

NATIONAL REPORT: BULGARIA

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A. General

- 1. What kinds of formal relationships between a couple (e.g. different/same-sex marriage, different/same-sex registered partnership, etc.) are regulated by legislation? Briefly indicate the current legislation.**

Bulgarian legislation regulates only different-sex marriage as a kind of formal relationship. Despite the fact that the Bulgarian Family Code (2009), as the main source of family law, grants protection to any type of family, legal consequences for partners only arise from a marriage:

‘Right to enter into a marriage and to have a family

Article. 3. Any person shall have the right to contract a marriage and to have a family under the conditions provided for by this code.

Civil marriage

Article. 4. (1) Only a civil marriage, concluded in the form prescribed by this Code, shall give rise to the consequences which the law prescribes for marriage.

(2) A religious ceremony is not a legal act.’

- 2. To what extent, if at all, are informal relationships between a couple regulated by specific legislative provisions? Where applicable, briefly indicate the current specific legislation. Are there circumstances (e.g. the existence of a marriage or registered partnership with another person, a partner’s minority) which disqualify the couple?**

In family law as well as in other areas of law specific legislative provisions regulate some aspects of an informal relationship. Where regulated, the informal relationship between a heterosexual couple is equated with a marriage, as a consequence of living together. These consequences are grouped on the basis of the interest protected.

Regulation in favour of the partners/couple:

The family legislation regulates a few legal consequences of an informal relationship:

- Consequences affecting the common children – parents, irrespective of the type of their relationship (marriage or informal), acquire parental rights and duties (joint parental responsibilities) and exercise them together or based on mutual consent (Art. 122 paras 1-2 and 123 of the Bulgarian Family Code).
- If the couple separate the law provides for a mechanism to rearrange the exercise of parental rights and duties by agreement or by a court decision if parents are not able to reach an agreement (Art. 127 of the Bulgarian Family Code).
- Each partner is entitled to protection against domestic violence: The Bulgarian Protection against Domestic Violence Act (2006, last amended in 2011) provides

for protection (equivalent to that which is available to spouses) against domestic violence (Art. 2 and 3).

Other areas of law also regulate some consequences of an informal relationship:

- An (informal) couple have access to artificial reproductive treatment (ART). The Bulgarian Health Act (2004, last amended in 2014) does not make access to ART conditional upon the matrimonial status of the couple¹ (Art. 129 and 130, para. 1 of the Bulgarian Health Act).
- An opportunity to donate organs or tissue to a partner based on additional prerequisites – permission from the Commission on Ethics in Transplantation and the duration of the cohabitation (Art. 26 of the Bulgarian Transplantation of Organs, Tissue and Cells Act of 2004, last amended in 2011).
- The (informal) couple have access to mutual insurance (Art. 232 of the Bulgarian Insurance Code of 2006, last amended in 2013). The Code specifies the consequences upon the termination of the cohabitation (separation/no longer living together).
- Transferring the rights to financial compensation for victims of crime – if the victim has died as a result of the crime, the person with whom the victim lived in an informal relationship will receive the compensation which is due (Art. 3, para. 2 of the Bulgarian Support and Financial Redress to Crime Victims Act (2007, last amended in 2010)).
- A partner in an informal relationship has the right to refuse to testify against the other partner in civil and criminal procedures (Art. 166, para. 1/2 of the Bulgarian Civil Procedure Code of 2008, last amended in 2014 and Art. 119 and 121 of the Bulgarian Penal Procedure Code of 2005, last amended in 2014).
- The informal partner of an EU citizen has a privileged status in relation to the right to enter, reside in and leave Bulgarian territory (Act of 2006 on the Rights of EU Citizens and Members of their Family to Enter, Reside in and Leave the Republic of Bulgaria, last amended in 2011). The partner in an informal relationship is considered to be a family member (Para. 1 of the Additional Provision to the Act).
- The Bulgarian Taxes and Securities Procedure Code (2006, last amended in 2014) provides for equal legal consequences for both formal and informal families. Under para. 1, p. 2 of the Additional Provision to the Code: ‘The ‘household’ includes spouses, persons living in factual cohabitation as well as their children and relatives living together with them.’ The income of the two partners is calculated, together with their expenses, for the purpose of establishing the basis for taxation (Art. 123, para. 1). Otherwise the basis for the taxation of persons is always individual income (this is equal to married persons).

Regulation in favour of the interests of the public:

- Social assistance benefits are granted to the household with the income of each partner in an informal relationship being included in the calculation: Art. 2, para.

¹ More in: S. STAVRY, ‘Factual cohabitation – A Quasi Marriage or a Fact of Normative Steroids?’, 20.05.2012, available at: challengingthelaw.com/semeyno-i-nasledstveno-pravo/fakticheskosajitelstvo/.

3 of the Bulgarian Social Assistance Act (1998, last amended in 2014) in conjunction with Art. 9, para. 3 of the Bulgarian Implementing Regulation concerning the Social Assistance Act (1998, last amended in 2014). This means that an informal couple receive social assistance (benefits) as a (formal) family (para. 1, p. 2 of the Additional Provision to the Bulgarian Implementing Regulation concerning the Social Assistance Act).

- An informal relationship (equal to a formal family) is a ground to establish a conflict of interests thus giving rise to the obligation to legally declare this relationship (Bulgarian Civil Servants Act, Bulgarian Judicial Power Act, Bulgarian Mediation Act, Bulgarian Public Notaries and Notarial Deeds Act, Bulgarian Civil Procedure Code and many others).
- The Bulgarian Forfeiture of Illegally Acquired Property Act (of 2012, last amended in 2014) defines partners in the informal relationship as members of the family for the purpose of investigating acquisitions (Art. 1, para. 3 of the Additional Provision).

There are no circumstances prescribed by law which disqualify the couple.

3. In the absence of specific legislative provisions, are there circumstances (e.g. through the application of the law of obligations or the law of property) under which informal relationships between a couple are given legal effect (e.g. through the application of the law of obligations or the law of property)? Where applicable briefly indicate the leading cases

It is consistent court practice (case law) to acknowledge a compensation claim/right of each informal partner to damages after the death of the other partner. Such a principle is based on the understanding that informal relationships between heterosexual partners are similar to spousal relationships. In its leading Decision No. 5 of 1969 (issued in order to amend point 2 of Supreme Court Decision No. 4 of 1961 listing the circle of persons entitled to damages) the Supreme Court stated that:

‘The circle of persons entitled to damages is justified by the court and it encompasses close relatives as well as the spouse. [...] the informal partner who had cohabited with the deceased is also entitled, provided that the cohabitation neither constituted a crime nor was contrary to public morals [...]’.

The above reasoning was confirmed in 1984 (Supreme Court Decision No. 5 of 1984/civil case 2/84). In a recent case, the Supreme Court of Cassation has again validated the compensation right of partners in an informal relationship, providing the following reasoning:

‘[...] the factual cohabitation between the petitioner and the deceased was of sufficient duration (around 12 years) to lead to the conclusion that a sustainable close relationship had been established, similar to the one between spouses [...]’.

