

Part II: European Perspective

On the Search for Dignity Amidst Restrictiveness: Minimum Social Income in Bulgaria

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I. Introduction

Bulgaria has long been plagued by considerable poverty levels especially when compared to the rest of the EU Member States. Analyses often focus on the statistics of the low benefit amounts and thereby say little to nothing about the legal questions and the institutional structure behind the minimum income systems in the country. So far, the question on how minimum income is defined in legal terms in Bulgaria has been largely omitted. In addition, no sufficient attention has been paid to the constitutional influence on minimum income benefits and whether there are related subjective rights following from the Constitution in the respective social law and policy discussions.

Still, the relevance of such questions is considerable given that 22.1% of the population in the country fall below the at-risk-of-poverty threshold.¹ The alarming poverty rates have been accompanied by polarised political discussions during the years. Some have openly argued against expanding the restrictive character of the social assistance system. Given the dire socio-economic situation in the country, the state should not motivate the receiving of social assistance and enable it to become a “professional occupation”.² In contrast, the European Commission has criticised the low minimum income benefits that were based on executive decision instead of utilising objective calculation criteria.³ Against this criticism, the reform of the minimum income schemes has been included as one of the points in Bulgaria’s Recovery and Resilience Plan following the COVID-19 pandemic.⁴

Accordingly,⁵ the social assistance legislation has recently been reformed to reflect the national at-risk-of-poverty threshold as a more objective quality of life indicator.⁶ The recent reform thus makes an effort to modernise minimum income mechanisms in the country. National social assistance legislation had long been characterised by considerable fragmentation that also used to mix the functions of minimum income provision and social services, which include tax-funded social integration services. From a his-

1 National Statistical Institute, ‘Poverty and Social Inclusion Indicators in 2021’ (2021) <https://nsi.bg/sites/default/files/files/pressreleases/SILC2021_en_6IY8TD4.pdf> accessed 12.11.2024.

2 National Assembly of the Republic of Bulgaria, ‘Transcript of Parliamentary Plenary Session No. 60, 20/01/2010’ (2010) <<https://parliament.bg/bg/plenaryst/ns/7/ID/659>> accessed 12.11.2024.

3 European Commission, ‘Country Report Bulgaria 2017’ (28 February 2017) <https://commission.europa.eu/system/files/2017-03/2017-european-semester-country-report-bulgaria-en_3.pdf> accessed 12.11.2024.

4 European Commission, ‘Bulgaria’s Recovery and Resilience Plan’ (2022) <https://commission.europa.eu/business-economy-euro/economic-recovery/recovery-and-resilience-facility/country-pages/bulgarias-recovery-and-resilience-plan_en> accessed 12.11.2024.

5 National Assembly of the Republic of Bulgaria, ‘Transcript of Parliamentary Plenary Session No. 48, 17/11/2022’ (2021) <<https://parliament.bg/bg/plenaryst/ns/55/ID/10709>> accessed 12.11.2024.

6 The at-risk-of-poverty rate is the share of people with an equivalised disposable income (after social transfers) below the at-risk-of-poverty threshold, which is set at 60% of the national median equivalised disposable income after social transfers. In Bulgaria, the amount is set by a decree of the Council of Ministers on the proposal of the Minister of Labour and Social Policy. Pursuant to Decree No. 286 of 21/09/2022, the poverty line in the country in 2023 equalled BGN 504.

torical point of view, various forms of care and assistance for the sick and infirm in Bulgaria have always been inherent in charity, which has led to the existing of this unified legislative approach. The functional differentiation between these two systems was finally recognised by the legislature⁷ and normativised by way of setting the social services apart in a separate legislative and institutional framework in 2019.⁸

The current chapter evaluates how adequate the existing schemes are for the purpose of securing (subsistence) incomes and whether this could contribute to securing a “life in dignity” in Bulgaria. To answer this question, this chapter reveals the levels and extent of interaction of the different tax-financed as well as contribution-based social protection schemes of relevance to minimum income. Bulgaria has various mechanisms in place to provide a minimum income or supplement citizens’ incomes that are grounded in varying functionalities. The mechanisms have different coverages and contribute to varying degrees to the idea of guaranteeing a minimum income and social inclusion. The legal basis, the administrative organisation and the qualifying conditions related to these social schemes also vary. The chapter provides an analysis of the interplay between all of these different systems that could contribute to a minimum income, thereby demonstrating the limited extent of their interaction.

On the one side, social assistance benefits, minimum statutory pensions and social non-contributory pensions all aim at providing some minimum income level. On the other side, child and family allowances can also serve to provide minimum income levels or supplement income through targeting childcare expenses; however, as opposed to social assistance, the above allowances do not have poverty alleviation as their main goal. Disability allowances can likewise supplement one’s income but also do not officially function as minimum income provision. There are further auxiliary mechanisms such as specific tax reliefs, assumption of health insurance contributions on behalf of certain risk groups, as well as additional healthcare mechanisms that could contribute to improved basic living necessities of the materially disadvantaged.

7 National Assembly of the Republic of Bulgaria, ‘Motives in Draft of the Law on Social Services, No. 802-01-57’ (2018) <<https://parliament.bg/bg/bills/ID/156809>> accessed 12.11.2024.

8 Law on the Social Services, SG 24/22.03.2019 (with later amendments).

II. Overview

1. Normative Background

States must generally comply with constitutional provisions when organising social protection in the event of a constitutional requirement to provide social protection rights.⁹ Of course, the mere constitutional proclamation of certain rights does not clarify what the actual impact of these rights on the legal implementation will be. The impact of social rights depends on the constitutional traditions¹⁰ and institutional structures¹¹ that encompass them. Apart from constitutional rights, in the case of Bulgaria, the examination of social rights with influence on the minimum income also requires the inclusion of social rights stemming from international law instruments that have been ratified according to Article 5(4) of the Constitution and have thus become part of national law.

a) Constitutional Law

Concerning relevant constitutional provisions, Art. 51 para. 1 of the Constitution provides that citizens have the right to social security and social assistance. Additional constitutional content relevant to the branches of social protection identified above include provisions regarding the family and children. In this respect, Article 47 deals with the general protection of children and mothers. This issue also appears in the Constitution as a state objective in Article 14, which declares that mothers, children and the family are under the protection of the state and society. Article 47 para. 1 postulates that the upbringing of children to the age of majority is the right and duty of parents and is supported by the state. Article 47 para. 2 then reiterates, but also reinforces, the state's purpose in Article 14 of providing “special protection” to mothers. This includes the guarantee of prenatal and postnatal leave, the provision of free obstetric care, adjusted working conditions, and other social assistance.

9 U. Becker, ‘Security from a Legal Perspective’ *Rivista del Diritto della Sicurezza Sociale* (2015)3, pp. 515, 517.

10 C. Bruzelius, ‘How EU Juridification Shapes Constitutional Social Rights’ *Journal of Common Market Studies* 58 (2020)6, pp. 1488, 1492.

11 U. Becker, ‘Introduction’, in: U. Becker and A. Poulou (eds.), *European Welfare State Constitutions after the Financial Crisis* (Oxford University Press 2020), pp. 5 ff.

