



European  
Social  
Charter

Charte  
Sociale  
Européenne



COUNCIL OF EUROPE

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## **EUROPEAN SOCIAL CHARTER**

Addendum to the  
25<sup>th</sup> National Report on the implementation of  
the European Social Charter

submitted by

**THE GOVERNMENT OF SPAIN**

(Article 13§2 for the period  
01/01/2008 – 31/12/2011)

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**CYCLE 2013**

**INFORMATION ON THE COMPLIANCE WITH  
ART. 13.2 OF THE EUROPEAN SOCIAL CHARTER**

**Article 13 of the European Social Charter** of the Council of Europe provides that the Signatory States commit themselves to:

1. *Ensure that anybody who lacks sufficient resources and is not in a position to obtain them with his or her effort, or to receive them from other sources, especially through benefits of a social security scheme, may obtain adequate care and, in case of illness, the care required by his or her state;*
  
2. *Ensure that the people benefiting from such care do not suffer on this ground any decrease of their social and political rights;*

Concerning this second paragraph the following can be said:

The **principle of equality** is the key to guarantee the discriminatory situations, or, to say it in the terms of the European Social Charter, that nobody suffers a decrease of his or her political and social rights on any ground whatsoever.

The said principle finds its maximum expression in the two following rules of the Spanish Constitution:

- **Article 9** provides in its paragraph 2 that:

*It is the responsibility of the authorities to promote the conditions for freedom and equality of the individual and of the groups where it is integrated to be real and effective; to remove any obstacles that prevent or hamper their full enjoyment and to ease the participation of all citizens in the political, economic, cultural and social life.*

On the other hand, **Article 14** provides that:

*Spanish citizens are equal before the law, without any discrimination to possibly prevail on grounds of birth, race, sex, religion, opinion or any other personal or social condition or circumstance.*

The mentioned provisions, of general nature, are realized in the specific provisions included in **Chapter III of Title I of the Constitution**, under the heading: “On the governing principles of the social and economic policy”.

So, for instance, **article 49** provides that:

*The authorities shall carry out a policy of prevention, treatment, rehabilitation and integration of physically, sensorial and psychically handicapped persons, to whom they shall give the specialized care they require, and they shall protect them specially for them to enjoy the rights that this Title awards to all citizens.*

On the other hand, Articles 9.2 and 14 have their **projection in the legislation as a whole**, and set the foundations to prevent the “dwindling of rights” or discrimination of anybody in the different fields of the political, social or economic life. The enunciation of the rules including these principles is therefore almost impossible.

As an example, and in the field of persons with disabilities, several acts and royal decrees have been passed to apply the previously mentioned provisions:

- Specifically, and concerning the equality of persons with disabilities, **Act 51/2003 of 2 December**, on equal opportunities, non discrimination and universal accessibility of persons with disabilities, has been passed. This act has been developed through several royal decrees.
- As the practice of the political rights is concerned, **Royal Decree 422/2011 of 25 March** approved the Regulation on the basic conditions for the participation in political life and election processes of persons with disabilities.

- On the other hand, **Act 26/1990 of 20 December** introduces the non contributory benefits of the Social Security system.
- Likewise, **Act 39/2006 of 14 December**, on Promotion of Personal Autonomy and Care to the persons in situations of dependency, has been passed.

## **Answers to the questions of ECSR**

### **Related to Article 13§2**

#### ***Romania***

The Law No.292/2011 on social assistance provides in Article 5 for the following:

#### **ARTICLE 5**

The national social assistance system is based on the following values and general principles:

- a) social solidarity according to which the whole community participate in supporting vulnerable people requiring support and social protection measures to overcome or limit the situations of difficulty, to ensure social inclusion of this category of population;
- b) Subsidiary, that, if the person or family can not secure fully their social needs, the local community and its associative structures intervene and complementary, the State;
- c) universality, according to which every person is entitled to social assistance, as provided by the law;
- d) respect for human dignity according to which each person is guaranteed free and full development of personality, his/her individual and social status are respected and right to privacy and protection against any physical, psychological, intellectual, political or economic abuse;
- e) individual approach, according to which social assistance measures have to be adapted to each individual private life, this principle takes into account the nature and cause of emergencies that may affect the individual skills, physical and mental condition and the social integration of the person; support for difficult situations including individual supportive measures to maintain the recipient family members;
- f) partnership, under which local and central public authorities, public and private institutions, NGOs, religious institutions recognized by the law and community members set goals, work together and mobilize all resources to ensure decent and decent living conditions for vulnerable people;
- g) participation of beneficiaries, according to which beneficiaries participate in formulating and implementing policies with direct impact on them, developing individualized programmes of social support and being actively involved in community life through forms of association or directly through voluntary activities undertaken on behalf of vulnerable people;

- h) Transparency that ensures increasing the accountability of central and local government to the citizen and stimulate active participation of beneficiaries in decision-making process;
- i) non-discrimination, according to which vulnerable people benefit from social protection measures and actions without restriction or preference to race, nationality, ethnic origin, language, religion, social, opinion, gender or sexual orientation, age, political affiliation, disability, non-contagious chronic illness, HIV infection or belonging to a disadvantaged category;
- j) effectiveness, that the use of public resources to meet the objectives set for each of the activities and obtaining the best result in relation to the planned outcome;
- k) Efficiency, that the use of public resources is based on with respect to the best ratio between costs and benefits;
- l) respecting the right to self determination according to which each person has the right to make his/her own choices, regardless of his/her social values, making sure it does not threaten the rights and interests of others;
- m) Activation, according to which the final goal of social assistance measures is to encourage employment, for social integration / reintegration and increase the person's quality of life, and strengthen the family unit;
- n) Unique character of the right to social assistance benefits, that the same need or social risk may be granted only one benefit of the same type;
- o) Proximity, that services are organized as close to the customer, to facilitate and maintain the person as much as possible in their own life;
- p) complementary and integrated approach, under which, to ensure the full potential of a person's social functioning as a full member of the family, community and society, social services should be linked to beneficiary needs and provided all integrated with a range of measures and services in the economy, educational, health, cultural fields;
- q) competition and competitiveness, according to which the social service providers, public and private, must always be concerned with increased quality of services provided and receive equal treatment on social services market;
- r) Equality, i.e. beneficiaries, without any discrimination, have equal access to opportunities of accomplishment and personal development, but also to social protection measures and actions;
- s) Confidentiality that, for privacy, beneficiaries are entitled to confidentiality of personal data and information relating to privacy and their difficult situation;

t) Equity, that all people who have similar socio-economic resources for the same types of needs, enjoy equal social rights;

u) target-directed, that social assistance benefits and social services to address the most vulnerable people and are allocated according to their income and assets;

v) Right to free choice of services provider, according to which the beneficiary or his/her legal representative has the right to free choice of accredited suppliers.