Irrespective of the ambiguous legal definition of beneficiaries, the courts recognise that an equivalent legal effect should be given to a marriage and a factual relationship with regard to access to family benefits for children. According to para.

1, p. 1 of the Additional Provision to the Bulgarian Family Benefits for Children Act (of 2002, last amended in 2013) ‘The ‘family’ involves the spouses and the underage children [...]’. In its Decision No. 11053 of 2013, case No. 4005/2013, the Supreme Administrative Court considered that:

‘The legislature does not make a difference between children looked after in families (based on a marriage) and children looked after by parents who have not entered into a marriage. Children of unmarried parents or of parents not living together or cohabiting cannot be placed in an unprivileged position [...]’.

The official interpretation of this legal provision is that in cases of an informal relationship, the meaning of ‘family’ would involve the parent plus the child/children.² In this way, a somewhat strange legal construction has been created with the aim of providing a privileged status for children from an informal relationship. It is assumed that in the majority of cases the children of informal couples would live without one parent. In order to compensate for such a disadvantaged status the definition in question allows the access to benefits to be calculated on the basis of one parent’s income. However, the available statistics do not support such an assumption (the majority of children born within informal families do in fact live with both of their parents). Therefore the definition should be questioned because it supports outcomes which are contrary to the public interest.

In its Decision No. 14060 of 2012, case No. 2482/12, the Supreme Administrative Court (3rd Division) confirmed the equal legal standing of formal and informal spousal relationships in relation to tenancy contracts. According to the facts of the case, a contract to rent a municipal apartment was signed by a mother with two children to provide her and her children with a family home. The municipality terminated the contract and sought to evict the woman based on a claim for a breach of contract because the contracting party had commenced a common relationship with a man. The municipality came to this interpretation based on a prohibition in the contract on re-renting the home to a third person. The Court considered that interpretation to be contrary to the national legislation which recognised and allowed for extramarital cohabitation especially where children have been born and are being looked after. According to this interpretation a man together with whom the contractor lives should not be considered as a third person but rather as a partner within an informal relationship that gives both partners the right to benefit equally from the contract. In its reasoning the Court also invoked Art. 7 and 9 of the EU Charter of Fundamental Rights that are directly applicable.

4. How are informal relationships between a couple defined by either legislation and/or case law? Do these definitions vary according to the context?

² See: Letter № 91-01-224 of 26.08.2002 from the National Insurance Institution to the Ministry of Labour and Social Policy in relation to the application of the Family Benefits for Children Act and its Implementing Regulation (cited in the decision of the Supreme Administrative Court).

In Bulgaria there is no common legal definition of informal relationships between a couple. Some statutes that provide for the legal effect of cohabitation do define an informal relationship, but others do not. To some extent legal definitions depend on the context. There is a common feature among all the definitions: the fact that the couple are sharing a common living space.

Registration (of a common address):

Definitions related to the public interest tend to be stricter. For instance, the Bulgarian Social Assistance Act defines an ‘informal relationship between a couple’ as: ‘living together in one home [...] registered at one address’ (para. 1, point 2 of the Additional Provision). This definition is the only one which is explicit with regard to the need for formal proof for the existence of an informal relationship. The meaning of ‘address’ is not specified. Since the Bulgarian Civil Registration Act (of 1999, last amended in 2013) allows for two types of addresses – permanent (Art. 93) and current (Art. 94) it could be either of them.³

Similar is the definition in the Bulgarian Taxes and Securities Procedure Code, the central aspect of which is again common living. The statutory term here is ‘household’: ‘The ‘household’ includes spouses, persons living in factual cohabitation as well as their children and relatives living together with them’ (para. 1, p. 2 of the Additional Provision). If proof is needed it could be either the official registered address or a witness statement to that effect. The Supreme Administrative Court has accepted a witness statement as proof of the informal relationship between a couple (Decision No. 7383 of 2013, case No. 2461/13, related to the status of civil servants).

Duration:

Different is the approach adopted by the Bulgarian Transplantation of Organs, Tissue and Cells Act: 2 years of living together that can be sufficiently proved is the core of its definition (Art. 26, para. 2, p. 2 of the Act).

The case law reveals a strong correlation between the duration of the informal relationship and its legal effect:

‘[...] the de-facto family spousal relationship has been durable and sustainable and children have possibly been born within it [...]’⁴

Informal relationships between couples are:

‘Sustainably established close relationships that are not duly formalised.’⁵

The more recent case law supports that view. A court has stated that an intimate relationship which had only lasted for one month did not qualify the applicant to be protected under the Bulgarian Protection against Domestic Violence Act.⁶

³ A common address is accepted by the Courts as proof of an informal relationship between a couple in order to establish an entitlement to protection against domestic violence. Decision of the V. District Court N 1720/31.3.2014 case № 1843/2014.

⁴ Supreme Court Decision No. 5 of 1969.

⁵ Supreme Court Decision No. 5 of 1984 / civil case 2/84.

⁶ Order of 10.01.12 of the B. District Court, case No. 42/2012.

The existence of children is not a specific requirement for informal relationships to have legal effect.

To sum up: the legislation does share a common concept of informal relationships between a couple and it simply amounts to 'living together'. This is reflected in the definitions interpreted above. Living together seems to demonstrate all other relationships between a couple – mutual support, common duties (towards the household and the children), protection, emotional and other relationships. Some statutes require more certainty as to the stability of the relationship which is proved by its duration (e.g. in cases of donorship).

The Bulgarian Family Code does not define informal relationships. The legal effect on parenthood stems from the established parenthood.

5. Where informal relationships between a couple have legal effect:

a. When does the relevant relationship begin?

None of the investigated pieces of legislation explicitly specifies a formal momentum or a fact establishing the start of the relationship. The beginning of the relationship could be proved by a common declaration by the partners, or by witness evidence. However, bearing in mind the definitions cited above, registration at a common address is the most obvious evidence of the commencement of the relationship, especially in cases of specific legal effects in the private interest (i.e. donorship, protection against domestic violence).

b. When does the relevant relationship end?

None of the investigated pieces of legislation explicitly specifies a formal momentum or a fact establishing the end of the relationship. It is presumed that the end of common living/separation of the partners terminates the relationship of the couple. It could be proved in the same way – a change in the registered address, a declaration to that effect or witness evidence.

6. To what extent, if at all, has the national constitutional position been relevant to the legal position of informal relationships between a couple?

The Bulgarian Constitution (of 1991, last amended in 2007) is silent on the legal position of informal relationships. The family situation is not referred to among the grounds for the prohibition of discrimination (Art. 6, para. 2). The Bulgarian Constitution declares that the family is protected by the state and society, but the meaning of a family encompasses only the family established by a civil marriage.