So far, there has not been abundant constitutional case law concerning minimum income benefits. The Constitutional Court has not had the opportunity to rule on issues specifically concerning the conformity of the social assistance legislation with the constitutional right of social assistance. Cases brought before the Court have primarily addressed social security or medical insurance. However, throughout its case law in the field of social rights, the Bulgarian Constitutional Court has provided various insights that affect minimum income mechanisms. Like the right to social security, the right to social assistance embodies an objective obligation to adopt a system that is capable of implementing this right in case of need.¹² This objective state requirement is a prerequisite for the subjective realisation of the right to social security.¹³ The bearer of the subjective right to social assistance is the person who has fallen into material hardship. This remains to be the case irrespective of the reason that has led to the difficult material situation.¹⁴

The Constitutional Court has openly stated that constitutional social rights are “difficult to enforce”.¹⁵ Namely, their realisation depends on the current economic conditions of the state and cannot always provide immediate entitlements for the individual subject. However, in different case law, the Court has made clear that social rights are still full-fledged rights and cannot be reduced to mere policy development objectives.¹⁶ Hence, the complexity of implementing these rights does not absolve the state of its obligation to ensure their fulfilment through concrete measures. The realisation of these rights is subject to a wide margin of appreciation on the part of the legislature. The latter possesses the ability to assess the necessary needs of the social protection system on the basis of available resources in order to design the most corresponding implementation.

The conditions determining the need for social assistance are not specified in the constitutional text. Similarly, the Constitution does not define

12 V. Mrachkov, ‘The Right to Social Assistance – A Fundamental Citizens’ Right/ Правото На Социално Подпомагане – Фундаментално Право На Гражданите’, in: N. Gevrenova (ed.), *Actual Problems of the Labour and Social Insurance Law. Social Assistance: Problems and Perspectives*, Vol. X/Актуални проблеми на трудовото и осигурителното право. Социално подпомагане: проблеми и перспективи, Том X (University of St. Clement Ohridski 2018), p. 58.

13 Constitutional Decision No. 12/1997 on Case 6/1997.

14 Constitutional Decision No. 2/2006 on Case 9/2005.

15 Constitutional Decision No. 2/2007 on Case 12/2006, para. III.

16 Constitutional Decision No. 13/2003 on Case 11/2003.

the range of persons in need, nor the type, amount or methods of assistance. Due to the diversity of life conditions and situations and the dynamics of the economic possibilities of citizens and society, such regulation is only possible through laws and regulations of a lower rank.¹⁷ The legislature is free, after assessing the necessities of those in need and the capacities of society, to modify these regulations, including by repealing existing legal texts, within the general objective of creating a social state. Such reforms, however, are subject to the condition that they abide by constitutional principles, such as proportionality, and do not encroach upon already acquired subjective positions.¹⁸ Constitutional social rights therefore entail obligations for the legislature, primarily in relation to the requirement to establish institutional frameworks for the realisation of social rights in ways that are constitutionally acceptable.¹⁹ In sum, while the Constitution acknowledges the legislature's margin of discretion in regulating social protection systems, social rights act as a fundamental constraint.

As regards, in particular, minimum income maternity and child benefits, the constitutional case law has been quite limited. The Court has made it clear that in the event that a woman does not qualify for the maternity rights provided by the public social insurance system, the state is obliged to provide social assistance. Moreover, for (expecting) mothers in material need, the family-relevant constitutional rights and state goals result in the obligation of the state to secure auxiliary mechanisms. Namely, additional medical support systems need to realise the subjective right to free pre-obstetric care derived from Article 47, para. 2, of the Constitution.²⁰

In addition, the constitutional case law reveals that the principle of the social state²¹ also bears relevance for social policy on minimum income.

17 Ibid.

18 Constitutional Decision No. 12/1997 on Case 6/1997.

19 Constitutional Decision No. 5/2000 on Case 4/2000; Constitutional Decision No. 10/2012 on Case 15/2011; Constitutional Decision No. 9/2020 on Case 3/2020.

20 Constitutional Decision No. 2/2006 on Case 9/2005, para. 14.

21 Y. Stoilov, *The Principles of Law, Theory and Application/Правните принципи – теория и приложение* (Sibi 2017), pp. 76-77: The author explains that there was a severe debate in the National Assembly during the preparation works for the new democratic Bulgarian Constitution about the phrase “social state”. Some of the “fathers” of the Constitution wanted Bulgaria to be proclaimed as “social state” in a special constitutional article. But others insisted that the Bulgarian state should not be named “social state” at all. As a compromise the “social state” is mentioned only in the Preamble. The author says that “the social state” is not a principle of Bulgarian law but remains only a guideline for social politics. Cf. however, V. Mrachkov, *Social*

The social state is enshrined in paragraph 5 of the Preamble to the Constitution, which proclaims the establishment of a “democratic, just and social state”. Being part only of the Preamble, the social state has long been considered by the legal scholarship as lacking the same normativity as, for instance, the provisions on fundamental human rights.²² However, the social state is a binding programmatic principle. According to constitutional case law, the social state occupies a leading place in policy in terms of matters relating to the material condition and standard of living, as well as to the conditions of work and life, and to the satisfaction of the basic living needs.²³

In addition to providing safety nets related to biological survival, the social state must also be concerned with “the satisfaction of [the individual’s] spiritual needs”.²⁴ The Court further points out that the creation of a social state is not a one-off act, nor is it a campaigning task.²⁵ Rather, the constitutional text proclaims the social state as a permanent goal of social policy that goes hand in hand with the other two values mentioned in the Preamble, namely human dignity and democracy. An important element of the social state is that it requires special care provision for vulnerable groups. These include citizens who, for reasons beyond their control, such as relating to health, age and family, are disadvantaged in relation to other citizens in society. Such people in society include children, the elderly, the mentally and physically impaired and those in material need.

b) International Law

As mentioned above, international law instruments can become part of the national legal framework on the basis of Article 5, para. 4 of the Constitution. The norms enshrined in such instruments take precedence over contradicting norms of the ordinary law. The Constitutional Court has indicated that the Bulgarian legal framework has “openness” towards

Security Law/Осигурително право (Sibi 2010) pp. 47-49: this author, specialised in labour law and social security law, maintains that the “social state” is the main leading idea for the orientation of the politics of the state.

22 E. Tanchev and M. Belov, *Comparative Constitutional Law/Сравнително конституционно право* (Sibi 2009) p. 289.

23 Constitutional Decision No. 8/2012 on Case 16/2011.

24 Ibid., para. V.

25 Ibid., para. V.

international law provisions due to different constitutional provisions.²⁶ Moreover, international law provisions for whose implementation no specific mechanisms are required can generally be applied directly and thus courts can rely on such international law instruments when faced with contradicting administrative or judicial practice.²⁷

When it comes to social law, international law instruments tend to be unable to substantiate subjective rights due to their predominantly open character. Nevertheless, there were instances when international law instruments were able to also yield subjective positions that needed to be reflected in the national legislation.²⁸ Namely, the Constitutional Court established that norms enshrined in ILO conventions on insurance periods for invalidity insurance were in conflict with the more restrictive national law.²⁹ The conclusion resulted in the obligation of the legislature to address the discrepancy in line with the margins of the conventions.

While, in relation to minimum income, international law instruments predominantly serve as programmes for legislative action, this does not diminish their overall influence on social protection. On the contrary, the international law instruments have taken independent significance and have served as benchmarking tools in the development of certain minimum income and support and social inclusion benefits.³⁰ A finding of the European Committee of Social Rights of a violation of the right to social assistance in the ESCR³¹ led to the abolition in the national law of the time restrictions for the granting of minimum income benefits for people of working age.³² International law norms stemming from the ICESCR

26 Constitutional Decision No. 3/2004 on Case 3/2004.

27 Z. Stalev, 'The Constitution and the International Human Rights and Freedoms Treaties/Конституцията и международните съглашения за човешки права и свободи' *Juridical World/Юридически свят* (1999)1, pp. 13, 14.

28 For an in-depth examination of the influence of international law on the social rights framework in Bulgaria, see T. Petrova, *Social Protection in Bulgaria: Functional Systematization and Influence of Constitutional, International, and European Union Law* (Nomos 2024), pp. 165 ff.

29 Constitutional Decision No. 5/2000 on Case 4/2000.

30 T. Petrova, *Social Protection in Bulgaria: Functional Systematization and Influence of Constitutional, International, and European Union Law* (Nomos 2024), pp. 165 ff.

