



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS  
COMITE EUROPEEN DES DROITS SOCIAUX**

8 January 2024

**Case Document No. 3**

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

**SUBMISSIONS OF THE GOVERNMENT  
ON THE MERITS**

**Registered at the Secretariat on 19 December 2023**

**WRITTEN OBSERVATIONS ON THE MERITS  
ON COLLECTIVE COMPLAINT no 221/2023 BY EUROCHILD AGAINST  
BULGARIA UNDER THE EUROPEAN SOCIAL CHARTER (ESC) (REV.)**

With reference to the Decision of 17.10.2023 of the European Committee of Social Rights (ECSR, the Committee) of the Council of Europe (CoE), on collective complaint No. 221/2023, filed by Eurochild against the Republic of Bulgaria, and the opportunity granted to the Bulgarian Government to submit written observations on the merits of the said collective complaint, we submit the following written observations:

Collective Complaint No. 221/2023 was declared admissible by the ECSR as regards the violation of Article 16 and of Article E in conjunction with Article 16 of the European Social Charter (ECS, rev.) and inadmissible as regards the other texts.

The Committee notes that, for the alleged violation of Article 16 taken alone and of Article E taken in conjunction with Article 16 of the Charter, Eurochild refers in particular to existing gaps in the provision of early childhood education and care services due to the uneven distribution of early childhood education and care institutions, in particular between different cities, and their insufficient capacity, as well as the lack of adequate support from public authorities. In particular, Eurochild argues that the lack of available places limits the access of the most disadvantaged children to pre-school education, thus reducing their chances of attending and succeeding in school and avoiding poverty. Eurochild also claims that the March 2021 Ordinance providing for compensation for parents whose children are not admitted to pre-school education is discriminatory (referring to the Ordinance on the conditions and procedures for the provision and payment of funds from the State budget to compensate for the costs incurred by parents for the upbringing and education of children who are not admitted to State or municipal kindergartens or schools due to lack of available places, adopted by CoM Decree No. 76 of 05.03.2021; promulgated SG no. 20/09.03.2021, as amended and supplemented SG no. 79/21.09.2021). This is because it does not provide an adequate level of compensation to ensure that all families can pay for early childhood education and care services. According to Eurochild, the Ordinance is discriminatory because it does not de facto allow compensation for two-year-olds born in the second half of the year. The Ordinance results in unequal treatment of parents of children under the age of three who are effectively deprived of any care for their children.

In Bulgaria, in recent years, a targeted and consistent policy has been implemented to improve the coverage of preschool education, but also to improve its quality. The Strategic Framework for the Development of Education, Training and Learning (2021-2030) identifies early childhood development as one of the priority areas for policy focus with a horizon up to 2030. As the framework is designed on the basis of a holistic approach, there are measures for early childhood development in other priority areas. There are two main objectives:

The first objective is to extend the coverage of children from 0 to 7 years in early childhood education and care and effective socialisation by introducing and developing integrated early childhood education and care services that offer a more effective and balanced approach between care and education, as well as additional services for all families who need them. Within this goal, measures for inclusion are also envisaged - providing a supportive, safe, multicultural environment to support the child during the transition period from the family environment to kindergarten, a focus on inclusive education for children from 0 to 3 years, active partnership and dialogue with parents, and the phasing out of kindergarten fees, which is now a reality.

The second goal is to provide quality early education and care for every child. Measures to achieve it are aimed at building a common understanding of stakeholders and implementing a unified inter-institutional approach to quality early childhood education and care. Again, interaction between different institutions and also with parents is an essential focus. Measures to enhance the capacity of professionals to implement early childhood development policies with a focus on a competency-based approach and promoting educational innovation are crucial. Emphasis is also placed on modernising the facilities, equipment and didactic tools in kindergartens and nurseries in order to encourage the development of children's thinking and imagination and support their development, social and emotional intelligence and talents.

Pursuant to Art. 117, Art. 118, para 1 and Art. 119, para 1 of the Health Act, nurseries and children's kitchens shall be established to assist the family in bringing up children up to the age of three and to ensure their normal physical and mental development. Nurseries and children's kitchens may be established by municipalities, natural and legal persons who create conditions to ensure a healthy living environment and normal physical and mental development of children.

According to the above mentioned provisions, the Health Act clearly defines the commitment of the State, municipalities, legal and natural persons to ensure the necessary conditions for the full development of the family.