7. To what extent, if at all, have international instruments (such as the European Convention on Human Rights) and European legislation (treaties, regulations,

and directives) been relevant in your jurisdiction to the legal position of informal relationships between a couple?

Bulgaria is a state party to the following relevant UN treaties:

- International Covenant on Civil and Political Rights (1966) - ratified by Bulgaria in 1970;
- International Covenant on Economic, Social and Cultural Rights (1966) - ratified by Bulgaria in 1970;
- Convention on the elimination of all forms of Discrimination against Women - ratified by Bulgaria in 1982;
- Convention on the Rights of the Child (1989) - ratified by Bulgaria in 1991;
- International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families (1990) has still not been ratified by Bulgaria;
- The European Convention on Human Rights - ratified by Bulgaria in 1992.

The European legislation is also applicable since Bulgaria has been a member state of the EU from 1.01.2007.

8. Give a brief history of the main developments and the most recent reforms of the rules regarding informal relationships between a couple. Briefly indicate the purpose behind the law reforms and, where relevant, the main reasons for not adopting a proposal.

Until 1991 informal relationships between a couple were considered as a crime if this entailed a formal family being abandoned (Bulgarian Penal Code, Art. 180, repealed in 1991). The only legal effect of *de facto* relationships regulated by the family legislation was and still is the establishment of parental rights and duties only after the establishment of parenthood.

The debates among experts as to whether to enact legislation on factual relationships started at the end of the 1990s. The debates have been influenced by the doctrinal discussions and the changes in legislation in European states.⁷ An experts' group was established at the Ministry of Justice to prepare a Draft Family Code exactly on the eve of the accession of Bulgaria to the EU (2006-2007). The period was marked by the Europeanization of Bulgarian legislation during the pre-accession negotiations and the feeling of permissiveness was strong. Statistical data provided evidence of an increase in the number of factual relationships between couples of different sex. In such a context the Draft Family Code proposed a modest regulation on informal relationships: the registration of an informal relationship, no regulation of relations between partners and limited provisions concerning the consequences of the termination of an informal relationship:

'Article 12:

- (1) The factual spousal relationship between a man and a woman has legal consequences in cases stipulated by legislation.

⁷ A proposal was made in 1999 within the Draft Family Code that has never been publicly discussed.

(2) The factual spousal relationship may be registered according to the stipulations of the Civil Registration Act. The application for registration should be submitted by both partners and the registration should be made with the recorded address.

(3) The termination of the factual spousal relationship may be declared by one partner only.'

One of the admired proposals (and maybe the only one which was admired) was to extend the scope of application of the presumption of fatherhood to informal relationships. There was also a proposal to assign the maintenance obligation to a partner after the termination of the informal relationship.

The proposed regulation was challenged before the Commission on Protection against Discrimination on the ground of discrimination based on sex (Claim No. 12-20-30/11.04.2008 by Jemini – an NGO on the rights of same-sex partners). The Commission upheld the fact that the provisions in the Draft Family Code relating to the sex of the partners was discriminatory: Recommendation No. 2/01.07.2008. Its Chair declared: '[...] a same-sex factual relationship could be regulated in Bulgaria if the legislature would agree with the Commission's arguments', namely that the provisions related to marriage and a factual relationship had to remain gender neutral.

Despite this strong intervention in support, the Draft invoked rather negative comments by some active proponents of the traditional family law institutions. The Christian Church also became involved by challenging the proposed regulation on the de-facto family.⁸ The debate was concentrated around two considerations: a weakening of the institution of marriage and opening the door to same-sex unions. The following sentiments were at the core of the debate:

- Informal relationships would jeopardize the institution of marriage – '[...] the message we send to society after providing legal effect to cohabitation is that marriage is useless and the heterosexual informal relationships would be followed by homosexual cohabitation or marriage';⁹
- The need to respect the choice of unmarried couples and not to intervene supported by the not very strong interest among informal couples in being involved in the debate;
- The new Code would legalise polygamy, incest, and same-sex relationships including their ability to adopt children.¹⁰

The debate resulted in the withdrawal of the proposals from the Bill by a consensus reached between the governing left-wing socialist party (a member of whom chaired

⁸ See: semeistvo.bg/index.php?option=com_content&task=view&id=238#, 20.11.2008.

⁹ For instance, see the post of 25.09.2008: www.legalworld.bg/11545.izhvyrliat-fakticheskoto-syjitelstvo-ot-noviia-semeen-kodeks.html.

¹⁰ Luben Dilov, an MP from the right-wing opposition, stated: 'If the idea of the informal family is a preface to the same-sex marriage, let us say this', at: www.mediapool.bg/deputati-v-spor-za-semeiniya-zhivot-bez-brak-i-gei-sazhitelstvoto-news144020.html.

the Parliamentary Legal Commission) and the opposition, the right-wing conservative party.¹¹

9. Are there any recent proposals (e.g. by Parliament, law commissions or similar bodies) for reform in this area?

The most recent proposals to legalise some effects of informal relationships date from 2012. Some Members of Parliament from the governing party GERB declared an intention to start a wide public discussion on the need to equate some of the important effects of marriage and informal relationships.¹² The following were mentioned as being important to legalise: the adoption of children by two partners, the contracting of joint credits, and providing consent for medical treatment. An increase in the birth rate among children born outside wedlock to more than half of all children born annually was suggested as being a good reason for the proposed legal change. The opposition resurrected the old arguments: to legalise informal relationships would be against the customs and morals of Bulgarians.¹³

B. Statistics and estimations

10. How many marriages and, if permissible, other formalised relationships (such as registered partnerships and civil unions) have been concluded per annum? How do these figures relate to the size of the population and the age profile? Where relevant and available, please provide information on the gender of the couple.

The National Statistics Institute provides information *only on the number of marriages* concluded per annum. These are the only formalised heterosexual relationships regulated by law.

Two national censuses have been conducted by the National Statistics Institute for the period 2000 – 2014: in 2001 and in 2011. Most of the data below comes from these censuses.¹⁴

¹¹ Martin Dimitrov, an MP from the right-wing opposition, declared that as 70% of informal relationships end in marriages, the new regulation on cohabitation would make marriage less attractive, thus ruining the value of marriage at: www.mediapool.bg/deputati-v-spor-za-semeiniya-zhivot-bez-brak-i-gei-sazhitelstvoto-news144020.html.

¹² Emil Radev, a GERB MP, was a proponent of some legalisation of informal relationships: www.dnevnik.bg/live/debati/2012/07/11/1863770_da_se_legalizira_li_sujitelstvoto_bez_brak/.

¹³ Luben Kornezov, an MP from the Socialist Party, stated: 'Such a regulation would be the first step in legalising same-sex marriages [...] it would confuse the property relations of partners and jeopardize the inheritance rights of children [...] those who want to benefit from the rights of the Family Code have to enter into a marriage.', at: www.dnevnik.bg/live/debati/2012/07/11/1863770_da_se_legalizira_li_sujitelstvoto_bez_brak/.