31 'Decision of the Merits, European Roma Rights Centre v. Bulgaria, Complaint No. 48/2008' (2009) para. 46.

32 This reform was also accompanied by a plethora of political considerations. For more on this reform and the international law influences, see T. Petrova, *Social Protection in Bulgaria: Functional Systematization and Influence of Constitutional, International, and European Union Law* (Nomos 2024), pp. 174 ff.

were instrumental when it came to defining some key minimum income concepts in the respective legislation such as the “basic needs of life”.³³ Similarly, the UN CRPD contributed to the modernising of the national legislation in different ways, including by motivating the introduction of more comprehensive and individualised support measures.³⁴ Although neither the Constitution nor the international agreements incorporated into Bulgarian law explicitly recognise the right to a minimum social income or the obligation to establish it as a safeguard against poverty, the social rights enshrined in the Constitution provide a foundation for the development of legislation aimed at ensuring a decent standard of living for those in need.

2. Social Benefits

In Bulgaria, different mechanisms can have a direct bearing on the provision of a minimum income for citizens. The mechanisms stem from different social protection branches that bear different functionalities. The following overview begins by looking into the main tax-financed social assistance, support and social inclusion benefits that have a common administrative setup. Social assistance ultimately addresses the classical risk of poverty. Simultaneously, support and social inclusion benefits, like family benefits and disability allowances, aim at supporting certain groups as an expression of certain public policy goals and/or aim at greater social integration of particular groups. Next, the social security mechanisms providing minimum income are examined. Finally, the overview looks into the auxiliary tax and healthcare mechanisms of relevance to the securing of basic living needs.

a) Social Assistance, Support and Social Inclusion Benefits

Social policy in the fields of social assistance, support and social inclusion is determined at the highest level by the Council of Ministers, which sets the overarching goals and guidelines. The Minister of Labour and Social Policy is responsible for further developing, coordinating and implementing measures within this framework. The Agency for Social Assistance (ASA) is an executive agency of the Minister of Labour and Social Policy

33 Ibid., pp. 173 ff.

34 Ibid., pp. 177 ff.

and implements state policy on social assistance. ASA has the status of a legal entity and is headed by an Executive Director. Pursuant to Article 19(4) of the Law on Administration, the Executive Director has the status of an executive authority but is subordinate to the relevant line minister. The financing of social assistance is carried out with funds from the state budget.

Structurally, the ASA has a central administration based in the capital Sofia. There, as part of the specialised administrative units, the General Directorate of Social Assistance is located. Its territorial subdivisions are the regional directorates for social assistance in the cities which are the centres of the 28 administrative districts of Bulgaria, and a further 147 directorates for social assistance – one for each of several neighbouring municipalities. Overall, the system of Social Assistance Directorates (SAD) of ASA is charged with numerous and diverse social functions, some of which are related to social services, the rights of persons with disabilities, child protection, the implementation of employment programmes, and others.

The provision of social assistance and support and social inclusion benefits is one of the main tasks of the SAD territorial units. They carry out the overall activity of granting, paying, refusing and terminating all types of social assistance referred to in Article 12, para. 1 of the Social Assistance Act (SAA),³⁵ as well as family allowances for children under the Family Allowances for Children Act (FACA).³⁶ For this purpose, the SADs are also tasked with identifying persons and families in need of social assistance, managing the application documents and carrying out on-the-spot checks, as well as examining documentation and collecting information on social assistance provision.

The SADs also manage the lump-sum and monthly family allowances for children. These tax-financed payments represent financial expressions of the demographic policy and are intended to stimulate birth rates and to support the responsible fulfilment of parental care and education obligations. Most of them are granted irrespective of family income and only two of the benefits regulated by the FACA aim at guaranteeing a minimum income, namely the lump sum pregnancy allowance (Article 2, para. 2, item 1) and the monthly allowance for raising a child up to one year of

35 Social Assistance Act/Закон за социалното подпомагане, SG/ДВ 56/19.05.1998.

36 Family Allowances for Children Act/Закон за семейните помощи за деца, SG/ДВ 32/29.03.2002.

age (Article 2, para. 3, item 1). These are means-tested and are designed as a benefit substitute for those who do not qualify for the pregnancy and childbirth allowance provided by the social security system (Articles 48a-50 of the Social Insurance Code (SIC))³⁷. The SADs also administer a means-tested monthly childcare allowance that is paid until the completion of secondary education.

Furthermore, the ASA through its local SADs is charged with some key functions in relation to the tax-financed integration support for persons with disabilities. According to the Disabled Persons Act (DPA),³⁸ the SADs have specialised departments which prepare individual comprehensive social assessments of the respective persons with disabilities. The SADs issue a conclusion on the supportive measures needed in the specific case based on the data collected on the functional difficulties of the person with a disability and their impact on the way of life and living conditions. The measures are varied and may include various social services, personal assistance and other actions, which are regulated in separate laws.

b) The Social Security System

The social insurance system also includes mechanisms to guarantee a certain minimum income that is often, but not always, subjected to the presence of a sufficient contribution record. In terms of the system's institutional organisation, the National Social Security Institute (NSSI) is the main public insurance institution in Bulgaria. The NSII "manages the public social security" (Art. 33, para. 1 of the SIC), most notably by administering mandatory insurance and benefit payment for the risks of general sickness and maternity, unemployment, occupational accidents and diseases, disability, old age, and death. The collective decision-making body of the NSSI, the Supervisory Board, is staffed on a tripartite basis with an equal number of representatives of the executive and of the representative trade union and employers' organisations. The NSSI manages the pay-as-you-go social security funds that are mainly collected from insurance contributions and flow into separate funds according to the type of insured risks.

In the social security system, the provision of minimum income is carried out through numerous mechanisms targeting various social situations

37 Social Insurance Code/Кодекс за социално осигуряване, SG/ДВ 110/17.12.1999.

38 Disabled Persons Act/Закон за хората с увреждания, SG/ДВ 105/18.12.2018.

and groups. While normally the amount of social security transfers varies for each beneficiary depending on their contributions, a minimum income function can be provided through different guaranteed minimum amounts for some short or long-term payments, such as the guaranteed minimum amounts of unemployment benefits, disability benefits and pensions due to general sickness or occupational disease/accident. The provision of a minimum income in old age is guaranteed by various measures and schemes. Persons entitled to public pensions under the statutory scheme are guaranteed benefits of at least the statutory minimum pension level. The minimum amount of the retirement pension as of the beginning of 2023 was BGN 467,³⁹ which is itself below the official at-risk-of-poverty threshold of BGN 504.⁴⁰ After 1 July 2024, the situation looked a little better – with the minimum amount of this type of pensions being BGN 580.57 and the at-risk-of-poverty threshold being BGN 526. Still, for some other types of pensions, like the widow's and orphan's pensions, the minimum is calculated as 75% of the minimum for the old age pension, i.e. in 2024 this amounts to BGN 435.42.

The system also foresees tax-financed minimum income mechanisms for people who lack a sufficient insurance record, such as non-contributory pensions. Destitute elderly persons who are at least 70 years of age and are not entitled to any other type of pension can qualify for the social old age pension, as provided by Article 89a of the SIC. The eligibility conditions are based on some of the factors used to assess eligibility for social assistance benefits. In particular, the beneficiaries' income or their family's annual income must be equal or less than the amount of the monthly income that is the social assistance base line for the preceding 12 months (Art. 89a, para. 1 of the SIC). The assessment of income for the social old age pension does not include social assistance benefits granted so that it could enable the transition from social assistance to the entitlement to the non-contributory pension. The flat-rate amount is determined by a decision of the Council of Ministers and equals BGN 276.64 in 2023, and BGN 307.07 from 1 July 2024.⁴¹ As of 31/12/2022, a total of 5050 persons have been receiving this

39 Art. 10, item 1, Law on the Budget for the Public Social Insurance for 2022/Закон за бюджета на държавното обществено осигуряване за 2022, SG/ДВ.