The provisions of Ordinance No 26 of 2008 on the establishment and operation of nurseries and children's kitchens and the health requirements for them set out the requirements for the establishment and operation of nurseries and children's kitchens and the health requirements for them. It should be noted that nurseries are, by their very nature, structures in which a team of medical and other professionals provides care for the protection and promotion of the health, education and training of children *from three months to three years of age*. Moreover, Article 4 of the same regulation clearly defines the type of nursery, which is defined in such a way as to ensure that children from the age of 3 months to 3 years can be cared for without interruption throughout the year. In view of the foregoing, we consider that the children of this age are thus guaranteed all-day education and care.

**Children are discharged from nurseries from 1 September of the year in which they reach the age of three, or at the parents' request before that date (Article 2, paragraph 2 of Ordinance No. 26 of 2008), and year-round admission of children is regulated in kindergartens on the basis of a written application submitted by the parents (Article 4, paragraph 1 of Ordinance No 3 of 2007 on health requirements for kindergartens).**

In view of the above, we consider that there is a clear regulation of the legal provisions guaranteeing the individual right to all-day education and care for young children.

Please note again that with the changes to the Corporate Income Tax Act adopted in 2022, parents do not pay a fee for state and municipal kindergartens and nurseries.

In this regard, in the event of non-admission of a child to a nursery, *Decree No. 231 of 1 August 2022 on determining the terms and conditions for the allocation of funds from the state budget for compensation in 2022 of the costs of upbringing, education and training of children who have not been enrolled due to lack of places at the municipal nurseries and nursery groups at the municipal and state kindergartens*, the terms and conditions for the provision of funds from the state budget to compensate for the costs directly related to the upbringing, education and training of children from the age of three months until 1 September in the year in which they reach the age of three years who are not admitted due to lack of places in municipal nurseries and nursery groups in municipal and state kindergartens were regulated.

With the adoption of the Law on the State Budget of the Republic of Bulgaria for 2023 (promulgated SG No. 66 /01.08.2023) amendments to the Health Act have been adopted, according to which the State shall provide funds to parents to compensate for the

costs directly related to the upbringing, education and training of children from three months of age until 1 September in the year in which they reach the age of three, who have not been admitted due to lack of places in municipal nurseries or nursery groups in municipal or state kindergartens and no other equivalent place in a municipal nursery or nursery group in a municipal kindergarten has been offered by the municipality of the child's place of residence, on the basis of a regulation of the Council of Ministers.

By CoM Decree No. 206/2023, promulgated in SG No. 90 of 2023, the Regulation on the conditions and procedure for the provision and payment of funds from the state budget to compensate for the costs incurred by parents for the upbringing, education and training of children who are not admitted to municipal nurseries or nursery groups in municipal or state kindergartens due to lack of available places was adopted.

**At present, two regulations have been adopted** to regulate the procedure and conditions for compensation of the expenses of parents whose children are not admitted to kindergarten or nursery - Ordinance on the conditions and procedure for the provision and payment of funds from the state budget to compensate for the expenses incurred by parents for the upbringing and education of **children who are not admitted to state or municipal kindergartens or schools** due to lack of available places (adopted by CoM Decree No. 76/2021, prom. SG No. 20/2021) and the Ordinance on the conditions and procedure for the provision and payment of funds from the state budget to compensate for the costs incurred by parents for the upbringing, education and training of **children who are not admitted to municipal nurseries or nursery groups in municipal or state kindergartens** due to lack of available places (adopted by CoM Decree No. 206/2023, promulgated by SG No. 90/2023).

With the aforementioned legal acts in place, we believe that the continuity of the compensation process is ensured by providing an opportunity to compensate the parents of children from different age groups, including those in disadvantaged situations, thus the state financially supports parents to enrol their child in a private nursery and/or kindergarten.

**In this regard, we consider that the allegations in the complaint that an adequate level of compensation has not been provided to all families, in particular to parents of children under the age of 3, are unfounded.** We also consider unfounded the allegation that the applicable national legislation in Bulgaria does not contain elaborate specific measures adopted by the State to ensure that all young children have full access to early childhood education facilities designed to meet their needs.

The above-mentioned legal provisions do not discriminate between children and families on the basis of their race, colour, sex, language, religion, political or other opinion, national or social origin, health, association with a national minority, birth or other status and in this respect we consider the allegations of discrimination to be unfounded.

An amendment and supplement to the Pre-school and School Education Act (2020) have been adopted, introducing compulsory pre-school education for children over 4 years of age, with the change coming into force after the relevant municipality has provided the conditions, but no later than 2023-2024 for the entire country. This means that from the school year 2023 - 2024 the measure comes into force for all 4-year-old children.