¹⁴ The information in its entirety is available at: www.nsi.bg/census2011/. Also in: Report on the Implementation of the Revised National Strategy on Demographic Development of the Population in Republic of Bulgaria (2012 – 2030), passed by the Council of Ministers, decision No. 40/ 1 October 2014: 2013. Available in Bulgarian at: www.mlsp.government.bg/bg/docs/indexstr.htm.

The population of Bulgaria decreased from 7,928,901 persons in 2001 to 7,364,570 persons in 2011. The age profile of the population also changed between the two national polls. There is an ageing population and this can be seen by the decrease in both the absolute number and the share of the young population (under 15 years of age) as well as in the increase among the elderly (above 65 years of age):

- In 2001 the share of children below 15 years of age in the total population was 15.3%. In 2011 this had decreased to 13.2%.
- The share of the population aged 15-64 increased insignificantly during 2001-2011 by 0.4% to reach 68.3% of the total population.
- The share of the elderly (65 and above) showed the largest increase: from 16.8% in 2001 to 18.5% in 2011.¹⁵

In such a context the statistics provide the following data on the behaviour of Bulgarians towards family creation and dissolution:

Number of marriages (and the marriage rate)¹⁶

	Marriages	Marriage rate¹⁷	Divorces	Divorce rate
2000	35,164	-	10,578	-
2001	31,974	4.0%	10,275	1.3%
2002	29,218	3.7%	10,203	1.3%
2003	30,645	3.9%	12,003	1.5%
2004	31,038	4.0%	14,669	1.9%
2005	33,501	4.3%	14,676	1.9%
2006	32,773	4.3%	14,828	1.9%
2007	29,640	3.9%	16,347	2.2%
2008	27,722	3.7%	14,104	1.9%
2009	25,923	3.5%	11,662	1.6%
2010	24,286	3.3%	11,012	1.5%
2011	21,448	2.9%	10,581	1.4%
2012	21,167	2.9%	11,947	2.9%
2013	21,943	3.0%	10,908	2.9%

Additional data is available on the number and structure of the families and households in Bulgaria.¹⁸ It suggests an increase in the number of families by 289,807 (12.0%) and of their members by 658,843 (9.1%) for the period 1965-1985. Subsequently, a reverse trend can be seen: a total decrease in the number of families by 576,731 and of their members by 2,139,542. The largest decrease can be seen in the number of families between 2001 and 2011: by 1.02.2011 there were 245,876 (10.4%) fewer families in comparison with 2001.¹⁹

¹⁵ Available at: www.nsi.bg/census2011.

¹⁶ Specific information on marriages and divorces is available at: www.nsi.bg/bg/content/3044/бракорозводи-по-области-и-местоживеене/.

¹⁷ Source Eurostat: ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=tps00012&plugin=1.

¹⁸ Report on the Implementation of the Revised National Strategy on Demographic Development of the Population in the Republic of Bulgaria (2012 – 2030), 2012: 37; 2013: 18.

¹⁹ National Census 2011, Families. at: www.nsi.bg/census2011/pagebg2.php?p2=175&sp2=200.

Structure of the households and formal families in 2011

Total number of households	3,006,376
Average number of family members in households	2.4
Total number of families based on marriage	2,123,224
Average number of family members	2.7
Families with unmarried children	996,446
Families without children	813,995
One-parent families with (unmarried) children	312,783

Another trend is the significant decrease in the numbers of full nuclear families (spouses and unmarried children) during 1985-2011. Their share also decreased from 54.7% in 1985 to 50.8% in 2001 and to 46.9% in 2011. The share of persons who had entered into a marriage in 2011 had decreased by 10% compared to 2001. The share of persons living in informal relationships had doubled during the same period: from 4% in 2001 to almost 8% in 2011.

11. How many couples are living in an informal relationship in your jurisdiction? Where possible, indicate trends.

An informal relationship as a family pattern has increased in Bulgaria during the last 20-25 years. The number of couples living in an informal relationship doubled during a 10-year period – 2001–2011. In 2011, the number of couples living in an informal relationship was 289,893 (13.7%). Family members among these couples was 888,818, that is 15.3% of the total number of persons living in families. This number was 314,718 people in 2001.²⁰ The share of informal relationships in the total number of families was 6.6% in 2001. This share had doubled by 2011 – 13.7% of the total number of families.

12. What percentage of the persons living in an informal relationship are:

- a. Under 25 years of age?
- b. Between 26-40 years of age?
- c. Between 41-50 years of age?
- d. Between 51-65 years of age?
- e. Older?

There is no disaggregated data on the age structure of informal relationships in Bulgaria.

The general trend in the family structure in Bulgaria for the 10-year period in question (2001-2011) is a decrease in marriage-based families and an increase in informal relationships. As per the final results of the 2011 national census, 70% of all

²⁰ See: 'Population of Bulgaria at the beginning of XXIst century. Status and Trends', Bulgarian Academy of Sciences, Institute for the Study of Population and Mankind, 2011, at p. 115, at: www.nsi.bg/census2011/pagebg2.php?p2=175&sp2=200&SSPP2=204.

informal relationships are composed by young people aged 16-39 years. This share decreases when the age of the persons in question increases – among the age group 40-49 some 16% live in an informal relationship, and among the age group above 50 years the share of informal relationships is 14%.²¹

There is disaggregated data on the age structure of the family status of the total population in Bulgaria. It suggests that:

a. Under 25 years of age?

14.6% of this age group live in informal relationships.

b. Between 26-40 years of age?

55.3% of this age group live in informal relationships.

c. Between 41-50 years of age?

16.3% of this age group live in informal relationships.

d. Between 51-65 years of age?

13.8% of this age group live in informal relationships.²²

13. How many couples living in an informal relationship enter into a formal relationship with each other:

- a. Where there is a common child?**
- b. Where there is no common child?**

There is no information available to answer this question.

14. How many informal relationships are terminated:

- a. Through separation of the partners?**
- b. Through the death of one of the partners?**

There is no information available to answer this question.

15. What is the average duration of an informal relationship before its termination? How does this compare with the average duration of formalised relationships?

There is no information available to answer this question.

16. What percentage of children are born outside a formal relationship? Of these children, what percentage are born in an informal relationship? Where possible, indicate trends.

²¹ www.nsi.bg/sites/default/files/files/pressreleases/Census2011final.pdf.

²² www.nsi.bg/sites/default/files/files/pressreleases/Census2011final.pdf.

Percentage of children born outside a formal relationship²³

Year	% of children born outside marriage
2001	42.0%
2002	42.8%
2003	46.1%
2004	48.7%
2005	49.0%
2006	50.8%
2007	50.3%
2008	51.2%
2009	53.4%
2010	54.1%
2011	56.1%
2012	57.4%
2013	59.1%

The trend is an increase in the share of children born outside a formal relationship. This started after the start of the political and economic transformation of Bulgarian society in 1989-1990. In 1992 the share of these children was 18.5% and it reached its peak in 2013 at nearly 60% of all newborn children. The official statistics suggest that the share of children born outside a formal relationship is higher in rural areas (68.4%) and among the most poor than in the urban areas of Bulgaria (56%).

