

Bulgaria Accession Report

Based on a survey undertaken by TUAC over Spring 2023, with replies received from several trade unions in Bulgaria, this note reports on the state of affairs regarding several core principles used by the ELSAC in the OECD's accession review of Bulgaria. The focus is on fundamental labour rights, social dialogue and industrial relations systems in line with the 2018 OECD Jobs Strategy.

Labour Rights

- Freedom of association and right to organise

The freedom of workers to organise in trade unions is reported to be somewhat respected but still in need of improvement. There are legal questions surrounding the fact that unions which represent civil servants from the Ministry of Internal Affairs, as well as staff from the judiciary system (judges, prosecutors, investigators, etc) are prohibited from joining a federation or confederation of trade unions. The latter does not comply with ILO Convention 87, which allows such exclusion measures only for the armed forces and the police. In addition, a high share of informal employment, together with the prevalence of low-income earnings, prevent workers from joining a trade union.

- Right to collective bargaining

Officially, collective bargaining can be conducted in those enterprises and sectors that have an established trade union. However, the practice among employers is often to delay the process, fail to provide information in a timely manner, or simply avoid meeting with trade unions altogether. Disagreements on specific issues between the negotiating parties, together with a lack of an institutional framework to support the collective bargaining process (mediation, arbitration), often result in a failure to conclude bargaining agreements. The Bulgarian Economic and Social Council recently adopted an Opinion stating that the current Labour Code has exhausted its initial positive effect and is no longer sufficient to achieve the requirements of the European Directive on adequate minimum wages, which targets a collective bargaining coverage rate of 80%.

Meanwhile, civil servants cannot conduct collective bargaining with employers in the public sector. While the Civil Servants Act does not allow for the right to bargain collectively, other sector-level government acts, such as the Ministry of Interior Act, formally block collective bargaining from taking place.

- Right to a safe and healthy workplace

The law on Health and Safety in Bulgaria regulates the rights and obligations of the different parties to ensure healthy and safe working conditions. It contains general principles aimed at both prevention and improving the safety and health of workers.

However, there are marked gaps in the implementation of the right to a safe and healthy environment; regulations are insufficiently enforced, while health and safety committees appear to exist in name only. Working conditions are dangerous in several sectors (construction, mining, agriculture, and some parts of industry) and protective equipment provision and occupational health and safety training are insufficient. Workers' awareness of their right to a safe and healthy work environment also needs to be improved.

- Effective labour inspection

A system of labour inspection is in place and responsible for monitoring the working environment and compliance with labour law and regulations. However, even if regular and effective checks are conducted at workplaces, resources to sufficiently expand the number of inspections are lacking. Penalties are not strict enough to prevent employers from violating labour laws.

At the same time, the legal framework on Labour Inspection does provide an adequate basis to achieve good results. Cooperation between the inspectorate and trade union organisations is well established and functions well. Trade unions have the right to report labour law breaches, to enter workplaces at any time and to contact workers on all matters regarding compliance with labour law. There is also a cooperation agreement between the Labour Inspectorate and trade unions, providing trade unions with up-to-date information on observed violations of labour law, workers' rights and social insurance

- Other labour rights

Trade unions report long working hours and discrimination, especially against low qualified, temporary workers and disabled persons.

The gender pay gap, which over the past ten years has only decreased slightly - from 13.2% in 2011 to 12.2% today - is driven both by a high concentration of female workers in low-pay sectors and by lower wages for women even when working in the same sectors as men. These persisting pay gaps over working life result in pensions for women workers being on average 20% lower than those of men. Gender-based violence, especially in the domestic sphere, is a major issue with few effective preventative measures in place.

Social dialogue and industrial relations in line with the 2018 OECD Jobs Strategy

The OECD's 2018 Jobs Strategy calls for the promotion of quality industrial relation systems based on inclusive collective bargaining, i.e. collective bargaining that achieves high coverage of workers. The Jobs Strategy considers the existence of well-organised social partners with broad membership the best way to achieve such high coverage and suggests that sectoral agreements be extended to increase coverage where it is lacking or absent altogether.

The benefits of social dialogue are clearly visible in Bulgaria. Workers covered by collective bargaining have a gross hourly wage that is on average 8.3% higher than non-covered colleagues, while their gross annual wage is 22.4% higher.

The challenge for Bulgaria, however, is to substantially broaden workers' access to the benefits of social dialogue. Only some 28% of workers are covered by collective bargaining, with coverage of sector-level agreements reaching 23.6% in 2022. Coverage rates have been stagnating for several years, with several obstacles getting in the way:

- Employer organisations aim to decentralise sector-level bargaining (the statutes of some employer organisations do not even include social dialogue in their mandate), while the number of collective agreements at enterprise level is showing a declining trend.
- Extension of a sector agreement to all sector companies is practically impossible because of very high thresholds (supermajorities, restrictive public interest criteria) or veto power from employers.
- Small businesses, especially micro-enterprises, which make up 90% of all companies in certain sectors, are difficult to organise.
- Collective bargaining for state sector workers is not possible because of the Civil Servants Act. While it provides the right to strike, it does not allow for the right to collective bargaining.

Bulgaria has a National Council for Tripartite Cooperation where mandatory consultations are conducted between workers' and employers' organisations on the regulation of industrial relations and all related matters, including the national minimum wage. Sector, regional and municipal tri-partite councils provide a forum for representatives of government, trade unions and employer organisations to discuss and build up trust.

Trade unions report that it is difficult to negotiate on the national minimum wage. There is, however, a consensus between social partners that the mechanism for setting the national minimum wage should be reviewed to make the process more transparent, and to bring it in line with ILO Convention 131 and the European Directive on adequate minimum wages. Meanwhile, a 2023 labour reform introduced a simplified automatic mechanism to set the minimum wage which, according to several unions, does not consider all the different criteria established by the European directive on adequate minimum wages, in particular the criterion that the minimum wage should be at least 50% of the average wage.

Trade unions are, to a certain extent, involved in the management of the labour market via specific tri-partite bodies, such as the National Council for Promotion of Employment. Trade union representatives, together with employer representatives, also have a seat on the council which advises the Executive Director of the Employment Agency. Unions, however, describe the functioning of these institutions as purely consultative and formalistic.

Key demands for the accession process of Bulgaria

In line with the opinion from March 2023 of the Economic and Social Council (ESC) of the Republic of Bulgaria, in anticipation of the forthcoming plan to promote collective bargaining¹ nationally, TUAC calls on the ELSAC to recommend the following reforms to Bulgaria:

- Open the right to collective bargaining for civil servants by amending the Labour Code, the Civil Servants Act, the Ministry of Interior Act and similar laws.
- Revise the legal framework and introduce measures that would improve the process of collective bargaining, ensure good-faith negotiations and bring about effective results. These could include setting deadlines for the bargaining process or allowing trade unions to engage in a collective labour dispute without having to declare the duration of the strike in advance.
- Review the national minimum wage setting mechanism to ensure that the minimum wage is set above 50% of the average wage. This should be complemented with negotiations on minimum pay for each economic sector, while also introducing annual bargaining on recommendations to increase wages in the private sector.
- Adopt a new strategy for extending sector-level agreements.
- Strengthen the capacity of the labour inspectorate to ensure that employers fully comply with labour laws.

¹ As required by the EU Directive on minimum wages