

– Bulgaria and the European Social Charter –

Signatures, ratifications and accepted provisions

Bulgaria ratified the Revised European Social Charter on 07/06/2000, accepting 62 of its 98 paragraphs, as well as the system of collective complaints.

Declaration enabling national NGOs to submit collective complaints: not made yet.

The Charter in domestic law

Automatic incorporation based on the Constitution, Article 5(4): "Any international instruments which have been ratified by the constitutionally established procedure, promulgated, and come into force with respect to the Republic of Bulgaria, shall be considered part of the domestic legislation of the country. They shall supersede any domestic legislation stipulating otherwise."

Table of accepted provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1	
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3	
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1	
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2	
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1	
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3	
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22	
23	24	25	26.1	26.2	27.1	27.2	27.3	28	29	30	31.1	
31.2	31.3							Grey = Accepted provisions				

Reports on non-accepted provisions

The European Committee of Social Rights ("the Committee") examines the situation of non-accepted provisions of the Revised Charter every 5 years after the ratification. It adopted [reports concerning Bulgaria](#) in 2005, 2012 and 2016. The Committee considers that there are no major legal obstacles to acceptance by Bulgaria of the following provisions: Article 2§1, Article 15§§1-3, Article 17§1, Article 19§§3, 4 a) and b), 5, 7, 9, 10, Article 27§1 and Article 30.

Further information on the reports on non-accepted provisions is available on the [relevant webpage](#).

Monitoring the implementation of the European Social Charter ¹

I. Collective complaints procedure ²

Collective complaints (under examination)

University Women of Europe (UWE) v. Bulgaria (Complaint No. 125/2017)

The Committee [declared the complaint admissible](#) on 4 July 2017.

Collective complaints (proceedings completed)

1. Complaints inadmissible or where the Committee has found no violation

International Helsinki Federation for Human Rights (IHF) v. Bulgaria (Complaint No. 44/2007)

On 5 March 2008, as a result of the insolvency proceedings of the complainant organisation which lacks the capacity to take part in further proceedings in respect of this complaint, the European Committee of Social Rights decided to strike out the case from the list of complaints.

2. Complaints where the Committee has found a violation which has been remedied

European Roma Rights Centre v. Bulgaria (Complaint No. 48/2008)

- Violation of 13§1 (right to social and medical assistance) alone or in conjunction with Article E (non-discrimination) of the Revised European Social Charter

[Decision on the merits of 31 March 2009.](#)

Follow up:

- [Resolution CM/ResChS\(2010\) 2 on 31 March 2010](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up \(4 December 2015\)](#)

3. Complaints where the Committee has found a violation and where progress has been made but which has not yet been remedied

Mental Disability Advocacy Centre (MDAC) v. Bulgaria (Complaint No. 41/2007)

- Violation of Article 17§2 (right of children and young persons to social, legal and economic protection) taken alone and in conjunction with Article E (non-discrimination),

[Decision on the merits of 3 June 2008.](#)

Follow up:

- [Resolution CM/ResChS\(2010\)7 on 20 September 2010](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up \(4 December 2015\)](#)
- [2nd assessment of the European Committee of Social Rights on the follow-up \(6 December 2018\)](#)

European Roma Rights Center (ERRC) v. Bulgaria (Complaint No. 31/2005)

- Violation of Article 16 of the Revised Charter taken together with Article E (right of family to social, legal and economic protection)

[Decision on the merits of 18 October 2006.](#)

Follow up:

- [Resolution ResChS\(2007\) 2 on 5 September 2007](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up \(4 December 2015\)](#)
- [2nd assessment of the European Committee of Social Rights on the follow-up \(6 December 2018\)](#)

Confédération européenne des syndicats (CES), Confederation of Independent Trade Unions in Bulgaria (CITUB), Confederation of Labour "Podkrepa" (CL "Podkrepa") c. Bulgarie (Réclamation n°32/2005)

¹ The Committee monitors compliance with the Charter under two procedures, the reporting system and the collective complaints procedure, according to Rule 2 of the Committee's rules: « 1. The Committee rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure ».

Further information on the [procedures](#) may be found on the [HUDOC database](#) and in the [Digest of the case law of the Committee](#).