In relation to the facilities, it should be noted that this year the government approved an additional BGN 10 658 443 under the Programme for construction, extension, overbuilding and reconstruction of nurseries, kindergartens and schools 2020 - 2022. The funds will be used to pay for the implementation of 35 projects. The aim of the Programme is to improve the facilities that ensure healthy and quality learning conditions in the system of pre-school and school education. It is also aimed at the construction of new buildings, extension and reconstruction of existing nurseries, kindergartens and schools. In this way, the shortage of available places in them will be reduced and there will be an opportunity for the successful introduction of compulsory pre-school education for children over 4 years of age. The programme will also help to move to a single-shift school day.

Eight new buildings will be constructed with funds from the National Recovery and Sustainability Plan. The eight kindergartens will be in Sofia. The project for new kindergartens in Sofia Municipality should be worth up to BGN 26.6 million. It allows for the construction of entirely new kindergartens as well as new buildings to existing kindergartens.

The focus of achieving the policies of the second objective is on developing and implementing a National Quality Framework for Early Education and Care. The Ministry of Education and Science (MoES) has received support from the European Commission's Structural Support and Reform Programme (DG Reforms) to develop a National Quality Framework for Early Childhood Education and Care. The National Quality Framework includes a set of indicators and benchmarks to monitor and evaluate the quality of services and will support early childhood education and care institutions in self-assessing their quality performance.

With regard to the legal framework, it should be emphasised that public relations in the field of early childhood education and care (ECEC) are regulated by the legal acts referred to in the complaint, but also, in addition, by the above-mentioned Ordinance on the conditions and procedures for the provision and payment of funds from the state budget to compensate for the costs incurred by parents for the upbringing, education and training of **children who are not admitted to municipal nurseries or nursery groups in municipal or state kindergartens** due to the lack of a available places, Ordinance No. 5 / 2016 on the Pre-school education and Ordinance on the inclusive education.

It should also be stressed that the above-mentioned two ordinances - the Ordinance on the conditions and procedure for the provision and payment of funds from the state budget to compensate for the costs incurred by parents for the upbringing and education of children who are not enrolled in state or municipal kindergartens or schools due to lack of available places and the Ordinance on the conditions and procedure for the provision and payment of funds from the state budget to compensate for the costs incurred by parents for the upbringing, education and training of children who are not enrolled in municipal nurseries or nursery groups at municipal or state kindergartens due to lack of available places, are an opportunity for the parents to provide to the children alternative forms of education and care, as they compensate costs directly related to the upbringing, education and training.

Next, it should be taken into account that in accordance with the policies for supporting children and families in our country, a network of services has been established, which are an example of an integrated approach to the provision of services for early childhood development, aimed at preventing risks in early childhood, including services for early intervention of disabilities, for better inclusion and improving the readiness of children for inclusion in the education system, for improving the family environment, etc. Taking into account the importance of support measures and in order to prevent the risks of separation of the child from the family, the Social Services Act (SSA) explicitly regulates that social services for support in the formation of parenting skills, for counselling and support to parents on issues of early childhood development and child upbringing and for early intervention of disabilities for children are free. In fact, all social services for children in Bulgaria are free. Taking into account the importance of preventive activities and the support provided to young children and their families and in order to facilitate access to services, the Regulations for the Implementation of the Social Services Act stipulate that social services for support in the formation of parenting skills, for counselling and support to parents in the field of early childhood development and child upbringing and for early intervention of disabilities for children may be used by persons without a referral from the Social Assistance Directorate or the municipality.

Policies for early childhood development are among the priorities of the Governance Programme of the Republic of Bulgaria for the period June 2023 - December 2024. In accordance with the Programme, by order of the Prime Minister of the Republic of Bulgaria

of 13.10.2023, a permanent Interdepartmental Working Group for planning and coordination of policies for early childhood development has been established at the Ministry of Education and Science. Among the tasks of the working group are the development of an annual plan to promote early childhood development by ensuring access to health, education, social and integrated services, in order to reduce negative trends in child poverty and improve the quality of life of young children. The focus of the working group's activities also includes the development of a strategic document on early childhood development with a horizon up to 2030; the development of proposals to amend and supplement the Pre-school and School Education Act in relation to early childhood development; discussion of proposals to introduce a national system for monitoring early childhood development in nurseries and kindergartens and for timely support by specialists for each child, as well as a standard for early childhood development, etc. With the technical assistance of the European Commission, the Ministry of Education and Science has developed a draft of national standards for the quality of early childhood education. These standards will be regulated by law.