40 See below, Section III.1.b).

41 Resolution No. 94 of 27 June 2023 on Determining a New Amount of the Social Old Age Pension/Постановление № 94 от 27 юни 2023 г. за определяне на нов размер на социалната пенсия за старост, SG/ДВ 56/30.6.2023, in force from 01/07/2023.

type of pension, of whom 1034 were granted this payment in 2022. This has cost the non-contributory pension fund of the NSSI an amount of BGN 13,030,593.⁴²

There are two further pensions belonging to the group of non-contributory pensions regulated in the Code of Social Security which also serve to guarantee a minimum income in some exceptional situations. These include the personal pensions under Article 92 of the SIC for mothers with many children and for long-term carers of a disabled family member in need of assistance. These pensions are subjected to the same income criteria as the social old age pension. Apart from the means-testing aspect, a common requirement for both pensions is that the beneficiary must not be entitled to any other pension (Art. 89a of the SIC). Qualifying conditions also include minimum age requirements that, similarly to the social old age pension, are heightened in comparison to the statutory contributory pensions. Accordingly, in 2023, the minimum age for personal pensions was 67 for both sexes. The flat-rate amount of the benefit equals 90% of the amount of the social old age pension. The pensions are granted by decision of the Council of Ministers and the number of pension recipients on 31/12/2022 was 1241.⁴³

The social disability pension (Article 90a of the SIC) represents a further pension granted on condition that no other pension is received. The social disability pension is not means-tested and covers persons above the age of 16 with permanent and a high percentage work incapacity. The benefit may be cumulated with income from other sources, including wages, if the person can use his/her residual working capacity. Accordingly, this type of pension does not always have the role of a minimum income mechanism. In the period 2000-2012, the social disability pension, reduced by half, was granted even to persons with disabilities who received a further type of pension. This decision was governed by the logic that the 50% of the determined social disability pension were added to the basic type of pension to compensate for the increased costs resulting from the presence of a permanent disability. Hence, the incomplete payment of the social disability pension de facto acted as a social integration supplement for pensioners with disabilities. This practice was permanently abolished in 2019, when the

42 National Social Security Institute, 'Statistical Bulletin – Pensions/Статистически бюлетин – Пенсии' (2023), p. 18 <https://www.nssi.bg/wp-content/uploads/STATB4_2022.pdf> accessed 12.11.2024.

43 Ibid.

same function was taken over by the monthly disability allowance provided under the DPA. However, the statutory social security system continues to provide for a supplement designed to offset a necessary assistance expense arising from a pensioner's disability. This is the supplement under Article 103 of the SIC for persons with disabilities to a degree of over 90% who are in permanent need of care.

In terms of interplay of the different schemes, the relationship between the social and personal pensions and the social and family allowances for children granted by the SAD is established in such a way that the situation of social and/or family assistance does not, in principle, exclude the possibility of granting or necessarily leading to the loss of the corresponding pension. The means-testing for the granting of the pensions does not take into account granted social assistance payments as well as most of the social inclusion benefits for persons with disabilities and the family benefits for children.⁴⁴ The only exception to this rule is the family monthly allowance for raising a child up to one year, which is included in the means-testing.

c) Complementary Mechanisms – Healthcare and Tax Systems

Different healthcare and tax mechanisms contribute to the goal of securing minimum income. In Bulgaria, health insurance is organised in a separate insurance system. It is administered by the National Health Insurance Fund (NHIF) on the basis of the Health Insurance Act (HIA),⁴⁵ the annual NHIF Budget Act and framework agreements between the NHIF and the professional organisations of doctors and dentists. The system is pay-as-you-go-financed with health insurance contributions forming 8% based on income.

Access to health care and medicines provided under the public health insurance may be considered in some hypotheses as an additional mechanism to guarantee basic living standards although in terms of functionality their primary goal is to contribute to public healthcare. The state budget

44 Pursuant to Art. 8 (1) of the Pensions and Contribution Record Ordinance, the annual income of a family member for the purposes of applying the income threshold for entitlement to the social old age pensions and to personal pensions does not include the care assistance supplement, social assistance benefits, nor the one-off family allowances, nor the monthly allowances for raising a child up to the completion of secondary education and for raising a child with a disability under the SAA, nor the financial allowances provided under the DPA.

45 Health Insurance Act/Закон за здравното осигуряване, SG/ДВ 70/19.06.1998.

covers health contributions for citizens who are eligible for monthly social assistance benefits and targeted heating allowances under the SAA if they are not insured on other grounds (Article 40, para. 3, item 5 of the HIA). The same applies to persons who are beneficiaries of social or integrated health and social services for residential care and social services for shelter financed by the state budget. All beneficiaries of the public pension system, but regardless of the type and amount of the pension, are also health-insured at the expense of the state budget (Article 40, para. 1, item 4 of the HIA). This also applies to children up to the age of 18 and full-time students up to the age of 26 (Art. 40, para. 3, items 1-3 of the HIA). Pursuant to Art. 37, para. 4 of the HIA, children and persons receiving social assistance benefits are also exempted from paying fees for doctor's visits and hospital treatment.

In addition to health insurance, the healthcare system provides tax-financed services. In terms of their functionality, these services are part of the healthcare obligations of the state and are not a minimum income mechanism, but could also contribute to the basic living standards of those in material need. Some of these benefits are provided in case of interrupted health insurance status and can thus contribute to preserving the basic living standards. Such services include medical care related to pregnancy and childbirth, intensive care, psychiatric treatment, and communicable venereal and skin diseases (Art. 82, para. 1 of the Health Act⁴⁶). These services are instead covered by the public health insurance should the person have regular health insurance rights. Other benefits are provided regardless of whether the health insurance rights are interrupted. These benefits include emergency medical care, organ, skin and cell transplants, assisted reproduction, compulsory vaccinations and others.

Apart from the healthcare system, the tax regulation also contributes to guaranteeing a minimum income for citizens through tax exemption measures. Namely, the benefits obtained from the public social security, including all of the public pension benefits, are exempted from taxation. In addition, the social assistance benefits, the family and child benefits, and the disability allowance are also exempted from income taxation.

46 Health Act/Закон за здравето, SG/ДВ 70/10.08.2004.

III. Analysis

1. Minimum Income for Single Individuals with Working Capacity

The following section focuses on the general minimum income options available to working-age adults with the capacity to work who are not disabled and live alone (without children, a spouse, or other household members). Such individuals in material need can either rely on social assistance benefits or unemployment benefits from the social security system. However, to obtain the right to unemployment benefits, the requirement is that they have previously lost their job and have reached a sufficient contributory period with the unemployment fund of the NSSI. The basic relationship between social insurance and social assistance is one of mutual exclusion and this is evidenced in the very limited possibilities for interaction between the systems providing social income for people of active working age. People registered as unemployed who have lost their jobs receive unemployment benefits from the NSSI if they meet the requirement of at least 12 months of unemployment insurance contributions in the previous 18 months. The time limit for receiving this benefit varies between 4 and 12 months depending on the length of insurance. The minimum monthly amount in 2023 was BGN 400 and the maximum was BGN 1880; in 2024, the minimum has stayed the same but the maximum has been increased to BGN 2357.08. While receiving unemployment insurance benefits, the unemployed person has resources exceeding the differentiated social assistance income. Only in extremely severe social hypotheses, in which the minimum unemployment benefit is the only own source of support for an entire household including two or more other members without any income, will the right to a monthly social assistance also arise; this will supplement the difference between the social insurance benefit of BGN 400 and the total sum of the differentiated minimum income for the cohabitants of BGN 157.80 (in 2024) multiplied by the number of the family members. Hence, social assistance for unemployed persons, especially those living alone, is regulated as an exclusive and last-resort safety net to guarantee a minimum income; this monetary assistance is generally not activated in the presence of unemployment insurance benefits.

