



European  
Social  
Charter

Charte  
Sociale  
Européenne



COUNCIL OF EUROPE  
CONSEIL DE L'EUROPE

10/4/2013

## **EUROPEAN SOCIAL CHARTER** **OF 1961**

Comments from the "Working Group Social Charter" / ESP  
on the  
25<sup>th</sup> Report by Spain on the implementation  
of the European Social Charter  
(RAP/Cha/25/XX-2(2013))

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Registered by the Secretariat on 3 March 2013

**CYCLE XX-2**  
**(2013)**



Answers sent by ONCE FROM Spain ( National Organisation for Blind People)

### **Article 3 The right to safe and healthy working conditions**

With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Parties undertake, in consultation with employers' and workers' organisations :

1. to formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment. The primary aim of this policy shall be to improve occupational safety and health and to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, particularly by minimising causes of hazards inherent in the working environment ;
2. to issue safety and health regulations ;
3. to provide for the enforcement of such regulations by measures of supervision;
4. to promote the progressive development of occupational health services for all workers with essentially preventive and advisory functions..

#### **Appendix to article 3 §4**

It is understood that for the purpose of this provision the functions, organisation and conditions of operation of these services shall be determined by national law or regulations, collective agreements or other means appropriate to national conditions.

#### **Ratification:**

Did not ratify whole of this article: Azerbaijan, Bosnia and Herzegovina, Croatia, Georgia, Latvia

Didn't ratify §3: Armenia, Finland, Former Yugoslav Republic of Macedonia.

Didn't ratify §4: Armenia, Cyprus, Estonia, Moldova, Norway, Romania, Sweden

#### **QUESTIONS to the national members of your INGO**

1. Do you have in your country a health service for work that is independent from the enterprises and that makes regular controls of hygiene and safety?

**Yes. It is regulated by a public body called "Instituto Nacional de Seguridad e Higiene en el Trabajo" (National Institute for Safety and Health at Work) which is responsible, within the State Administration, for the analysis and study of occupational safety and health, as well as promotion and support of actions to improve them. To achieve these objectives, necessary cooperation must be established with competent bodies within Autonomous Administrations.**

2. Have the organisations of employers and the organisations of workers a say in the organisation of the health service for work?

**In effect, health activities in the field of occupational health are carried out in a coordinated manner with management and workers' representatives.**

3. Does your country have a specific legislation as to hygiene and safety at work?

**Yes. It is called Law on the Prevention of Risks at Work, at State level. It is Law 31/1995 of 8 November 1995.**

#### **Article 11 The right to protection of health**

With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in cooperation with public or private organisations, to take appropriate measures designed *inter alia*

1. to remove as far as possible the causes of ill-health;
2. to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health ;
3. to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.

Only Armenia did not ratify this article.

#### **QUESTIONS to the national members of your INGO**

1. Are public and private health services accessible to the whole of the population? (Accessibility to non-nationals, to people with disabilities, financial accessibility)

**Yes, with restrictions in some regions in relation with foreign population, these measures are being adopted as a consequence of the crisis.**

2. Generalisation of vaccination: is it possible that some groups of population are excluded from vaccination?

**Yes. The vaccination policy is aimed at special groups at risk.**

3. What are the provisions for the prevention of accidents on the streets and roads?

**Public awareness campaigns and speed limitations on roads. An increasingly more rigid system of administrative and criminal sanctions is being applied.**

4. What are the provisions for the prevention of drug addiction (information in the schools and others...)?

**Public campaigns promoted within the framework of a National Plan on Drugs, under the responsibility of the Ministry of Health, Social Services and Equality.**

5. Are there other actions for health protection undertaken or to be undertaken in your country?

**Public investment in research and prevention is decreasing as a consequence of the crisis.**

#### **Article 12 The right to social security**

With a view to ensuring the effective exercise of the right to social security the Parties undertake:

1. to establish or maintain a system of social security ; ;

2 to maintain the social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security ;

3. to endeavour to raise progressively the system of social security to a higher level ;

4. to take steps, by the conclusion of appropriate bilateral or multilateral agreements or by other means, and subject to the conditions laid down in such agreements, in order to ensure :

a. equal treatment with their own nationals of the nationals of other Parties in respect of social security rights, including the retention of benefits arising out of social security legislations, whatever movements the protected persons may undertake between the territories of the Parties ;

b. the granting, maintenance and resumption of social security rights by such means as the accumulation of insurance or employment periods completed under the legislation of each of the Parties

#### Appendix to article 12§4

The words « and subject to the conditions laid down in such agreements » in the introduction of this paragraph are taken to imply inter alia that with regard to benefits which are available independently of any insurance contribution, a Party may require the completion of a prescribed period of residence before granting such benefits to nationals of other Parties..