According to the Reports on the Implementation of the Revised National Strategy on Demographic Development of the Population in the Republic of Bulgaria (2012 – 2030) of 2012 and 2013 the high share of children born outside a formal relationship is the result of a significant increase in the number of informal relationships among younger members of the population.²⁴ This is evidence of a change in the traditional family pattern in Bulgaria – from marriage to cohabitation.

The same source suggests that for 69.9% of children born outside a formal relationship fatherhood is established (69% in 2011 and 69.8% in 2012). From this we can conclude that these 69.8% are born in an informal relationship. It could be estimated that approximately 40% of all newborn children are born in an informal relationship and the trend is for their share to increase.

²³ Report on the Implementation of the Revised National Strategy on Demographic Development of the Population in the Republic of Bulgaria (2012 – 2030), 2013, at p. 15, available at: www.nsi.bg/bg/content/2963/живородени-брачни-и-извънбрачни-по-области-общини-и-местоживеење/.

²⁴ Report on the Implementation of the Revised National Strategy on Demographic Development of the Population in the Republic of Bulgaria (2012 – 2030), 2013, available at: www.nsi.bg/bg/content/2963/живородени-брачни-и-извънбрачни-по-области-общини-и-местоживеење/. See also the same Report for the year 2012 at p. 17.

17. What is the proportion of children living within an informal relationship who are not the couple's common children (excluding foster children)?

There is no information available to answer this question.

18. How many children are adopted within an informal relationship:

a. By one partner only?

Bulgarian Family Law allows adoption by one person but not by two persons living in an informal relationship. Two persons may adopt a child jointly or one of them only if they are married (Art. 81, para. 1 of the Bulgarian Family Code).

There is no disaggregated data on the family status of adopters – in particular on one-parent adoptions.²⁵

b. Jointly by the couple?

Couples in informal relationship cannot adopt a child together.

c. Where one partner adopted the child of the other?

Adopting the child of a partner is only possible when the couple are married (Art. 81, paras 1 and 3 of the Bulgarian Family Code).

19. How many partners in an informal relationship have been in a formal or an informal relationship previously?

There is no information available to answer this question.

The national statistics reveal that informal relationships are most popular among persons who have never married: 76.4% of all partners living in informal relationships; 16.7% of partners in informal relationships have been married before (i.e., they are divorced); 3.2% are widows/widowers and 3.7% are married.

C. During the relationship

20. Are partners in an informal relationship under a duty to support each other, financially or otherwise:

a. Where there are no children in the household?

b. Where there are common children in the household?

c. Where there are other children in the household?

Partners in an informal relationship are not under a (legal) duty to support each other, neither financially nor otherwise in any of the above cases. Obligations to

²⁵ According to the official response to my inquiry received from the Bulgarian Agency for Social Assistance (No. 94BB/0172 of 28.11.2014).

provide mutual financial and other support only arise from a marriage (Art. 17 and 140-141 of the Bulgarian Family Code).²⁶

21. Are partners in an informal relationship under a general duty to contribute to the costs and expenses of their household?

Partners in an informal relationship are not under a general duty to contribute to the costs and expenses of their household. Such a duty only arises from a marriage (Art. 17 of the Bulgarian Family Code).

22. Does a partner in an informal relationship have a right to remain in the home against the will of the partner who is the owner or the tenant of the home?

The partner in an informal relationship does not have a right to remain in the home against the will of the partner who is the owner of the home. These relations are not the subject of a specific regulation and the ordinary legislation should apply. The Bulgarian Property Law (1951, last amended in 2014) provides protection for the owner to dispose of his/her property or to evict anyone who hinders his/her property rights (Art. 108 – 109, para. 1).

The legislation on the renting of homes in Bulgaria does not regulate the rights of partners in an informal relationship. The rights of tenants are governed by the general legislation - the Bulgarian Obligations and Contracts Law (Art. 228-239).

In case the home is a state property, the Bulgarian State Property Act (1996, last amended in 2014) will apply. Only a civil servant and his/her family can apply to rent a state owned home conditional to the existence of the circumstances listed in the Bulgarian State Property Act (Art. 22). The Act does not provide for a legal definition of the terms 'family' and 'family member' but the interpretation of some relevant provisions suggests that the meaning is only 'family based on a marriage' (see Art. 29 of the Implementing Regulations to the Act).

The regulations of the Bulgarian Municipal Property Act (1996, last amended in 2014) are similar. Each municipality passes its own regulations on municipal housing policy. Usually, the access to municipal housing is based on proven individual or family (married) needs. The Act sets out grounds for the termination of the rental contract. In addition, the rental contract determines the rights and obligations of tenants.

23. Are there specific rules on a partner's rights of occupancy of the home:

²⁶ See the same and more on the subject matter of the following questions: T. TZANKOVA, *The Factual Spousal Relationship and the Bulgarian Family Law*, Feneya, Sofia, 2000, at p. 124 et seq. Also in: M. EKIMDJIEV, 'The Rights of Heterosexual Couples Living as a Family in Bulgaria in the Light of Article 14 of the ECHR', 16.08.2013, available at: eurorights-bg.org/?p=775.

a. In cases of domestic violence?

Yes, there are such regulations. In cases of domestic violence the court may order the expulsion of the perpetrator (regardless of the kind of relationship - formal or informal) from the common home for a certain period of time (Art. 5, para. 1, point 2 of the Bulgarian Protection against Domestic Violence Act). Such an expulsion does not affect the property rights of the owner, but rather the court order should guarantee a temporary safe occupancy of the home by the victim of domestic violence.

b. In cases where the partner owning or renting the home is absent?

No, there is no specific regulation when the partner who owns or rents the home is absent, no matter what the reason for this absence may be. There are also no generally applicable rules – these are private matters.

24. Are there specific rules on transactions (e.g. disposal, mortgaging, subletting) concerning the home of partners in an informal relationship:

There are no specific rules on transactions concerning the home of the partners in an informal relationship. The common regulations on property (Bulgarian Property Law) and on contracts (Bulgarian Obligations and Contracts Law) should be applicable.

a. Where the home is jointly owned by the partners?

When the home is jointly owned by the partners and they are co-owners with known shares (depending on the means of acquisition) the Bulgarian Property Law lays down joint actions for the disposal of the property (Art. 32 of the Bulgarian Property Law). In addition, any partner can dispose/sell his/her share of the immovable property only after proving that this share has first been offered to the other partner (Art. 33 of the Bulgarian Property Law). Any partner can claim a division of the property (Art. 34 of the Bulgarian Property Law).

b. Where the home is owned by one of the partners?