² Detailed information on the Collective Complaints Procedure is available on the [relevant webpage](#).

- Violation de l'article 6§4 (droit de grève) de la Charte sociale européenne révisée.

[Décision sur le bien-fondé du 16 octobre 2006.](#)

Suivi de la décision :

- [Résolution ResChS\(2012\)4 du 10 octobre 2012](#) du Comité des Ministres.
- Evaluation du suivi du 4 décembre 2015.

4. Complaints where the Committee has found a violation which has not yet been remedied

European Roma Rights Centre (ERRC) v. Bulgaria (Complaint No. 151/2017)

- Violation of Article E (non-discrimination) in conjunction with Article 11§1 (right to the protection of health),

Decision on the merits of 5 December 2018.

Equal Rights Trust (ERT) v. Bulgaria (Complaint No.121/2016)

- Violation of Article E (non-discrimination) in conjunction with Article 16 (right of family to social, legal and economic protection)

[Decision on the merits of 16 October 2018.](#)

European Roma Rights Centre v. Bulgaria (Complaint No. 46/2007)

- Violation of Article 11 (right to health)
- Violation of Article 13 (right to social and medical assistance) alone or in conjunction with Article E (non-discrimination) of the Revised European Social Charter

[Decision of the merits of 3 December 2008.](#)

Follow up:

- [Resolution CM/ResChS\(2010\) 2 on 31 March 2010](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up \(4 December 2015\)](#)
- [2nd assessment of the European Committee of Social Rights on the follow-up \(6 December 2018\)](#)

II. Reporting system³

Reports submitted by Bulgaria

Between 2002 and 2019, Bulgaria has submitted 17 reports on the application of the Revised Charter.

The [16th report](#), submitted on 28/11/2018, concerns the follow-up given to the relevant decisions of the Committee in the framework of the collective complaints procedure.

The assessments of the Committee on the follow up to decisions in complaints were published in January 2019.

The [17th report](#), which was submitted on 28/11/2018, concerns the accepted provisions relating to thematic group 4 "Enfants, familles, migrants", namely:

- the right of children and young persons to protection (Article 7),
- the right of employed women to protection (Article 8),
- the right of the family to social, legal and economic protection (Article 16),
- the right of mothers and children to social and economic protection (Article 17),
- the right of migrant workers and their families to protection and assistance (Article 19),
- the right of workers with family responsibilities to equal opportunities and equal treatment (Article 27),
- the right to housing (Article 31).

Conclusions with respect to these provisions will be published in January 2020.

³ Following a [decision taken by the Committee of Ministers in 2006](#), the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

Following a [decision taken by the Committee of Ministers in April 2014](#), States having accepted the collective complaints procedure are required, in alternation with the abovementioned report, to provide a simplified report on the measures taken to implement the decisions of the Committee adopted in collective complaints concerning their country. The alternation of reports is rotated periodically to ensure coverage of the four thematic groups.

Detailed information on the Reporting System is available on the [relevant webpage](#). The reports submitted by States Parties may be consulted in the [relevant section](#).

Situations of non-conformity ⁴

Thematic Group 1 "Employment, training and equal opportunities" - Conclusions 2016

► *Article 1§1 - Right to work - Policy of full employment*

It has not been established that employment policy efforts have been adequate in combating unemployment and promoting job creation.

► *Article 1§2- Right to work - Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects*

- the restrictions on the access of foreign nationals of States Parties to the European Social Charter, other than EEA, to civil service posts are excessive and therefore constitute a discrimination on grounds of nationality;
- it has not been established that the rules governing railway management staff do not contain coercive provisions incompatible with the prohibition of forced labour.

► *Article 22 - Right of workers to take part in the determination and improvement of working conditions and working environment*

It has not been established that the right of workers to take part in the determination and improvement of the working conditions, work organisation and working environment is ensured.

► *Article 24 – Right to protection in case of dismissal*

Employees undergoing a probationary period of 6 months are not protected against dismissal.

Thematic Group 2 "Health, social security and social protection" - Conclusions 2017

► *Article 3§3 – Right to safe and healthy working conditions - Enforcement of safety and health regulations*

Measures to reduce the excessive rate of fatal accidents are inadequate.