a) Beneficiaries

Article 2(1) of the SAA establishes an obligation for Bulgarian citizens to take care of their living needs. The same applies to foreigners with a long-term or permanent residence permit in Bulgaria, asylum-seekers, refugees or beneficiaries of humanitarian protection, and persons with temporary protection. Whenever persons with a work capacity, between the age of 16 and the general retirement age, are unable to provide for themselves and their families, social assistance is the only potential source of social income for them. The main prerequisite is that they are at some point unable, for reasons beyond their control, to meet their own basic living needs through income from work or property, and that, in general, all possibilities of self-support have been exhausted.

b) Means Test

Social assistance is subject to tight qualifying conditions. Apart from stringent means-testing, the conditions include the requirement that one should have exhausted the extensive maintenance possibilities according to Article 140 of the Family Code⁴⁷ prior to turning to social assistance. In addition, the law contains further requirements such as rules regarding the size of the occupied dwelling by the applicant and the amount of savings. Social assistance is conditional, in principle, on the person's inability to meet the basic needs of life, either through work or income from property, but also through maintenance by a spouse or relatives obliged under Article 140 of the Family Code. Pensioners often have immovable property and also a close family circle from which they can, in theory, claim maintenance. According to Article 142(1) of the Family Code, the amount of maintenance shall be determined according to the needs of the person entitled to maintenance and the means of the person who owes it. If it is not provided voluntarily, maintenance orders must be sought in court. According to Article 11(2) of the Regulation for the Implementation of the SAA, persons whose relatives are legally obliged to financially support them are not entitled to monthly social benefits at all.

47 Family Code/Семеен Кодекс, SG/ДВ, 47/23.06.2009: "Article 140. (1) The person entitled to maintenance may seek it in the following sequence: 1. children and spouse; 2. parents; 3. former spouse; 4. grandchildren and great-grandchildren; 5. siblings; 6. grandparents and ancestors more times removed".

In terms of means-testing, people used to be able to qualify for social assistance benefits if their income was lower than the legally defined levels. For a long time, the definition of the levels was based on the so-called normatively defined “guaranteed minimum income”. The monthly amount of the guaranteed minimum income was determined by the Council of Ministers. This legislative solution was criticised for its lack of reliance on objective indicators based on the costs of living in the country.⁴⁸ The definition of the minimum income threshold has thus been recently reformed with the new changes in the law having come into force as of 01/06/2023.⁴⁹ The reform foresees that instead of relying on the guaranteed minimum income as a base value, minimum income levels will now be determined in relation to a social assistance base line. The social assistance base line equals 30% of the at-risk-of-poverty threshold⁵⁰ established by the government for the given year. For 2023, for instance, the at risk-of-poverty threshold was established at BGN 504 resulting in BGN 151.20 for 2023 as a social assistance base line. This is double the amount of the guaranteed minimum income of BGN 75,⁵¹ which was used as a reference base for social assistance for several years despite increasing living costs.

The threshold amount of the social assistance base line is then discerned in differentiated thresholds to detect a greater need for support based on the individuals’ health conditions and family situation. The means test for assessing entitlement to monthly social assistance is to find evidence that the income of the person or of the cohabitants for the previous month is lower than the differentiated income defined in the Regulation for the Implementation of the SAA, or the sum of the differentiated incomes. For a person living alone, the differentiated income is 165% of the social

48 For instance, see European Commission, ‘Country Report Bulgaria 2017’ (28 February 2017) <https://commission.europa.eu/system/files/2017-03/2017-european-semester-country-report-bulgaria-en_3.pdf> accessed 12.11.024.

49 Law Amending and Supplementing the SAA/Закон за изменение и допълнение на ЗСП, SG/ΔB 102/23.12.2022.

50 The at-risk-of-poverty rate is the share of people with an equivalised disposable income (after social transfers) below the at-risk-of-poverty threshold, which is set at 60% of the national median equivalised disposable income after social transfers. In Bulgaria, the amount is set by a decree of the Council of Ministers on the proposal of the Minister of Labour and Social Policy. Pursuant to Decree No. 286 of 21/09/2022, the poverty line in the country in 2023 equalled BGN 504.

51 Ordinance of the Council of Ministers/Постановление на Министерски съвет №305/19.12.2017, SG/ΔB 102/22.12.2017.

assistance base line. For each cohabitant, the differentiated income would be 100% of the social assistance base line.

c) Benefits

The Social Assistance Act defines the term “basic necessities of life” as “sufficient food, clothing and housing, according to the socio-economic development of the country” (§1, item 1, supplementary provisions, SAA). The provision of these basic necessities is carried through via means-tested monthly, targeted and one-off benefits. The main type of benefit is the monthly cash benefit under Article 9 of the Regulation for the Implementation of the SAA.⁵² The beneficiary will receive the benefit in an amount that covers the difference between his/her own income and the differentiated income thresholds. The individual's own income received in the previous month is subtracted from the differentiated income.⁵³ The resulting difference shall be supplemented by a monthly social allowance in that amount.

The same Regulation provides for the monthly targeted allowance for renting a municipal dwelling under Article 14 that also addresses the function of securing basic living needs. The targeted heating allowance for individuals and families during the heating season can also be included in the present analysis as it is based on the concept of securing 'basic income for heating', thus representing a specific type of minimum income for the energy poor.⁵⁴

Those eligible for monthly social assistance benefits and targeted heating allowances are covered by health insurance at the expense of the state budget. They are also exempted from paying patient fees for doctor's visits and hospital stays. In this way, the health insurance system, in turn, contributes to guaranteeing the material prerequisites for a decent life, but above all, in this way, the state's obligation to guarantee citizens the right to health is fulfilled.

52 Regulation for the Implementation of the SAA /Правилник за прилагане на Закона за социално подпомагане, SG/ΔB 133/11.11.1998.

53 Art. 9, para. 1, Regulation for the Implementation of the SAA, SG/ΔB 133/11.11.1998.

54 Provided for under Ordinance No. 07-5/16.05.2008 (Наредба № ПД 07-5/16.05.2008 г.).

d) Conditionalities

Potential social assistance beneficiaries who have working capacity and are of working age need to comply with some further conditionalities. Such persons need to be registered as unemployed with the State Employment Office. Registration as unemployed must have been made and maintained for at least 3 months before applying for monthly social assistance. The beneficiaries obtain the right to apply for social assistance 3 months after registration if they have not found work, nor refused a proposal for work or educational training made by the Employment Office. An exception is made for students in a field of study for which attendance is required. While unemployed, adults are obliged to perform 40 hours of work per month within the frame of skills training state programmes or work for the municipality, as well as to participate in literacy and/or educational training, during which time they do not perform the above work. In the event of refusal to perform community service, the monthly allowance shall be suspended for a period of two months from the 1st of the month in which the refusal is made. In the event of a repeated refusal within the previous 3 years, the monthly benefit shall be suspended for 6 months.

