

## — 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	10.3a	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, 2016 and 2020.

The Committee considers that there are no major legal obstacles to acceptance by Bulgaria of Article 2§1.

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

# Monitoring the implementation of the European Social Charter <sup>1</sup>

## I. Collective complaints procedure <sup>2</sup>

### Collective complaints (under examination)

*Eurochild v. Bulgaria (Complaint No. 221/2023)*

The Committee [declared](#) the complaint admissible on 17 October 2023.

*Open Society European Policy Institute (OSEPI) v. Bulgaria (Complaint No. 204/2022)*

The Committee [declared](#) the complaint admissible on 18 October 2022 and unanimously decided that it was not necessary to indicate immediate measures to the Government.

### 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 \(4 December 2015\)](#)
- [2<sup>nd</sup> assessment of the European Committee of Social Rights on the follow-up](#) (6 December 2018)
- [3<sup>rd</sup> Assessment of the European Committee of Social Rights on the follow-up](#) (January 2021).
- [4<sup>th</sup> Assessment of the European Committee of Social Rights on the follow-up](#) (28 January 2022).
- [5<sup>th</sup> Assessment of the European Committee of Social Rights on the follow-up](#) (March 2024).

*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)

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<sup>1</sup> 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](#).

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

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)
- [2<sup>nd</sup> assessment of the European Committee of Social Rights on the follow-up](#) (6 December 2018)
- [3<sup>rd</sup> Assessment of the European Committee of Social Rights on the follow-up](#) (January 2021).
- [4<sup>th</sup> Assessment of the European Committee of Social Rights on the follow-up](#) (28 January 2022).
- [5<sup>th</sup> Assessment of the European Committee of Social Rights on the follow-up](#) (March 2024).

*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)*

- 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.
- Assessment of the European Committee of Social Rights on the follow-up (4 December 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.](#)

Follow up:

- [Assessment of the European Committee of Social Rights on the follow-up](#) (28 January 2022).
- [2<sup>nd</sup> Assessment of the European Committee of Social Rights on the follow-up](#) (March 2024).

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

- Violation of Article 4§3 (right to a fair remuneration - non-discrimination between women and men with respect to remuneration)
- Violation of Article 20 (right to equal opportunities and treatment in employment and occupation without sex discrimination)

[Decision on the merits of 6 December 2019.](#)

Follow up:

Recommandation [CM/RecChS\(2021\)1](#) (adoptée par le Comité des Ministres le 17 mars 2021, lors de la 1399<sup>e</sup> réunion des Délégués des Ministres)

- [1<sup>st</sup> Assessment of the European Committee of Social Rights on the follow-up](#) (March 2024).

*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.

Follow up:

- [Assessment of the European Committee of Social Rights on the follow-up](#) (28 January 2022).
- [2<sup>nd</sup> Assessment of the European Committee of Social Rights on the follow-up](#) (March 2024).

*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 on 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)
- [2<sup>nd</sup> assessment of the European Committee of Social Rights on the follow-up](#) (6 December 2018)
- [3<sup>rd</sup> Assessment of the European Committee of Social Rights on the follow-up](#) (January 2021).
- [4<sup>th</sup> Assessment of the European Committee of Social Rights on the follow-up](#) (28 January 2022).
- [5<sup>th</sup> Assessment of the European Committee of Social Rights on the follow-up](#) (March 2024).

## II. Reporting system<sup>3</sup>

### Reports submitted by Bulgaria

Between 2002 and 2024, Bulgaria has submitted 22 reports on the application of the Revised Charter.

The [21<sup>st</sup> report](#), submitted on 21/12/2022, 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 have been published in March 2024.

On 4 January 2024, an [ad hoc report on the cost-of-living crisis was submitted by Bulgaria](#)<sup>4</sup>.

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<sup>3</sup> 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](#).

<sup>4</sup> In accordance with the [decision of the Ministers' Deputies](#) adopted on 27 September 2022 concerning the [new system](#) for the presentation of reports under the European Social Charter, the European Committee of Social Rights and the Governmental Committee have decided to request an *ad hoc* report on the cost-of-living crisis to all State parties.