► *Article 11§1 - Right to protection of health - Removal of the causes of ill-health*

- the measures taken to reduce infant and maternal mortality have been insufficient;
- it has not been established that sufficient measures have been taken to effectively guarantee the right of access to health care.

► *Article 12§1 – Right to social security - Existence of a social security system*

- the minimum level of contributory old age benefits is inadequate;
- the minimum level of unemployment benefits is inadequate;
- the minimum level of invalidity (contributory and non-contributory) benefits is inadequate;

► *Article 13§1 – Right to social and medical assistance - Adequate assistance for every person in need*

- persons registered with the Employment Office Directorates are not entitled to social assistance before a minimum period of six months;
- the level of social assistance paid for a person without resources, including the elderly, is inadequate.

► *Article 14§1 - Right to benefit from social services - Promotion or provision of social services*

It has not been established that the number of social services staff is adequate and has the necessary qualification to match user's needs.

Thematic Group 3 "Labour rights" - Conclusions 2014

According to the applicable rules, Conclusions 2018 only refer to the information submitted by the Bulgarian Government on the follow-up given to the relevant decisions of the European Committee of Social Rights in the framework of the collective complaints procedure (see above).

For the most recent Conclusions adopted concerning the relevant Articles, see Conclusions 2014.

► *Article 4§3 – Right to a fair remuneration - Non-discrimination between women and men with respect to remuneration*

⁴ Further information on the situations of non-conformity is available on the [HUDOC database](#).

There is a predetermined upper limit on compensation for employees who are dismissed as a result of gender discrimination which may preclude damages from making good the loss suffered and from being sufficiently deterrent.

► *Article 4§4 – Right to a fair remuneration - Reasonable notice of termination of employment*

- The period of notice is not reasonable in the following cases:
 - dismissal with the application of the legal period of notice, beyond three years of service;
 - dismissal in some cases of redundancy, beyond five years of service;
 - dismissal on grounds of long-term illness or incapacity for health reasons, beyond seven years of service;
 - retirement, between seven and ten years of service;
 - dismissal in respect of additional jobs, beyond six months of service;
- No notice period is provided for in the following cases:
 - termination of employment for enforcement of a prison sentence; disqualification from the category or academic diploma required by the employment contract; being struck off the list of a professional association; existing incompatibilities of functions identified under Article 107(a), paragraph 1 of the Labour Code; proven conflict of interest within the meaning of the Conflict of Interest Act;
 - under specific circumstances, termination in the probationary period.

► *Article 4§5 – Right to a fair remuneration – Limits to wage deductions*

After all authorised deductions, the wages of workers with the lowest pay do not enable them to provide for themselves or their dependants.

► *Article 5 – Right to organise*

- Legislation does not provide for adequate compensation proportionate to the harm suffered by the victims of discriminatory dismissal based on involvement in trade union activities;
- Foreign workers' right to form or to participate in the formation of trade unions is subject to prior authorisation.

► *Article 6§2 – Right to bargain collectively – Negotiation procedures*

Machinery for voluntary negotiations is not sufficiently promoted.

► *Article 6§3 – Right to bargain collectively - Conciliation and arbitration*

There is no conciliation or arbitration procedure in the public service.

► *Article 6§4 – Right to bargain collectively – Collective action*

- Civilian personnel of the Ministry of Defense and any establishments responsible to the Ministry are denied the right to strike;
- The restriction on the right to strike in the railway sector pursuant to Section 51 of the Railway Transport Act does not comply with the conditions established by Article G;
- Civil servants are only permitted to engage in symbolic action and are prohibited from strike (Section 47 of the Civil Service Act);
- The requirement to notify the duration of strikes to the employer or his representatives prior to strike action does not comply with the conditions established by Article G of the Charter.

► *Article 22 – Right of workers to take part in the determination and improvement of working conditions and working environment*

It has not been established that the right of workers to take part in the determination and improvement of the working conditions, work organisation and working environment is ensured (Conclusions 2016 and 2014).

► *Article 28 – Right of workers' representatives to protection in the undertaking and facilities to be accorded to them*

Legislation does not provide for adequate protection in the event of an unlawful dismissal based on trade union membership or activities.