Unemployed persons receiving monthly social assistance are also obliged to participate in employment programmes approved by the Minister of Labour and Social Policy. These programmes are implemented jointly by municipal administrations, state, municipal and private enterprises and other legal entities, labour offices and SAD territorial units. Refusal to participate in employment programmes is sanctioned by deprivation of monthly benefits for a period of 6 months, unless the reason is a care commitment for a sick or needy family member in need of permanent care assistance. Termination of registration with the Employment Office due to failure to fulfil in good faith the obligations under the individual action plan drawn up for the person by the Office intermediary leads to the impossibility of re-registration in the following 3 months. This entails the loss of entitlement to monthly social assistance for that person and requires a specific reassessment of the continuation of assistance for the other assisted persons living with him/her.

e) Evaluation

As the illustration of benefits has revealed, the social assistance system in itself offers very limited subsistence amounts and is subject to tight conditionality. While the 2023 legislative changes raised the income threshold for monthly social assistance and eased the requirements for community service, these benefits are still limited to only the most destitute individuals – those with incomes in the lowest 30% below the poverty line. This means that social assistance reaches only a small fraction of those living in poverty, covering less than half of those in need. As a result, the assistance provided does not meet even the most basic subsistence needs, leaving many beneficiaries trapped in extreme poverty.

It is questionable to what extent it is at all possible for a single person, living alone, to physically survive on an income, for example, equal to 165% of the social assistance base, i.e. BGN 249 in 2023, raised to BGN 260.37 in 2024. The question has a categorically negative answer if the cost of food has to be added to the cost of rent and household bills.

The chapter has revealed that entitlement to social assistance is subjected to sanctions in the form of deprivation of monthly social benefits in the absence of registration as unemployed or upon refusal to participate in labour activation programmes. Apart from the sanctions, the recent changes in the social assistance legislation introduced a monetary incentive for the reintegration of beneficiaries into the labour market.⁵⁵ According to Article 11a of the Regulation for the Implementation of the SAA, any assisted unemployed person who starts work under an employment relationship is entitled, in the following 3 months of the calendar year, to continue to receive social assistance in an amount equal to the last social assistance received before starting work. This is a real support for social inclusion and encourages, albeit with a modest amount, the exit from a situation of marginalisation.

The analysis reveals that for people with working capacity the subsistence on monthly social benefits, although a subjective right, is not considered a normal situation but rather an emergency and temporary situation in the legislative framework. The considerably low levels of support clearly serve to incentivise beneficiaries to leave the social assistance system as quickly as possible and to support themselves by returning to the labour

55 Law Amending and Supplementing the SAA/Закон за изменение и допълнение на ЗСП, SG/ДВ 102/23.12.2022.

market or by finding other legitimate sources of income. The SAA sets as its objectives the satisfaction of the basic necessities of life and the support of social inclusion of persons in difficult situations. However, the social income provided through the monthly social assistance benefits still does not fully fulfil the function of guaranteeing sufficient purchasing power for food, clothing and housing, in line with the socio-economic development of the country, and does not effectively promote real social inclusion of the beneficiaries.

In 2022, only 19,620 individuals and families benefited from the main type of material support – the monthly cash social assistance.⁵⁶ The low number of beneficiaries could be examined against the background of the tight qualifying conditions and the low level of the guaranteed minimum income value. A study of 2021 established that only 4.6% of those with incomes under the at-risk-of-poverty threshold are recipients of social assistance benefits.⁵⁷ After the reform of the definition of the minimum income thresholds, the government foresees that this change will allow for a threefold increase in beneficiaries of social assistance⁵⁸ as it will result in higher income thresholds used in the means-testing. And data have already confirmed these expectations.⁵⁹

56 Social Assistance Agency, 'Report on the Activities of the Social Assistance Agency for 2022/ Отчет за дейността на Агенцията за социално подпомагане за 2022г.' (14 March 2023), p. 7 <<https://asp.government.bg/uploaded/files/7129-YearlyASP-podpis-an.pdf>> accessed 12.11.2024.

57 Institute for Market Economy, 'Opinion on the Council of Ministers' Draft Amending and Supplementing the Regulation for the Implementation of the SAA/ Относно проект на Постановление на Министерския съвет за изменение и допълнение на Правилника за прилагане на Закона за социалното подпомагане' (21 July 2021), p. 2 <https://ime.bg/var/images/IME_GMI_july2021.pdf> accessed 12/11/2024.

58 Ministry of Labour and Social Policy, 'Partial Pre-Impact Assessment/Частична предварителна оценка на въздействието' (2023) p. 4 <<https://www.strategy.bg/PublicConsultations/View.aspx?lang=bg-BG&Id=7515>> accessed 12.11.2024.

59 The government expects that in 2025 the total number of people and families receiving social aids will be near 58,000. That is 5% more than stated in the data for 2024, see Ministry of Labour and Social Policy, 'Новата линия на бедност ще увеличи с 21% финансовата подкрепа за 700 000 хора с увреждания' (2024) <<https://mlsp.government.bg/eng/novata-liniya-na-bednost-shche-uvelichi-s-21-finansovata-podkrepa-za-700-000-khoro-s-uvrezhdaniya>> accessed 12.11.2024.

2. Children and Families

a) Social Income Related to Maternity

Pregnant women with Bulgarian citizenship during the last 45 days of pregnancy are, if they are not entitled to maternity allowance from the social security system and have a taxable income per family member for the previous year lower than the threshold provided for in the State Budget Act (BGN 610 in 2023, BGN 810 in 2024) entitled to a lump sum allowance in the amount specified in the same Act (BGN 150 in 2023, BGN 255 in 2024). Moreover, as only income from work and property is taken into account, the receipt of this assistance cannot be prevented by the fact that the woman and her family may have been beneficiaries of income from social protection sources in the previous 12 months. Under the same conditions, a monthly allowance in the amount of BGN 200 in 2023 (unchanged in 2024) is granted until the child reaches the age of one if the non-working mother takes care of the child, resides in Bulgaria for at least 183 days of the year and takes the child for compulsory immunisations and paediatric examinations.

The transition from social assistance in the preceding 12 months to family benefits from the end of pregnancy until the child reaches the age of one is statutorily intended to be seamless. In addition to cash, these benefits may also be granted in the form of goods and/or services that the child needs, at the discretion of a social worker. This is always done in the case of minor mothers, as well as in the case of neglect of child care duties and abuse of the cash assistance. Both benefits are a social substitute for maternity insurance payments under the social security system. They are arranged so that they can be received not only by unemployed women from materially deprived families, but also by women with a slightly higher household standard of living, including those insured under the social security system, but without sufficient insurance periods to receive the maternity benefit.

This type of family support is a separate and independent form of guaranteed social income for mothers. The grounds for its payment are strictly specific – maternity as a vulnerable period of life during which there is a functional incapacity for work due to advanced pregnancy and subsequent care of a baby for up to 12 months. However, its monetary amount makes it only a partial maternity support, in contrast to the maternity benefit under the social security system, which consists of 90% of the woman's

average income assessed over the previous 24 months. Hence, the monthly allowance for childcare for up to 12 months is not a sufficient source of support for the life of the woman and her child if they cannot rely on other taxable income and/or financial support from the father.