Priority is also given to the implementation of the European Child Guarantee as a flagship initiative in which Bulgaria participates and has a long-term commitment. The adopted Action Plan implementing the Council Recommendation (EU) 2021/1004 on the establishment of a European Child Guarantee (2030) aims at creating a comprehensive framework to reduce child poverty and promote their social inclusion. Measures in the area of early childhood development, for which the Ministry of Education and Science and the Ministry of Health are the lead institutions, feature prominently in the Plan. These measures include expanding the network of early childhood development services aimed at risk prevention, early intervention and family support; providing patronage care for pregnant women and families with young children, with a focus on vulnerable groups; and improving interaction and cooperation between the health, education and social systems when working with children and families. For the implementation of the Plan, in addition to the state budget, significant financial support is provided by the ESF+ through the Human Resources Development Programme and the Education Programme for the period 2021-2027. In total, funds in the amount of over 136 million euros have been allocated under the two programs (support from the EU), and it is expected to reach over 200 thousand children. The first operational plan for the period 2023-2024 has been developed in implementation of the Action Plan. It sets out specific actions with indicators, timelines, funding amounts and sources, and responsible institutions in all impact areas. In the area of early childhood development policy, it is envisaged to introduce a national quality framework for early childhood education and care, prepare a national analysis/roadmap for the introduction of an early childhood intervention system, develop comprehensive early intervention services for children and families in the community to prevent separation and abandonment of children, etc.

In addition to all the measures taken by our country, it should be noted that during the 2014-2020 programming period, under the Operational Programme "Human Resources Development" 2014-2020, the "Parents in Employment" procedure was implemented with a budget of 75 million BGN, which was aimed at ensuring better reconciliation of professional and personal life of parents with young children, at the same time providing employment to unemployed persons by providing opportunities for childcare.

The project is aimed on the one hand at parents with children aged 0 to 5 years who are employed and are currently on leave to raise their child who is not placed in a childcare facility, and on the other hand at unemployed parents who are raising their children and for this reason cannot start working. Parents of large families, single parents and others from vulnerable groups are prioritised for eligible activities. In order to provide targeted support to large families and single parents, care is provided for their children in a wider age group, namely their children can be aged 0 to 12. Through the implemented activities, parents are

given the opportunity to continue their career development and to provide safe and quality care for their children.

According to the latest reporting data, the project received 11 435 applications from parents, of which 421 were from parents with many children. Also, to date, the project has provided mediation services to 1 899 unemployed parents, 361 of whom have started work, including as self-employed.

From 2017 to July 2023, the procedure paid funds for the remuneration of caregivers in the amount of BGN 67 212 265.91.

During the 2014-2020 programming period, a project selection procedure for the provision of grants "Children's play area" was implemented with a budget of BGN 15 million. The procedure provided opportunities for better reconciliation of employees' professional and private lives by providing play areas for children at the workplace. The support is aimed at providing social benefits in enterprises (children's play areas) by adapting and equipping suitable premises for hourly and full-day care for at least 15 children up to 12 years of age; selecting unemployed persons registered with the Labour Offices for childcare; providing training to unemployed persons to acquire childcare skills; and including unemployed persons in subsidised employment with an employer for part-time or full-day childcare for up to 12 months. Eligible applicants under the procedure are employers and central and local government institutions.

The main objectives of the procedure are, in addition to a better reconciliation of work and private life; preserving the work and economic activity of parents; preserving the quality of the labour force and labour productivity; preventing absenteeism and facilitating access to employment for working parents.

The target groups of the operation are unemployed persons registered in the Labour Offices and employed persons.

At the moment, the implementation data show that the projects include 214 unemployed persons and 1160 employed persons /parents/ who are provided with reconciliation of family and professional life.

In the multiannual programming period 2021-2027, under which the Republic of Bulgaria receives funding from the European funds for shared management, one of the main priorities of the HRDP 2021-2027 is linked to providing support for better opportunities for reconciling work and private life.

In response to these challenges, the HRDP has developed an operation "Parents in Employment" with a budget of BGN 24 million, providing support for childcare in order to return parents to employment.