Thematic Group 4 "Children, families, migrants" - Conclusions 2011

According to the applicable rules, Conclusions 2015 only refer to the information submitted by the Bulgarian Government on the follow-up given to the relevant decisions of the European Committee of Social Rights in the framework of the collective complaints procedure (see above).

For the most recent Conclusions adopted concerning the relevant Articles, see Conclusions 2011.

► *Article 7§5 – Right of children and young persons to protection - Fair pay*

The right of young workers and apprentices to a fair wage and other appropriate allowances is not guaranteed due to non-effective enforcement of the legislation.

► *Article 7§9 – Right of children and young persons to protection - Regular medical examination*

The right of young workers to regular medical examination is not guaranteed due to non-effective enforcement of the legislation.

► *Article 7§10 – Right of children and young persons to protection - Special protection against physical and moral dangers*

It has not been established that all children under 18 are effectively protected from all forms of child pornography and child prostitution.

► *Article 8§2 – Right of employed women to protection - Prohibition of dismissal during maternity leave.*

Dismissal of pregnant employees (who are not on maternity leave) is not prohibited.

► *Article 8§5 – Right of employed women to protection - Prohibition of dangerous, unhealthy or arduous work.*

Women having recently given birth, who are not breastfeeding, do not benefit from the possibility of adjustments of their working conditions or temporary reassignment to an adequate post.

► *Article 16 – Right of the family to social, legal and economic protection*

- It cannot be assessed whether Roma families receive adequate protection with regard to housing.
- It cannot be assessed whether Roma families are guaranteed equal access to family benefits.

► *Article 17§2 – Right of children and young persons to social, legal and economic protection - Free primary and secondary education – regular attendance at school*

- It has not been established that measures taken to increase enrolment rates in secondary education are sufficient.
- Children with disabilities are not guaranteed an effective right to education.

► *Article 27§3 – Right of workers with family responsibilities to equal opportunity and treatment – Illegality of dismissal on the ground of family responsibilities*

Legislation does not sufficiently protect workers with family responsibilities against dismissal.

The Committee has been unable to assess compliance with the following rights and has invited the Bulgarian Government to provide more information in the next report in respect of the following provisions:

Thematic Group 1 "Employment, training and equal opportunities"

- ▶ Article 1§4 - Conclusions 2016
- ▶ Article 20 - Conclusions 2016

Thematic Group 2 "Health, social security and social protection"

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Thematic Group 3 "Labour rights"

- ▶ Article 6§1 - Conclusions 2016

According to the applicable rules, Conclusions 2018 only refer to the information submitted by the Bulgarian Government on the follow-up given to the relevant decisions of the European Committee of Social Rights in the framework of the collective complaints procedure (see above).

Thematic Group 4 "Children, families, migrants"

- ▶ Article 7§3 - Conclusions 2011
- ▶ Article 7§4 - Conclusions 2011
- ▶ Article 7§6 - Conclusions 2011
- ▶ Article 7§7 - Conclusions 2011
- ▶ Article 7§8 - Conclusions 2011
- ▶ Article 8§1 - Conclusions 2011
- ▶ Article 8§3 - Conclusions 2011

According to the applicable rules, Conclusions 2015 only refer to the information submitted by the Bulgarian Government on the follow-up given to the relevant decisions of the European Committee of Social Rights in the framework of the collective complaints procedure (see above).

III. Examples of progress achieved in the implementation of rights under the Charter (non-exhaustive list)

Thematic Group 1 « Employment, training and equal opportunities »

- ▶ Protection against discrimination in the exercise of labour rights, right to education and training and trade union rights (Act of 30 September 2003, SG No. 86/2003 Amend. SG 105/2005).
- ▶ Alleviation of the burden of proof in case of alleged discrimination based on sex (Section 127 of the Code of Civil Procedure, transposing EC Directive 97/80/EC of 15 December 1997).
- ▶ Right of persons with disabilities to equal treatment, education, employment and social integration (Act of 17 September 2004 on the Integration of Persons with disabilities, SG No. 81/2004).
- ▶ Setting up of a special fund at the National Social Security Institute to guarantee employee's wage claims in the event of insolvency of the employer (Protection of Workers' Claims in Case of Employer's Insolvency Act of 4 May 2004, SG No. 37/2004, Amend. SG No. 104 and 105/2005).