The benefits granted under the FACA – compared to maternity insurance benefits provided by the social security system – offer lower amounts and cannot fulfil the purpose of a social income for a decent life if the woman and her child rely solely on them. Separately, the system of general social assistance cannot be added onto family assistance so as to lead to an increase in the social income of mother and baby. There is no statutory prohibition on the simultaneous receipt of monthly social assistance under the SAA and the family allowances received by the mother for pregnancy and child-rearing for up to one year. In practice, however, such a combination is only possible in situations of drastic material deprivation.⁶⁰ The reason is that all the benefits under the FACA, further sources such as child support awarded to children, and possibly the pensions of other family members, are taken into account in the social assistance means-testing. Regardless of the fact that the aggregated amount of such sources could be lower than the at-risk-of-poverty threshold, the sum usually exceeds the even lower income and property limit set to access social assistance. Nevertheless, even in the specific situation of poor single mothers, if the combination of family benefits with monthly social assistance becomes possible, the interplay of the systems does not guarantee a sufficient social income and does not constitute effective material prevention against the risk of baby abandonment.

b) Monthly Childcare Allowance

A monthly childcare allowance is granted until the completion of secondary education. The allowance represents a benefit essentially linked to the social risk of 'responsibility for bringing up children' within the meaning of Article 40 of the ILO Convention No. 102 (Minimum Standards), 1952. In

60 For example, in 2023 a single mother with one child under 12 months of age and a total income of only BGN 250 from family benefits was entitled to receive social assistance up to the amount of BGN 332.64 – the sum of the differentiated income for social assistance of her and the baby, but only in the case that the child does not have an income of its own from an award of maintenance from the other parent.

reality, entitlement to the allowance can start at the same time as the mother's receipt of the monthly childcare allowance until the age of one, because the maximum income threshold for both types of benefits coincides.⁶¹ The amount of this type of monthly childcare allowance is set in the annual budget law and, because of its additional birth incentive function, also depends on the number of children in the family (BGN 50 for one child, BGN 110 for two, BGN 165 for three, BGN 175 for four, increasing by BGN 20 for each additional child). Benefit entitlement is also conditional on the fulfilment of conditions related to the responsible upbringing and education of the child.

The one-off and monthly child allowances received by the family, including the monthly allowance for raising a child until the completion of secondary education, are considered as income which is taken into account in the means-testing for assessing entitlement to the various social assistance benefits (§1, item 9, letter "m" and item 10, letter "c" of the Regulation on Implementing the SAA).⁶² This is an important correlation between family and social assistance, demonstrating the limited interaction between the two systems. Separately, families with children and children with disabilities are also encouraged financially through tax reliefs (Art. 22 "c" and Art. 22 "d" of the Personal Income Tax Act (PITA))⁶³. The amount of the refunded tax relief is not enforceable by creditors of the parents (Art. 22 "c", para. 10, PITA). This confirms the refund's purpose as a specific type of child-rearing aid. These tax reliefs do not serve to guarantee a minimum income, because cash sums are returned only to families with taxable income.

61 The full amount of the monthly allowance for raising a child until the completion of secondary education is granted if the family income is up to BGN 510. And if the income is between BGN 510.01 and BGN 610, the amount of the allowance is reduced by 20%. In 2024, these income thresholds have been increased to BGN 710, and for the reduced allowance to between BGN 701.01 and BGN 810. The amount of the allowances has not been increased this year.

62 Exceptions are the one-time universal birth allowance and the one-time universal allowance for a child starting the first year of school education.

63 Personal Income Tax Act/Закон за данъците върху доходите на физическите лица, SG/ДВ 95/24.11.2006.

c) Social Assistance for Families with Children

Social assistance is intended for families with children following the same general idea as assistance provided for other materially disadvantaged groups and single individuals with working capacity. Monthly social benefits are not designed to provide beneficiaries with an income sufficient for the family to have a decent standard of living, but rather function as a minimal financial emergency support for a difficult life situation. In addition to families with children, beneficiaries of monthly social benefits may be Bulgarian citizens and equivalent groups of foreigners cohabiting with others and registered at the same home address, whether or not they have a family relationship.

The differentiated incomes for the means test are different for families than for single individuals. The differentiated income for access to monthly social assistance for pregnant women (starting from 45 days before the estimated due date) and for a parent raising a child up to the age of 3 is 120% of the social assistance base line. Thus, in 2023 such income had to be below the amount of BGN 181.44, and in 2024 it was set at BGN 189.36. For each child in the family, the upper income threshold is equal to the social assistance base line, i.e. BGN 151.20 for each child, plus an allowance supplementing the difference between the threshold and the income is granted. For a single parent raising a child or children up to the age of 18, and if the children are in education, the monthly support can be received up to the age of secondary education but not exceeding the age of 20. The maximum income threshold for the benefit is 120% of the social assistance base line.

In the case of a hypothetical two-parent family with children over 3 years of age, the upper income threshold for receiving social assistance is set for each member at 100% of the social assistance base line, which is BGN 157.80 per person in 2024. Under the thresholds thus established, in practice, families with one or two parents are mainly entitled to monthly social assistance if they are unemployed and if all family members have no income, including from other social security or social sources (i.e. pensions, financial support for disability, scholarships, alimony), with the exception of monthly childcare allowances until the completion of secondary education. While families with minor children receive these monthly childcare allowances, they are not intended to serve as sufficient financial support for raising children in poor families. In fact, the primary purpose of these allowances is to promote childbirth, rather than to ensure the financial

stability of poor families. The amount provided – BGN 50 for one child, and up to BGN 175 for four children – remains very low, and is far from sufficient to help families escape poverty.

Assisted parents, if able to work, must actively seek to regain the ability to support themselves. Evidence of this is the requirement for all parents of children over 3 years of age to register with the Employment Office, to participate in employment and skills training programmes and to undertake 40 hours of community service per month. In cases where an unemployed family member – a parent or child older than 16 years with completed compulsory education – has not registered or refuses to register with the Employment Office Directorate, this not only leads to the termination of the assistance; it also means that the monthly assistance for the remaining family members is granted only after an assessment of the objective situation carried out by a committee of two social workers, with the social report describing in detail the reasons for the refusal to seek work.

A special condition for the granting of social assistance to families with children is the requirement of regular attendance at a compulsory pre-school and school establishment, if the child's health permits. Absences from school classes and complete dropout from school lead to a drastic reduction in the monthly social assistance granted to the family – by as much as 70% and 80% respectively. The assistance is reduced by 50% if a child aged 16 to 18 does not continue his/her education but also does not look for a job. When determining the amount of the targeted heating allowance for families under the current regulations, the differentiated income for children also varies much depending on additional factors such as whether they are in education, whether they have a permanent disability to a degree of 50% or more, whether they are orphans, whether they are being raised by their parents or are in foster care.

As a general conclusion, two features stand out in terms of the social assistance of families with children of school age, namely the low benefit amounts combined with the clearly defined function of encouraging parents not to abdicate their two most important responsibilities: the responsibility for securing the material maintenance, and the education of their children. However, so far, this has not yielded undeniable practical results as to whether this approach effectively incentivises responsible parental behaviour.

3. Life in Dignity and the Elderly

Loss of working capacity due to old age exposes the elderly to a serious risk of poverty. The measure of the social system designed to counteract this is public pension provision. According to figures presented by the Minister of Labour and Social Policy during a parliamentary scrutiny in October 2022, the total number of pensioners in Bulgaria was 2,303,988. Of these, 306,460 were below the 2022 at-risk-of-poverty threshold.⁶⁴ The receipt of statutory old age pension does not provide a full guarantee that an elderly person will have sufficient resources to lead a dignified and independent life. This is particularly true for those who live alone in a household. The minimum amount of this type of pension was BGN 523.04 per month in 2023 and has been BGN 580.57 per month from 1 July 2024.⁶⁵ The minimum amounts of the other contributory pensions (i.e. for disability due to general sickness or occupational disease/accident)⁶⁶ are equal to or slightly higher than the minimum statutory old age pension. Given that the at-risk-of-poverty threshold in 2023 was BGN 504, and BGN 526 in 2024, virtually all persons with minimum amounts of contributory pensions receive a benefit that is only slightly over the at-risk-of-poverty threshold. These persons can still be considered as poor if they do not also receive income from other sources or do not live in a common household with a person with a higher income. Simultaneously, elderly persons with minimum pensions cannot, in practice, supplement their income with monthly social assistance due to the low means-testing thresholds for social assistance.