The main aim of the procedure is to ensure a better work-life balance for single and large family parents as well as parents with young children. The measure provides care for children not attending nurseries, kindergartens and pre-school groups. The operation ensures the implementation of the principle of equal opportunities for women and men and their right to participate fully in the labour market, to grow professionally and career-wise, to have quality employment, to be economically independent, to combine professional and private life.

The project is implemented through the Employment Agency as a specific beneficiary of the procedure. The main project activities are:

- Provision of care for children from 0 to 5 years of age, not attending nurseries, institutions and pre-school groups, to employed and unemployed parents (care is allowed up to 8 hours per day). The remuneration for employed child caregivers is the national minimum wage, including social security contributions at the employer's expense in accordance with the Labour Code and the Social Security Code (as well as any additional payments under the applicable national legislation) for child caregiver caring for a child for up to 8 hours per day. An additional remuneration of ½ of the national minimum wage for a caregiver in the case of caring for a second or more children in the family.

- Provision of care for children from 0 to 12 years of age, attending nurseries, childcare facilities, as well as school, to large family and single parents (care is allowed up to 4 hours per day). Eligible costs for the child carer are related to the provision of wages and salaries at the rate of  $\frac{1}{2}$  the national minimum wage, including social security contributions at the employer's expense, in accordance with the Labour Code and the Social Security Code (as well as any additional payments under the applicable national legislation) for a child caregiver caring for a child for up to 4 hours per day. An additional remuneration of  $\frac{1}{4}$  of the national minimum wage for the person, in case of caring for a second or more children of the family.

Upon parental approval, the caregiver is contracted for up to 18 months or until the child reaches the age of 5/12 years. The Employment Agency, through the labour offices, together with the parents will select unemployed/inactive persons who will take care of children under the project.

Through the implementation of the procedure, it is foreseen to cover more than 1 900 parents with young children, accordingly funds are foreseen for the remuneration of 1 900 caregivers.

We believe that the operations under the 2014-2020 HRD OP and the 2021-2027 HRDP have created mechanisms to support families and parents, including those with the youngest children, by providing opportunities for full care and upbringing outside of childcare facilities. These measures have facilitated parents' access to employment and increased their level of economic activity, employment and income, while at the same time creating the conditions for their children to be cared for while they are in employment. Work-life balance is one of the twenty principles proclaimed in the European Pillar of Social Rights, which states that parents have the right to adequate access to services for the care of their children, which we believe is guaranteed at state level, including through the measures financed by the ESF and ESF+.

In addition, bearing in mind that Article 16 of the ESC requires Contracting Parties to ensure the conditions necessary for the all-round development of the family by promoting the economic, legal and social protection of family life by such means as social and family allowances, tax benefits, the provision of family housing, assistance for newly married families and other appropriate measures, it should be pointed out that Bulgarian labour legislation provides much more favourable rights for working mothers of children than minimum requirements established by the European legislation and the international labour standards. In Bulgaria, the leave to which employees are entitled in connection with childbirth and child upbringing is one of the longest in the world. Paid leave for pregnancy and childbirth of 410 days for each child (45 days prior to birth) and paid leave for raising a child up to 2 years of age are regulated (Art. 163 and Art. 164 of the Labour Code). Mothers may transfer the use of these to both fathers and grandparents. On the one hand, this allows mothers to return to the labour market earlier and reduces the preconditions for dequalification, and on the other hand, it provides opportunities for raising young children in a family environment.

Amendments to the Labour Code from August 2022 regulate paid leave of 2 months for childcare up to the age of 8 for fathers who have not taken transferred leave from mothers for childcare up to the age of 2 (Article 164c of the Labour Code). The possibilities for adapting the working arrangements to the employee's individual needs arising from family responsibilities have also been extended. Article 167b of the Labour Code explicitly regulates the right of an employee who is a parent (adoptive parent) of a child up to the age of 8 to propose to the employer a change for a certain period of time in the duration and distribution of his working time, to switch to remote work and other changes to the employment relationship to facilitate the reconciliation of work and family obligations. On this basis, a parent of a child under 8 years of age may request that the duration of their working hours be less than usual, and may also request to work remotely. The amendment



of the employment relationship in this case is by mutual agreement of the parties. Where no such possibility exists within the enterprise, the employer must give reasons in writing for his refusal and notify the employee within 14 days.

In conclusion, we would like to note that given the severe demographic situation in the country, the protection of children and working mothers in Bulgaria is a significant social achievement, as the policy in this area is balanced and creates opportunities for raising young children in a family environment in cases of lack of available places in state or municipal kindergartens.