If the home is owned by one of the partners, the owner has the right to dispose of the property – the rights of the owner are specified in the related general legislation (e.g. Art. 183 and 188 (disposal of the home), Art. 167, para. 3 (mortgaging of the home), and Art. 228 (the renting of the home) of the Bulgarian Obligations and Contracts Law).

c. Where the home is jointly rented by the partners?

When the home is jointly rented any specific transaction depends on what has been agreed upon in the contract. Under the general law, Art. 234 of the Bulgarian Obligations and Contracts Law allows for the subletting of parts of the rented home

if the contrary has not been agreed upon. If both partners are parties to the contract they both have to agree on any sub-renting. No other transactions apart from the payment of the rent (Art. 228) and the basic maintenance of the home are possible for tenants (Art. 231).

d. Where the home is rented by one of the partners?

If the home is rented by one of the partners the partner who is party to the contract should be empowered to take actions for sub-renting. No other transactions apart from the payment of the rent (Art. 228) and the basic maintenance of the home are possible for tenants (Art. 231).

25. Under what circumstances and to what extent can one partner act as an agent for the other?

Either partner can act as an agent for the other (for the exercise of legal transactions) only on the basis of a power of attorney (if this is specifically authorized by the other partner). Again, in the absence of specific provisions, the general law is applicable – Art. 36 of the Bulgarian Obligations and Contracts Law. In contrast, either spouse can act as an agent for the other *ex lege* in actions involving the administration of the common property or in carrying out family obligations (Art. 24, para. 2 and Art. 32, para. 2 of the Bulgarian Family Code).

26. Under what circumstances can partners in an informal relationship become joint owners of assets?

Only on the basis of a joint acquisition: via original or derivative means (e.g. by purchase, under a will).

27. To what extent, if at all, are there specific rules governing acquisitions and/or transactions in respect of household goods? In answering this question briefly explain what is meant by household goods.

Bulgarian legislation does not provide a definition of ‘household goods’. There are two specific rules which govern acquisitions and transactions in respect of household goods. These are not however relevant to partners in an informal relationship. Intestate heirs have the right to acquire the common household goods when they have lived together and have cared for the testator (Art. 12, para. 1 of the Bulgarian Inheritance Law of 1949, last amended in 2009). The term ‘household goods’ has been interpreted in the case law. According to the Supreme Court, household goods are ‘[...] all goods that have served the everyday needs of the family of the testator. These include the usual furniture, movables, kitchen equipment, TV sets, washing machines and dishwashers, fridges and similar utensils. All these should not be luxury goods in which the given family has invested a substantial amount of money

[...]’ (Decision No. 485/1988, case No 396/88, 1st Division of the Supreme Court).²⁷ Household goods should be excluded from the inheritance and provided to the person with whom the deceased has shared a common life – i.e., the surviving spouse. Household goods may be disposed of by will and in such a case it is possible for the partner in the informal relationship to acquire (i.e., to inherit) them.²⁸

The Bulgarian Family Code governs (but does not define household goods) the acquisition of and transactions involving movable goods as part of the joint ownership of the spouses. Household goods acquired during the marriage belong jointly to the spouses regardless of the title in acquisition (Art. 21, para. 1). Any transaction should take place jointly by the spouses (Art. 24, para. 3). In the case of a single transaction the law provides for certain remedies (Art. 24, para. 5 of the Bulgarian Family Code).

There is no specific regulation on the acquisition of and transactions in respect of household goods by partners in an informal relationship.

28. Are there circumstances under which partners in an informal relationship can be regarded as joint owners, even if the title belongs to one partner only?

No, there are no such circumstances. In contrast the Bulgarian Family Code regulates the joint ownership of spouses irrespective of the title (Art. 21, para. 1 of the Bulgarian Family Code).

29. How is the ownership of assets proved as between partners in an informal relationship? Are there rebuttable presumptions?

The ownership of assets between the partners in an informal relationship can only be proved on the basis of the title therein. There are no rebuttable presumptions in this respect.

30. How is the ownership of assets proved as regards third parties? Are there rebuttable presumptions?

The ownership of assets as regards third parties can only be proved on the basis of the title therein. There are no rebuttable presumptions in this respect.

31. Under what circumstances, if any, can partners in an informal relationship become jointly liable for debts?

The partners in an informal relationship can become jointly liable for debts only as prescribed by the general law: the Bulgarian Obligations and Contracts Law. The first

²⁷ This is the consistent interpretation within the case law. See the same in: PPVS No. 7/1973, p.2; SP Interpretative Decision No. 28/1970; Decision No. 1200/73-I.

²⁸ See: Supreme Court: Decision No. 1519/80-I; Decision No. 326/84-I; Decision No. 693/85-I. See also: T. TZANKOVA, *The Factual Spousal Relationship and the Bulgarian Family Law*, Feneya, Sofia, 2000, at p. 130-131.

option is joint liability *ex lege* and the second option is an agreement with the creditor in the form of a contract (both according to Art. 121, para. 1 of the Bulgarian Obligations and Contracts Law). In contrast, joint liability is laid down for spouses in the Bulgarian Family Code (Art. 32, para. 2 and Art. 36, para. 2).

32. On which assets can creditors recover joint debts?

There is no specific regulation on this matter. The creditor is free to select the assets (Art. 442 of the Bulgarian Civil Procedure Code 2007, last amended in 2013); however, the general safeguards for debtors are applicable. Recovery cannot take place against inaccessible assets – goods for everyday use, the only home of the debtor, and the debtor's land and other property as determined by Art. 444 of the Bulgarian Civil Procedure Code.

33. Are there specific rules governing the administration of assets jointly owned by the partners in an informal relationship? If there are no specific rules, briefly outline the generally applicable rules.

There are no specific rules governing the administration of assets which are jointly owned by the partners in an informal relationship. The applicable rules are the general rules contained in the Bulgarian Property Law. Any of the partners in this case can use/benefit from the asset which forms part of the joint property (Art. 30, para. 2 and 32). The sole user has to pay compensation to the other owner of the property (Art. 31, para. 2).

D. Separation

34. When partners in an informal relationship separate does the law grant maintenance to a former partner? If so, what are the requirements?

No, there is no legally regulated right of the partner in an informal relationship to receive/pay maintenance.

35. What relevance, if any, upon the amount of maintenance is given to the following factors/circumstances:

- a. The creditor's needs and the debtor's ability to pay maintenance?
- b. The creditor's contributions during the relationship (such as the raising of children)?
- c. The standard of living during the relationship?
- d. Other factors/circumstances (such as giving up his/her career)?

Not applicable.

36. What modes of calculation (e.g. percentages, guidelines), if any, apply to the determination of the amount of maintenance?

Not applicable.

37. Where the law provides for maintenance, to what extent, if at all, is it limited to a specific period of time?

Not applicable.

