

— Bulgaria and the European Social Charter —



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Ratifications

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

Bulgaria agreed to be bound by the Additional Protocol providing for a system of Collective Complaints when it accepted Article D of the Revised Charter at the time of the ratification. It has not yet made a declaration enabling national NGOs to submit collective complaints.

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

The Charter in domestic law

Automatic standing 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 2009, Bulgaria submitted 7 reports on the application of the Revised Charter.

The [7th report](#) concerning the accepted provisions related to Thematic Group 2 "Health, social security and social protection" (Articles 3, 11, 12, 13, 14, 23 and 30 of the Revised Charter) was submitted on 10 March 2009. Conclusions in respect of these provisions were published in January 2010.

The [8th report](#) submitted on 16 March 2010, concerns the accepted provisions of the Revised Charter relating to Thematic Group 3 "Labour rights" i.e.

- Right to just conditions of work (Article 2§§ 2, 3, 4, 5, 6 and 7)
- Right to fair remuneration (Article 4§§ 2, 3, 4 and 5)
- Right to organise (Article 5),
- Right to collective bargaining (Article 6),
- Right to information and consultation (Article 21),
- Right to take part in the determination and improvement of the working conditions and working environment (Article 22),
- Right to dignity at work (Article 26),
- Right of workers' representatives to protection in the undertaking and facilities to be accorded to them (Article 28)
- Right to information and consultation in collective redundancy procedures (Article 29)

* [Following a decision taken by the Committee of Ministers in 2006](#), the provisions of both the 1961 Charter and the Revised 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.

The situation of Bulgaria with respect to application of the Revised Charter

Examples of progress achieved following conclusions or decisions of the European Committee of Social Rights ¹

Non-discrimination

► 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).

Non-discrimination (Sex)

► 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, Education, Employment (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).

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 n° 27/2005)

Employment

► Entitlement to pregnancy and childbirth leave of 135 days for each child, out of which 45 days are used obligatory before giving birth. (Labour Code amended, by SG No. 52/2004).

► Restriction of the circumstances for dismiss female employees who are on leave for pregnancy and childbirth to the sole case of closing down of the enterprise. (Labour Code amended by SG No. 52/2004).

► 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).

Cases of non-conformity

Thematic Group 1 "Employment, training and equal opportunities"

► Article 1§4 – Right to work - Vocational guidance, training and rehabilitation

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

([Conclusions 2008](#))

► Article 24 – Right to protection in case of dismissal

The compensation for unlawful termination of employment is subject to a maximum of six months' wages.

([Conclusions 2007](#))

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).

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

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

The level of fatal accidents is too high.

[\(Conclusions 2009\)](#)

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

1. The authorities have failed to take appropriate measures to address the health problems faced by Roma communities stemming from their often unhealthy living conditions and difficult access to health services.

2. The medical services available for poor or socially vulnerable persons who have lost entitlement to social assistance are not sufficient.

[\(Conclusions 2009\)](#)

► *Article 11§3 – Right to protection of health - Prevention of diseases and accidents*

It has not been established that adequate measures have been taken in controlling asbestos use and reducing domestic accidents.

[\(Conclusions 2009\)](#)

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

The minimum levels of the unemployment benefit, of the old-age benefit, of the survivors' benefit are manifestly inadequate and the minimum levels of employment injury benefit and invalidity benefit are inadequate.

[\(Conclusions 2009\)](#)

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

The level of social assistance paid to a person under 65 living alone is manifestly inadequate.

1. It has not been established that persons in need, whose social assistance is interrupted after 12 months, can obtain adequate resources to meet the necessary costs of living in a manner consistent with human dignity.

2. Persons who lose entitlement to social assistance are not provided with medical assistance which they might require.

3. The level of social assistance is manifestly inadequate.

4. It has not been established that elderly persons without resources receive adequate social assistance.

5. The granting of social assistance to foreigners is conditional on a continuous presence in Bulgarian territory that is excessively long.