## Situations of non-conformity <sup>5</sup>

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

According to the applicable rules, Conclusions 2020 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 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

According to the applicable rules, Conclusions 2021 only refer to the information submitted by the 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 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.

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<sup>5</sup> Further information on the situations of non-conformity is available on the [HUDOC database](#).

### **Thematic Group 3 “Labour rights” - Conclusions 2022**

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

- There is an upper limit on compensation for employees who are dismissed as a result of making a claim of gender discrimination which may preclude damages from making good the loss suffered and from being sufficiently deterrent;
- The principle of pay transparency is not guaranteed in practice and job comparisons are not made;
- The obligation to maintain an effective equality body with a view to guaranteeing the right to equal pay is not complied with.

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

There is no notice period for workers on probation.

► *Article 5 – Right to organise*

- Legislation does not ensure adequate compensation to workers dismissed as a result of their 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*

The promotion of collective bargaining is not sufficient.

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

There is no conciliation or arbitration machinery for the settlement of labour disputes in the collective bargaining process in the public service.

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

- Strikes are prohibited for civilian personnel at the Ministry of Defence and its subordinate bodies;
- The restriction on the right to strike in the railway sector pursuant to Section 51 of the Railway Transport Act goes beyond the limits set by Article G of the Charter;
- The obligation to notify employers or their representatives of the length of strikes prior to strike action goes beyond the limits set by Article G of the Charter.

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

- Adequate protection is not provided for in the event of an unlawful dismissal based on trade union membership activities
- The protection granted to workers’ representatives against dismissal is not extended for a reasonable period after the end of their mandate.

### **Thematic Group 4 “Children, families, migrants” - Conclusions 2019**

According to the applicable rules, Conclusions 2023 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 2019.

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

It has not been established that the right of apprentices to a fair wage and other appropriate allowances is guaranteed in practice.

► *Article 7§6- Right of children and young persons to protection - Inclusion of time spent on vocational training in the normal working time*

It has not been established that the time spent on vocational training is included in the normal working time.

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

It has not been established that the right of young workers to regular medical examination is guaranteed due to non-effective enforcement of the legislation.

- ▶ *Article 8§2 – Right of employed women to protection - Prohibition of dismissal during maternity leave.*
  - Exceptions to the prohibition of dismissal of pregnant women are excessively broad;
  - The compensation awarded in some circumstances is inadequate (in the event of termination of a worker's employment contract during pregnancy or maternity leave if the company for which she works relocates and she decides not to follow it or if the post she occupies must be vacated to allow an employee who occupied it previously but was unlawfully dismissed to be reintegrated).
  
- ▶ *Article 16 – Right of the family to social, legal and economic protection*
  - It has not been established that women are ensured an adequate protection, in law and in practice, against domestic violence;
  - The protection of Roma families with respect to housing, including in terms of eviction conditions, is inadequate.
  
- ▶ *Article 17§2 – Right of children and young persons to social, legal and economic protection - Free primary and secondary education – regular attendance at school*
  - The enrolment rate in secondary education is too low;
  - It has not been established that Roma children are not segregated in education;
  - It has not been established that children with disabilities have effective access 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*

The Labour Code does not specifically protect workers with family responsibilities against dismissal.

**The Committee has been unable to assess compliance with the following rights:**

**Thematic Group 1 “Employment, training and equal opportunities”**

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

According to the applicable rules, Conclusions 2020 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 2 “Health, social security and social protection”**

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According to the applicable rules, Conclusions 2021 only refer to the information submitted by the 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 2017.

**Thematic Group 3 “Labour rights”**

- ▶ Article 4§5 - Conclusions 2022
- ▶ Article 26§1 - Conclusions 2022
- ▶ Article 26§2 - Conclusions 2022
- ▶ Article 21 - Conclusions 2022
- ▶ Article 29 - Conclusions 2022

**Thematic Group 4 “Children, families, migrants”**

- ▶ Article 7§1 - Conclusions 2019
- ▶ Article 7§3 - Conclusions 2019
- ▶ Article 7§10 - Conclusions 2019
- ▶ Article 8§5 - Conclusions 2019



### **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).