38. What relevance, if any, do changed circumstances have on the right to continued maintenance or the amount due?

Not applicable.

39. Is the maintenance claim extinguished upon the claimant entering:

- a. Into a formal relationship with another person?**
- b. Into an informal relationship with another person?**

Not applicable.

40. How does the creditor's maintenance claim rank in relation to:

- a. The debtor's current spouse, registered partner, or partner in an informal relationship?**
- b. The debtor's previous spouse, registered partner, or partner in an informal relationship?**
- c. The debtor's children?**
- d. The debtor's other relatives?**

Not applicable.

41. When partners in an informal relationship separate, are specific rules applicable to the determination of the ownership of the partners' assets? If there are no specific rules, which general rules are applicable?

There are no specific rules which are applicable to determine the ownership of the partners' assets in case of separation. This determination depends on the proved ownership of the asset in question.

42. When partners in an informal relationship separate, are specific rules applicable subjecting all or certain property (e.g. the home or household goods) to property division? If there are no specific rules, which general rules are applicable?

There are no such specific rules. All property will be divided based on the general rules of the Bulgarian Property Law – depending on the shares upon acquisition or on sole ownership.

43. Do the partners have preferential rights regarding their home and/or the household goods? If so, what factors are taken into account when granting

these rights (e.g. the formal ownership of the property, the duration of the relationship, the needs of each partner, the care of children)?

No, neither partner has a preferential right regarding their home and/or the household goods.

44. How are the joint debts of the partners settled?

The joint debts of the partners will be settled in respect of creditors according to the general regulations of the Bulgarian Obligations and Contracts Law. It also applies to relations between the partners if there is no agreement between them in this respect.

45. What date is decisive for the determination and the valuation of:

a. The assets?

The decisive date for the determination and the valuation of assets is the date of the sale/disposal or the commencement of the dispute (Art. 69, para. 1 p. 2 of the Bulgarian Civil Procedure Code).

b. The debts?

The date which is decisive for the valuation of the debt is the date of its settlement. Debts are determined at the date of contracting including the nominal value plus interest.

46. On what grounds, if any, and to what extent may a partner upon separation claim compensation upon the basis of contributions made or disadvantages suffered during the relationship?

A compensation claim for either partner may arise according to the general grounds set out in the Bulgarian Obligations and Contracts Law: e.g. of unjust enrichment (Art. 55), *negotiorum gestio* (Art. 61), for the improvement of assets (Art. 72 of the Bulgarian Property Law). However, there is a shared view²⁹ that compensation against maintenance payments is inadmissible because the ground for the maintenance payment is *the moral/natural obligation*: Art. 55, para. 2 of the Bulgarian Obligations and Contracts Law stipulates that recovery for the conscious fulfilment of a moral obligation is not possible. A compensation claim based on tort is possible, for instance, in cases of domestic violence.

E. Death

47. Does the surviving partner have rights of inheritance in the case of intestate succession? If yes, how does this right compare to that of a surviving spouse or a registered partner, in a marriage or registered partnership?

²⁹ See, T. TZANKOVA, *The Factual Spousal Relationship and the Bulgarian Family Law*, Feneya, Sofia, 2000, at p. 128.

No, the surviving partner does not have any rights of inheritance in the case of intestate succession. Intestate heirs of the testator are only the relatives and the surviving spouse (Art. 5-9 of the Bulgarian Inheritance Law of 1949).

48. Does the surviving partner have any other rights or claims on the estate (e.g. any claim based on dependency, compensation, or maintenance) in the case of intestate succession?

No, the surviving partner does not have any other rights or claims on the estate in such a case.

49. Are there specific rules dealing with the home and/or household goods?

The specific rule is contained in Art. 12, para. 1 of the Bulgarian Inheritance Law stipulating the division of the household goods from the total mass of the inheritance and for its provision to the heir who had lived together and cared for the deceased. Based on a will it is possible for the partner in an informal relationship to inherit the household goods.

No specific regulation exists in respect to the family home.

50. Can a partner dispose of property by will in favour of the surviving partner:

a. In general?

Yes, a partner can dispose of his/her property by will in favour of the surviving partner. Art. 14, para. 1 of the Bulgarian Inheritance Law sets out a right for the testator to dispose of all of his/her property by means of a will. Para. 2 of Art. 14 specifies that the testator cannot avoid the reserved share of the inheritance.³⁰

b. If the testator is married to or is the registered partner of another person?

Any partner in an informal relationship may dispose of property in favour of the surviving partner by will regardless of whether he/she is married to another person. The Bulgarian legislation does not regulate registered partnerships.

c. If the testator has children?

According to the Bulgarian Inheritance Law, children are the first to inherit in the case of intestate succession (Art. 5). Children have a reserved share of the inheritance in the case of a will (Art. 28). So, the rights of children are protected. Either partner can dispose of his/her property by will in favour of the surviving partner. Art. 14, para. 1 of the Bulgarian Inheritance Law sets out a right for the testator to dispose of all of his/her property by means of a will. Para. 2 of Art. 14 specifies that the testator

³⁰ The 1992 reform of Bulgarian Inheritance Law increased the freedom to dispose of property by will as a step to increase the protection of private property.

cannot avoid the reserved share of the inheritance. If this is the case, the will is still valid but can be challenged before the courts with the aim of restoring the reserved share of an heir (Art. 30).

51. Can partners make a joint will disposing of property in favour of the surviving partner:

a. In general?

Partners cannot make a joint will because this is contrary to the law: two or more persons may not dispose of property to each other or to third parties by one and the same will (Art. 15 of the Bulgarian Inheritance Law). However, any partner may dispose of property in favour of the surviving partner by means of a separate will.

b. If either testator is married to or is the registered partner of another person?

Not applicable.

c. If either testator has children?

Not applicable.

52. Can partners make other dispositions of property upon death (e.g. agreements as to succession or gifts upon death) in favour of the surviving partner:

a. In general?

b. If either partner is married to or is the registered partner of another person?

c. If either partner has children?

A last will and testament is the only disposition of property upon death that partners can make in favour of the surviving partner. Partners can make *in vivo* gifts (donations) to each other under the general regulation of the Bulgarian Obligations and Contract Law. Gifts can be challenged before the courts, however, with the aim of restoring the reserved share of an heir (Art. 30 and 33 of the Bulgarian Inheritance Law).

53. Is the surviving partner entitled to a reserved share³¹ or to any other rights or claims on the estate (e.g. any claim based on dependency, compensation, or maintenance) in the case of a disposition of property upon death (e.g. by will, joint will, or inheritance agreement) in favour of another person?

No, the surviving partner is not entitled to a reserved share of the estate. The only heirs entitled to a reserved share are close relatives (children and parents) as well as the surviving spouse (Art. 28 of the Bulgarian Inheritance Law).

³¹ See Regulation no. 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession [2012] OJ L 201/107.

54. Are there any statistics or estimations on how often a relationship is terminated by the death of one of the partners?