The receipt of any non-contributory pension is considered as income for the purpose of calculating the income threshold for social assistance and family benefits (§1, item 9, letter “c” and §1, item 2 of the supplementary provisions of the SAA). Therefore, despite the new way of determining the social assistance basis and the new percentage of the differentiated income for social assistance, the calculations show that a single pensioner with a

64 T. Petkova, 'More than 300,000 pensioners are below the poverty line/Под линията на бедност са над 300 000 пенсионери' (18 November 2022) <<https://nova.bg/news/view/2022/11/18/390820/лазаров-под-линията-на-бедност-са-над-300-000-пенсионери/>> accessed 12.11.2024.

65 The pensions are annually indexed according to the rule laid down in Article 100 of the SIC.

66 It should be borne in mind that these disability pensions are granted on the basis of disability, irrespective of age, and are therefore often cumulated with earnings from employment if the pensioner has not reached the general retirement age and has retained partial capacity to work.

social old age pension will not qualify for social assistance. Specifically, the social old age pension in 2023 was BGN 276.64, compared to the social assistance base of BGN 151.20 used to determine eligibility for social assistance. In 2024, the amounts have slightly increased to BGN 307.07 for the pension and to BGN 157.80 for the social assistance base, but this still does not affect the outcome. In essence, the current amount of the social old age pension exceeds the differentiated minimum income for social assistance, excluding pensioners from qualifying for additional support. This situation also applies to personal pensions, even though their amounts are lower than the social old age pension.

The issue lies in the fact that, while these pensioners may not qualify for social assistance, their income remains far below the at-risk-of-poverty threshold, which is set at BGN 526. Living solely on a social old age pension of BGN 307.07 leaves individuals well below the poverty line, making them economically vulnerable. However, the social assistance system is designed to support only those in extreme poverty within the broader category of poor individuals, meaning that pensioners living just above the differentiated minimum income threshold are left without additional financial aid despite their precarious financial situation.

Of all the social assistance benefits, only the targeted heating allowance is specifically designed to be used by pensioners with low pensions. To this end, when determining eligibility for targeted heating allowances, the amount of the pension is first reduced by multiplying it by a factor of 1.384.⁶⁷ After this reduction, it is assessed whether the pensioner's average monthly income for the preceding 6 months before the month in which the application is submitted is less than or equal to the differentiated heating allowance. However, in order to be eligible for heating assistance, pensioners must also meet the negative preconditions for social assistance already outlined in the social benefits section. Such aspects additionally limit the coverage of social assistance for the elderly.

Most elderly people, in addition to their natural incapacity for work due to old age, have health problems leading to permanent disability. The increased costs associated with disability are also an identified impoverishment risk among persons in the older age group, who are most often also

67 For each new heating season, by order of the Minister of Labour and Social Policy, the coefficient is updated on a chain basis with a percentage equal to or greater than the percentage determined under the rule of Art. 100, para. 1 of the SIC for pension indexation.

pensioners. The examined above allowances for persons with disabilities regulated by the Disabled Persons Act can be received with pensions and thus supplement the income. The previous part revealed that these benefits are calculated as percentages of the at-risk-of-poverty threshold. The legislature recognises that disability has the most severe material impact on the income of pensioners with low pensions who cannot lead independent lives but need constant help from others. Therefore, recipients of the minimum pensions and of the non-contributory pensions can benefit from the disability allowances.

Indirect sources of social income also represent an important tool for guaranteeing material opportunities for a decent life for the elderly. This includes covering the cost of rent if the person is over 70 years of age, lives in council housing, and their income for the previous month does not exceed the at-risk-of-poverty threshold for that year. It should be noted, however, that a very large percentage of older people in Bulgaria live in their own homes. In 2022, a total of 45 persons received rent assistance for council housing, and the data does not specify how many of them were older than 70 years of age.⁶⁸ With regard to cost savings, the state supports all pensioners, not just the poorest, by exempting pensions from income tax and health contributions. Pensioners also pay lower patient fees for visits to the doctor and for stays in hospital.⁶⁹

All in all, with regard to the elderly, guaranteeing a social income for a dignified life is a task that is intended to be carried out primarily through the pension insurance within the framework of the statutory old age pension scheme. However, the minimum pension amounts provided for by the social security system are still too close to the statutory and statistical poverty lines. The low amounts of the benefits are further exacerbated by the impossibility for the provision of additional support by the social assistance system. The social protection system allows for the transition of elderly social assistance beneficiaries to non-contributory old age pensions, with the latter providing a greater level of protection than social assistance. In terms of possibilities for combining benefits, the only supplementary payments to the already low pension income are those that cushion the

68 Social Assistance Agency, 'Report on the Activities of the Social Assistance Agency for 2022/ Отчет за дейността на Агенцията за социално подпомагане за 2022г.' (14 March 2023), p. 10 <<https://asp.government.bg/uploaded/files/7129-YearlyASP-podpisan.pdf>> accessed 12.11.2024.

69 Art. 37, para. 2, HIA.

impact of certain specific and significant costs, such as heating benefits and some disability allowances.

4. Financial Support for Persons with Disabilities

Financial support measures for persons with disabilities are designed to compensate for the costs associated with overcoming the difficulties caused by the type and degree of disability and are therefore mainly not means-tested. The amounts are calculated on the basis of the at-risk-of-poverty threshold. These measures include, in the first place, monthly financial support under Article 70 of the DPA, which is tailored to the degree of disability and to the question whether the person is a pension recipient, as well as to the concrete type of pension entitlement and to the question whether the beneficiary is in need of long-term care. The monthly financial support is the highest for elderly people who are in need of personal assistance and are simultaneously entitled to a non-contributory disability pension or survivor's pension due to the lower amounts of these non-contributory pensions. The monthly benefits are further supplemented by targeted benefits under Article 72 of the DPA for the purchase of a private motor vehicle, for the age-appropriate adaptation of housing, for spa treatment and/or rehabilitation services, and for the rent of municipal housing. Only the first two targeted benefits are linked to a family's income threshold. Financial support is exempt from taxes and fees.

The specific purpose of financial support for persons with disabilities has been taken into account in determining its correlation with social assistance. As it is intended to compensate for specific costs related to disability, the benefits are not regarded as income in the means-testing for entitlement to monthly social assistance (§1, item 10, sub-item 'n' of the SAA). The same applies when applying the income threshold for access to certain types of non-contributory pensions.

IV. Concluding Remarks

All in all, Bulgarian social protection contains different mechanisms that can contribute to the basic needs of life. Nevertheless, the mechanisms bearing the functionality of minimum income provision are very limited in their ability to interact with each other. Moreover, the means-testing and the highly restrictive eligibility criteria hinder the social protection

mechanisms from contributing to a higher income for recipients of non-contributory pensions or family and child benefits. In addition, the chapter revealed that the minimum unemployment benefits as well as the different minimum contributory pensions are mainly set below the at-risk-of-poverty threshold but are higher than the social assistance threshold. This legislative approach locks the beneficiaries' income under the poverty line while simultaneously banning them from supplementing their income through social assistance measures. Despite the low amounts, however, social assistance provision has finally been reformed so as to include a more transparent and objective indicator in terms of means-testing and the amounts of the benefits. Reliance on the at-risk-of-poverty threshold, albeit in a limited capacity of only 30% of the threshold, will arguably lead to more beneficiaries, certain accounting of the increasing costs of living, and higher benefits.

The constitutional right to social assistance does not result in immediate subjective positions, and the case law of the Constitutional Court has clearly demonstrated the legislature's freedom in designing the provision of minimum income. Instead, the social right to a life in dignity serves as an incentive to establish an institutional structure that expresses certain subjective public law positions. Still, the stringent conditions, minimum interaction between the different schemes, and the insufficient minimum income amounts could hardly be considered an expression of the Constitutional Court's deliberations on the social state. The latter needs to not only secure one's biological survival, but should also strive to enable fulfilment of a person's spiritual needs. As the constitutional jurisprudence has argued, the pursuing of this social policy goal represents a constitutional aim that is inherently connected with the values of human dignity and democracy.