[\(Conclusions 2009\)](#)

Thematic Group 3 “Labour rights”

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

1. Workers with five or more years of service are not granted a reasonable period of notice for termination of employment.

2. Workers with six or more months' service under contract for an additional work are not granted a reasonable period of notice for termination of employment.

[\(Conclusions 2007\)](#)

► *Article 5 – Right to organise*

Foreign workers' right to form or to participate in the formation of trade unions is subject to prior authorization

[\(Conclusions 2006\)](#)

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

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

[\(Conclusions 2006\)](#)

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

Ordinary employees of the Ministry of Defence and any establishments responsible to that ministry are denied the right to strike.

([Conclusions 2006](#))

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

The protection of trade union representatives in the event of an unlawful dismissal based on their status or activities is not adequate.

([Conclusions 2007](#))

Thematic Group 4 “Children, families, migrants”

► *Article 7§1 – Right of children and young persons to protection - Prohibition of employment of children aged under 15*

It cannot be assessed whether the application of the legislation on prohibition of employment under the age of 15 is effective.

([Conclusions 2006](#))

► *Article 7§3 – Right of children and young persons to protection - Prohibition of employment of children subject to compulsory education*

The children's right to compulsory education is not guaranteed due to non effective enforcement of the legislation prohibiting employment up to the age of 15.

([Conclusions 2006](#))

► *Article 7§4 – Right of children and young persons to protection - Working time*

Young workers' right to limited working hours in accordance with the needs of their development is not guaranteed due to non effective enforcement of the legislation.

([Conclusions 2006](#))

► *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 2006](#))

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

The right of young workers that the time spent in vocational training during the normal working hours be treated as forming part of the working day is not guaranteed due to non effective enforcement of the legislation.

([Conclusions 2006](#))

► *Article 7§7 – Right of children and young persons to protection - Paid annual holidays*

The right of young workers to annual holiday with pay is not guaranteed due to non effective enforcement of the legislation.

([Conclusions 2006](#))

► *Article 7§8 – Right of children and young persons to protection - Prohibition of night work*

The prohibition of night work for young persons is not guaranteed due to non effective enforcement of the legislation.

([Conclusions 2006](#))

► *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 2006](#))

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

Although there has been a downward trend in the number of children trafficked and several measures have been taken to address the problem, the number of children affected is still too high, indicating that the measures adopted have not yet been fully effective.

([Conclusions 2006](#))

► *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 2005](#))

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

1. It cannot be assessed whether family allowances are of sufficient amount.

2. It cannot be assessed whether Roma families are guaranteed equal access to family benefits.

([Conclusions 2006](#))

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

1. The drop out rate is manifestly high.

2. Children with disabilities are not guaranteed an effective right to education, in particular children with intellectual disabilities living in certain homes for mentally disabled children.

3. Roma children are not guaranteed an effective right to education.

([Conclusions 2005](#))

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 4 “Children, families, migrants”

► *Article 7§2*

(Report to be submitted before 31 October 2010)

Collective complaints and state of procedure in Bulgaria²

Collective complaints (under examination)

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Collective complaints (proceedings completed)

1. 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**.

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

European Roma Rights Centre v. Bulgaria (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, Resolution Res/CM(2010)2, of 31 March 2010.

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

Violation of Article 11 (right to health) and 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, Resolution Res/CM(2010)1, of 31 March 2010.

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

Mental Disability Advocacy Centre (MDAC) v. Bulgaria (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) of the Revised European Social Charter, decision on the merits of 3 June 2008.

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

Violation of Article 6§4 (right to collective action) of the Revised European Social Charter, decision on the merits of 16 October 2006.

European Roma Rights Center (ERRC) v. Bulgaria (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.

² The caselaw of the Committee relative to collective complaints may be consulted on the European Social Charter website on the [Collective Complaint webpage](#). Searches on complaints may also be carried out in the [European Committee of Social Rights Caselaw database](#).