No, there are no such statistics.

55. Are there any statistics or estimations on how common it is that partners in an informal relationship make a will in favour of the other partner?

No, there are no such statistics.

56. Are there any statistics or estimations on how common it is that a partner in an informal relationship is the beneficiary to the other partner's life insurance?

No, there are no such statistics.

F. Agreements

57. Are there specific rules concerning agreements between partners in an informal relationship? Where relevant, please indicate these specific rules. If not, which general rules apply?

No, Bulgarian law does not contain any specific rules concerning agreements between partners in an informal relationship. Partners in an informal relationship are free to make any such agreement. The only limit on such an agreement is the general framework set out by Art. 9 of the Bulgarian Obligations and Contracts Law – not to infringe the imperative legal regulations and good morals.³²

58. Are partners in an informal relationship permitted to agree on the following issues:

a. The division of tasks as between the partners?

The partners in an informal relationship are permitted to agree on the division of tasks between them.

b. The contributions to the costs and expenses of the household?

The partners in an informal relationship may agree on any contributions towards the costs and expenses of the household.

c. Their property relationship?

If the partners in an informal relationship would like to agree on their property relationship, they have to follow the general regulations with regard to the form of a contract.

³² See: L. NENOVA and M. MARKOV, *Family Law*, Sofi-R, Sofia, 2009, at p. 397. Also: T. TZANKOVA, *The Factual Spousal Relationship and the Bulgarian Family Law*, Feneya, Sofia, 2000, at p. 157-160.

d. Maintenance?

Maintenance can be agreed upon under a maintenance and care contract, which creates mutual obligations.

e. The duration of the agreement?

Determining the duration of such an agreement is up to the partners.

59. Are partners in an informal relationship permitted to agree on the legal consequences of their separation?

Since there are no specific regulations thereon, the above will apply - partners in an informal relationship are free to make such an agreement with regard to mutual rights and duties. The only limit to such an agreement is the general framework set out by Art. 9 of the Bulgarian Obligations and Contracts Law - not to infringe the imperative legal regulations and good morals.

60. Are the agreements binding:

a. Between the partners?

The agreements are binding between the partners in an informal relationship.

b. In relation to third parties?

The agreements are not binding in relation to third parties. An agreement on the exercise of parental rights and duties after separation is an agreement relating to third parties - the children. It however also regulates the internal relations between partners in relation to children.

61. If agreements are not binding, what effect, if any, do they have?

The effect of the agreements relates mainly to the partners themselves.

62. If specific legislative provisions regulate informal relationships, are the partners permitted to opt in or to opt out of this specific regulation?

There are not such specific legislative provisions.

63. When can the agreement be made (before, during, or after the relationship)?

There is no regulation on this matter. Partners in an informal relationship are free to choose when such an agreement is entered into.

64. What formal requirements, if any, govern the validity of agreements:

a. As between the partners?

There are no requirements in relation to form which govern the validity of the agreement as between the partners. However, if the agreement is on the disposal of immovable property the general formal requirement for its validity should be applied (Art. 18 of the Bulgarian Obligations and Contracts Law – a notarial deed).

b. In relation to a third party?

In general, the agreement governs the relationship between the partners and there is neither a requirement for its public registration nor any formal requirements for its validity. The law only requires the registration of transactions with regard to immovable assets.

65. Is independent legal advice required?

There are no specific legislative provisions regulating informal relationships.

66. Are there any statistics or estimations on the frequency of agreements made between partners in an informal relationship?

No, there are no such statistics.

67. Are there any statistics or estimations regarding the content of agreements made between partners in an informal relationship?

No, there are no such statistics.

G. Disputes

68. Which authority is competent to decide disputes between partners in an informal relationship?

There is no specific authority which is competent to decide on disputes between partners in an informal relationship. Depending on the dispute, the ordinary courts should be the obvious authority for dispute resolution. The partners are most likely to be treated as separate physical persons rather than as partners in an informal family.

69. Is that the same authority as for spousal disputes?

Yes, it is the same authority as for spousal disputes. There is no separate Family Court in Bulgaria; there are family divisions in the larger courts but such a division is based on the internal structure of the court in question. So, the ordinary civil courts would decide on any disputes between both spouses and partners in an informal relationship.

70. Can the competent authority scrutinise an agreement made by the partners in an informal relationship? If yes, what is the scope of the scrutiny?

There is no regulation on this matter.

The only specific legal regulation on the agreements made by the partners in an informal relationship is related to the agreement on the exercise of the parental rights and duties after separation (Art. 127, para. 1 of the Bulgarian Family Code). In this case the partners are not obliged to obtain any approval for their agreement by any authority. The agreement will be valid as it has been reached by the partners/parents. It will be applied only voluntarily by the parents.

If parents want to attach an executive authority to their agreement, confirmation by the courts is necessary (Art. 127, para. 1 in fine of the Bulgarian Family Code). The law does not explicitly assign discretion to the courts to scrutinise such agreements.

71. Can the competent authority override or modify the agreement on account of fairness towards a partner, the rights of a third party, or on any other ground (e.g. a change of circumstances)?

There is no regulation on this matter.

72. What alternative dispute-solving mechanisms (e.g. mediation or counselling), if any, are offered or required with regard to disputes arising out of informal relationships?

Mediation is offered (but is not required) with regard to any disputes between partners/spouses or parents (arising from domestic relationships) – Art. 3 of the Bulgarian Mediation Act (of 2004, last amended in 2011). The use of mediation between partners in informal relationships depends on their free choice.

Counselling is required in disputes involving children as part of the court order with the involvement of Child Protection Departments.

73. What are the procedural effects of an agreement on ADR between partners in an informal relationship? Can any partner seize the competent authority in breach of the ADR clause?

There is no specific regulation on this matter. The procedural effects of an agreement on ADR (mediation) would be to refer to mediation when there is a dispute rather than to the courts (Art. 11, paras 1-2 and 4 of the Bulgarian Mediation Act). The mediation will start upon the initiative of one or both partners following the procedure set out in the Bulgarian Mediation Act. Mediation can be terminated by reaching an agreement thereon; by the mutual consent of the partners, by the refusal of one of them (Art. 15). The agreement reached by the partners is only binding between them and does not affect third parties (Art. 16). The agreement, if it concerns a legal dispute, has the status of a 'consent decree' (agreement on a lawsuit) and has

to be approved by the courts. The court has the power to scrutinise the agreement in relation to imperative regulations and good morals (Art. 18 of the Bulgarian Mediation Act).

Any partner can seize the court in case of a dispute which is in breach of an ADR clause. Access to the courts cannot be restricted by contract.

The Civil Procedure Code lays down a rule for establishing the competence of arbitration. No effects of any infringement of that clause in the contract are determined in the law.

74. Are there any statistics or estimations on how common it is that partners in an informal relationship include an ADR clause in their agreement?

No, there are no such statistics.