment in the territory of another Member State and carry out a similar activity in the territory of Bulgaria continue to be subject to the legislation of the other Member State, provided that the intended duration of this activity does not exceed 24 months.

The constitutionally guaranteed right to social security covers various and separate material subjective rights of citizens to insurance payments (compensations and benefits), which are secured through the social security system established by law.

State social security (SSS) is a form of organized material protection of working citizens in cases where they are unable to receive income from work due to the occurrence of one of the insured social events. By virtue of Art. 3, item 1 of the Social Security Code, SSS is implemented on the basis of the principle of mandatory and universal insurance. For compulsory health

¹⁰ <https://www.coe.int/bg/web/compass/international-covenant-on-economic-social-and-cultural-rights> (Seen on 28.05.2025).

¹¹ <https://www.parliament.bg/bg/const> (Seen on 28.05.2025).

¹² <https://eur-lex.europa.eu/BG/legal-content/summary/coordination-of-social-security-systems.html> (Seen on 28.05.2025).

insurance, the principle of mandatory participation in the collection of contributions was introduced by Art. 5, item 1 of the Health Insurance Act.

The state is a social organization. State government is the exercise of state power by making decisions aimed at the activities of the relevant state organization in a functional and institutional aspect. Functional is the state administration, which is directed or encompasses the implementation of state policies. They, in turn, are related to the realization of the political, economic and social rights of citizens. Any state policy must be appropriate to the interests of society in order to be socially justified, legitimate and consistent with public interests.¹³ Functional-organizational models of the social state are an emanation of the protection of these interests.¹⁴

The management of state finances is carried out through the state budget, which expresses the suitability of the state to create and maintain social equilibrium, to increase and influence the distribution of national income and capital and, by influencing the interests of people, to ensure the preservation and development of society. The specified goals ensure the functioning of the models of social protection and social inclusion of socially vulnerable groups of persons¹⁵. Vulnerable are those individuals and groups of people who suffer restrictions in terms of their participation in social life and the enjoyment of social rights. Vulnerable groups fail to access or benefit from the opportunities offered by society and the economy and become victims or are at risk of marginalization and social exclusion. The reasons for this are diverse and varied, such as: living in extreme poverty or low income and material deprivation; deteriorating financial conditions; social and psychological factors; inaccessible environment; health and age-related problems; lack of or insufficient social skills and education; lack of, limited access to or inadequate services¹⁶.

2. Financing the social security system

"Financing is a set of measures related to the provision of the necessary capital for the creation and functioning of a given activity or system."¹⁷ Under the financing of social security, the movement of cash flows from insured and

¹³ Dachev, L. (2012). The state as an organization. Scientific works of the University of Ruse-, volume 51, series 7, p. 14-15. URL:<https://conf.uni-ruse.bg/bg/> (Seen on 28.05.2025).

¹⁴ Fukuyama, Fr. (2004). The Construction of the State. Governance and World Order in the 21st Century. Sofia, Obsidian Publishing House.

¹⁵ Radev, N., (2011) Social Risks and Social Protection. In: Social Research, V. Tarnovo, p. 7-43.

¹⁶ White Paper: Effective support through social services for vulnerable groups in Bulgaria. Basic principles. (2009) Sofia, Open Society Institute, Social Policies Platform, Strategic document.

¹⁷ Gochev, G., B. Manov.(2001) Social insurance. Sofia, Trakia-M, p. 176.

insurers to form the relevant insurance fund and the economic relations that occur between the entities regarding the method of raising these financial resources should be taken into account. With regard to short-term risks, in the public insurance system, each generation only and currently finances its social security. However, long-term public pension insurance is structured in such a way that due to the lack of accumulation of funds, the payment of pensions has to be made at the expense of the insurance contributions of the currently working generation. The main sources of financing of social security are insurance income generated in the economy, and insurance contributions are the main form of payments by insurers, insured and self-insured persons to the relevant insurance fund. To a lesser extent, the amounts received from fines, penalties and penalty interest, revenues from foreign social security institutions for the payment of pensions under international agreements, and transfers and subsidies from the state budget are used for financing. In practice, it can be said that in general the source is one – income generated in the country, part of which is collected directly in the form of social security contributions, and the other – indirectly, in the form of taxes to the state budget.¹⁸

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