Thematic Group 2 « Health, social security and social protection »

- ▶ Right of persons without adequate resources to free legal aid inter alia in administrative cases processing (Legal Aid Act of 4 October 2005, SG No. 79/2005).
- ▶ As part of the project on "Prevention for Occupational Safety and Health", practical tools for evaluation of the risk at the workplace (under 30 economic activities) were developed. There is an interactive instrument for risk evaluation which is available to all employers, officials and workers through the OiRA platform. The tools allow employers, both Bulgarian and European, to carry out alone, without hiring external consultants, the risk assessment mandatorily required by the law in their enterprises, as well as to conduct trainings and briefings to their workers and employees.
- ▶ Law amending and supplementing the Health and Safety at Work Act (SG, No. 27 of 2014) was adopted. The Law creates the legal basis for issuing authorisations for special and technological blasting operations and a further set of amendments expands the rights of workers regarding the control of working conditions. The Ordinance on the minimum requirements to the microclimate of the working environment (SG, No. 63 of 2014) also was adopted. It sets minimum requirements for the protection of workers from health and safety risks arising from the microclimate parameters of the working environment in buildings and from adverse weather conditions when working outdoors; it also defines limit values of the microclimate parameters of the working environment on buildings (provisions for temperature, humidity and air movement).
- ▶ The Ordinance on the Basic Norms of Radiation Protection (SG No. 76 of 5 October 2012) was adopted. It provides the basic requirements for radiation protection, the criteria and levels for exemption from regulation, measures for radiation protection upon the implementation of activities of use of nuclear energy and the sources of ionising radiation (SIR) within the meaning of the Safe Use of Nuclear Energy Act.
- ▶ An Ordinance on the Basic Norms of Radiation Protection (SG No.76 of 5 October 2012) was adopted. It contains special provisions concerning an evaluation of the irradiation and medical surveillance. According to this Ordinance, workers exposed to radiation are subject to mandatory medical surveillance in order to establish their health condition and their suitability from a medical standpoint to perform the tasks they are assigned with. The medical surveillance over persons is implemented by healthcare and/or medical establishments. Enterprises and specialised control authorities are bound to submit to healthcare establishments information for the parameters of working environment, conditions of work and the results from the individual monitoring.
- ▶ The personal scope of mandatory insurance for general sickness and maternity, disability on account of a general sickness, old age and death, labour accident and occupational disease and unemployment has been extended to workers and employees hired for up to 5 working days (40 hours) over the calendar month and persons entrusted with the management and / or control of state and municipal enterprises under Chapter Nine of the Commercial Code, their subsidiaries or other legal entities established by law

(in 2015); as well as to other categories of workers (candidate junior judges and junior prosecutors in 2012, persons under the Special Surveillance Means Act in 2013)

- ▶ The personal scope of insurance for invalidity on account of a general sickness, old age and death and for general sickness and maternity has also been extended, in 2012, to spouses of self-employed persons, craftsmen and farmers (as voluntary insurance)
- ▶ The personal scope of insurance for invalidity on account of a general sickness, old age and death and for labour accident and occupational disease has been extended in 2015 to seasonal agriculture employees
- ▶ All labour (contributory) pensions have been increased (for the Public pension insurance, the increase was around 8% during the reference period), to compensate the inflation and an indexation rule (so called "Swiss rule") has been set and applied as from 2014
- ▶ The social pension for old age was also increased (by some 14% during the reference period), as well as the benefits based on the level of the social pension (labour accident benefit, invalidity pension and survivor's pension)

Thematic Group 3 « Labour rights »

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Thematic Group 4 « Children, families, migrants »

- ▶ Entitlement to pregnancy and childbirth leave of 135 days for each child, out of which 45 days to be mandatorily used before giving birth. (Labour Code, as amended by SG No. 52/2004).
- ▶ Restriction of the circumstances for dismissing female employees who are on leave for pregnancy and childbirth to the sole case of closing down of the enterprise (Labour Code, as amended by SG No. 52/2004).
- ▶ Criminalisation of domestic violence and possibility to adopt restraining orders against their perpetrators (Act of 29 March 2005 on protection against domestic violence, SG No. 27/2005).