

— Bulgaria and the European Social Charter —

Dates of Ratifications and provisions accepted

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

1995 Additional Protocol providing for a system of collective complaints: 7/06/2000

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

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		

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."

Reports *

Between 2002 and 2015, Bulgaria submitted 13 reports on the application of the Revised Social Charter.

The 12th report, submitted on 19 May 2014, concerns the accepted provisions relating to Thematic Group 3 "Labour rights", namely:

- The right to just conditions of work (Article 2)
- The right to a fair remuneration (Article 4)
- The right to organise (Article 5)
- The right to bargain collectively (Article 6)
- The right to information and consultation (Article 21)
- The right to take part in the determination and improvement of the working conditions and working environment (Article 22)
- The right of dignity at work (Article 26)
- The right of workers' representatives to protection in the undertaking and facilities to be accorded to them (Article 28)
- The right to information and consultation in collective redundancy procedures (Article 29)

The Conclusions in respect to these provisions were published in January 2015.

The 13th report, submitted on 4 December 2014, concerns the follow-up given to the decisions of the European Committee of Social Rights relating to the collective complaints lodged against Bulgaria, as well as the information required by the Committee in the framework of Conclusions 2013 (Articles 3, 11, 12, 13, 14, 23 and 30, relating to the Thematic group "Health, social security and social protection"), in the event of non-conformity for lack of information.

The Conclusions in respect of these issues will be published in January 2016.

* [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.

Situation of Bulgaria with respect to application of the Revised Social Charter

Examples of progress achieved in the implementation of social rights under the European Social Charter¹

Non-discrimination (sex)

► 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).

Non-discrimination (disability)

► 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).

Employment

► 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).

► 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).

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).

► 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).

Cases of non-conformity

Thematic Group 1 "Employment, training and equal opportunities"

► 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.

([Conclusions 2012](#))

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

- Swiss nationals and nationals of States Parties to the European Social Charter which are not members of the European Union or of the European Economic Area may not be employed in public service posts, which constitutes discrimination on grounds of nationality;
- The upper limit on the amount of compensation that may be awarded in discrimination cases may preclude damages from making good the loss suffered and from being sufficiently dissuasive.

([Conclusions 2012](#))

¹ « 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 » (Article 2 of the Rules of the Committee).

► *Article 154 – Right to work - Vocational guidance, training and rehabilitation*

Nationals of other States Parties lawfully resident or working regularly in Bulgaria are subject to an excessive length of residence requirement for entitlement to vocational guidance, training or rehabilitation.

([Conclusions 2012](#))

► *Article 20 - Right to equal opportunities and equal treatment in employment and occupation without sex discrimination*

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

([Conclusions 2012](#))

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

- Employees undergoing a probationary period of 6 months are not protected against dismissal;
- The termination of employment at the initiative of the employer for some categories of employees, on the sole ground that they have the pensionable age, which is permitted by law, is not justified.
- The maximum amount of compensation for unlawful dismissal is not adequate.

([Conclusions 2012](#))

Thematic Group 2 “Health, social security and social protection”

► *Article 353 – Right to safe and healthy working conditions - Enforcement of safety and health regulations*

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

([Conclusions 2013](#))

► *Article 1153 – Right to protection of health - Prevention of diseases and accidents*

It has not been established that there are adequate measures in force for the prevention of road and domestic accidents

([Conclusions 2013](#))

► *Article 1251 – Right to social security - Existence of a social security system*

- The minimum level of pension benefit is manifestly inadequate;
- The minimum level of unemployment benefit is inadequate.

([Conclusions 2013](#))

► *Article 1351 – Right to social and medical assistance - Adequate assistance for every person in need*

- People registered with the Employment Office Directorates are not entitled to social assistance before a minimum period of six months;
- The level of social assistance is manifestly inadequate.

([Conclusions 2013](#))

Thematic Group 3 “Labour rights”

► *Article 453 – Right to a fair remuneration - Non-discrimination between women and men with respect to remuneration*

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.

([Conclusions 2014](#))

► *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.

(Conclusions 2014)

► *Article 4§4 – 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.

(Conclusions 2014)

► *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.

(Conclusions 2014)

► *Article 6§1 – Right to bargain collectively – Joint consultation*

It has not been established that joint consultative bodies exist in the public service.

(Conclusions 2014)

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

Machinery for voluntary negotiations is not sufficiently promoted.

(Conclusions 2014)

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

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

(Conclusions 2014)

► *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.

(Conclusions 2014)

► *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 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.

(Conclusions 2014)

Thematic Group 4 “Children, families, migrants”

► *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.

([Conclusions 2011](#))

► *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.

([Conclusions 2011](#))

► *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.

([Conclusions 2011](#))

► *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.

([Conclusions 2011](#))

► *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.

([Conclusions 2011](#))

► *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.

([Conclusions 2011](#))

► *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.

([Conclusions 2011](#))

► *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.

([Conclusions 2011](#))

The European Committee of Social Rights 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 25 – Conclusions 2012

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

- ▶ Article 3§4 – Conclusions 2013
- ▶ Article 11§1 – Conclusions 2013

Thematic Group 3 "Labour rights"

None

Thematic Group 4 "Children, families, migrants"

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

Bulgaria: Collective complaints and state of procedure²

Collective complaints (under examination)

None

Collective complaints (proceedings completed)

Complaints inadmissible or where the Committee has found no violation

International Helsinki Federation for Human Rights (IHF) v. Bulgaria (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.

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

None

Complaints where the Committee has found a violation and where progress has been made but not yet examined by the Committee

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

Decision on the merits of 31 March 2009.

- 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

Resolution CM/ResChS(2011)1 of 6 July 2011.

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

Decision of the merits of 3 December 2008.

- 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

Resolution CM/ResChS(2010)1 of 31 March 2010.

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

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

Decision on the merits of 3 June 2008

- 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),

Resolution CM/ResChS(2010)7 of 20 September 2010

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

Decision on the merits of 18 October 2006

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

Resolution ResChS(2007) 2 of 5 September 2007

Confederation of Independent Trade Unions in Bulgaria (CITUB) / Confederation of Labour "Podkrepa"/ European Trade Union Confederation (ETUC) v. Bulgaria (No. 32/2005)

Decision on the merits of 16 October 2006

- Violation of Article 6§4 (right to collective action).

Resolution Res ChS (2012)4 of 10 October 2012

² The case-law of the Committee relative to collective complaints may be consulted on the European Social Charter website, on the [Collective Complaints webpage](#). Searches on complaints may also be carried out in the [European Committee of Social Rights Case-law database](#).