Didn't ratify whole of this article: Albania, Azerbaijan, Croatia, Latvia, Ukraine.

Didn't ratify § 1 : Armenia, Bulgaria, Georgia, Hungary, Lithuania, Malta, Russian Federation, UK

Didn't ratify § 2 : Armenia, Bulgaria, Georgia, Hungary, Lithuania, Malta, Russian Federation, UK

Didn't ratify §3 : Bosnia and Herzegovina, Hungary , Russian Federation, UK

Didn't ratify §4 : Armenia, Bosnia and Herzegovina, Bulgaria, Georgia, Hungary , Malta (2) Russian Federation, Sweden UK.

#### **QUESTIONS to the national members of your INGO**

1. Do you have in your country a social security system that covers really health, illness, old age, unemployment, work accidents, family, motherhood, invalidity and survivors?

**Yes. It is a State public system financed by workers and companies contributions.**

2. What is the level of the minimum income (daily or per hour) that is guaranteed by the social security system in case of illness? How many days are not covered?

**The regulatory base, to calculate this benefit, is obtained by dividing the worker's contribution base during the month previous to the beginning of his sick leave, by the number of days covered by this contribution. It varies if the eventuality it derives from is common or occupational, as in the latter case, it takes into account the average of amounts perceived for extra hours during the last twelve months, and this is not taken into account in the case of a sick leave for common reasons.**

3. What are the conditions for being admitted to the social security system in your country? (length of stay in the country, being borne in the country, bilateral or multilateral agreements?)

**Registered workers who are affiliated to the General Social Security Scheme are beneficiaries, or those who are in an equivalent position, such as: getting contributory level unemployment benefits; annual**

**leave not taken at the end of the contract; suspension from duties without pay; getting corresponding procedural salary; transfer by the company outside the national territory; special agreements for members of parliament and senators of the Spanish Parliament, the European Parliament and members of Parliaments and Governments of Autonomous Communities.**

### **Article 13: The right to social and medical assistance**

With a view to ensuring the effective exercise of the right to social and medical assistance, the Parties undertake:

1. to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition;
2. to ensure that persons receiving such assistance shall not, for that reason, suffer from diminution of their political or social rights;
3. to provide that everyone may receive by appropriate public or private services such advice and personal help as may be required to prevent, to remove, or to alleviate personal or family want;
4. to apply the provisions referred to in paragraph 1, 2 and 3 of this article on an equal footing with their nationals to nationals of other Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed in Paris on 11 December 1953.

### **Appendix to article 13§4**

Governments not Parties to the Convention on Social and Medical Assistance may ratify the Charter in respect of this paragraph provided that they grant to nationals of other Parties a treatment which is in conformity with the provisions of the said convention.

Didn't ratify whole of this article : Albania, Azerbaijan, Georgia, Russian Federation, Ukraine

Didn't ratify §1: Cyprus, Poland,, Slovenia

Didn't ratify §3 : Armenia,

Didn't ratify §4: Armenia, Bosnia and Herzegovina, Bulgaria, Estonia, Lithuania, Moldova, Poland, Romania, Slovak Republic, and Slovenia.

### **QUESTIONS to the national members of your INGO**

**Note:** This article concerns those persons who don't work or are no more working

1. What are the main actors of social assistance in your country?

**Autonomous Communities, local entities and private entities.**

2. Who is benefiting from this assistance?

**Persons at risk of social exclusion.**

3. What are the links established between actors of medical care and actors of social care?

**They are different. They do not coincide.**

4. How does your country secure the competence and quality of these services? Controls?

**Public controls on actors.**

5. In cases of emergency persons who are not legally on the territory of a State should be provided with medical care as well as with housing, clothing and food. How does this work in your country?

**Yes, they are covered. Emergency medical assistance is universal. Medical care is universal too. It is enough to be registered in a municipality.**

**In any case, there is a danger of cuts in those services due to the crisis.**

#### **Article 14 The right to benefit from social welfare services**

With a view to ensuring the effective exercise of the right to benefit from social welfare services, the Parties undertake:

1. to promote or provide services which, by using methods of social work, would contribute to the welfare and development of both individuals and groups in the community, and to their adjustment to the social environment;
2. to encourage the participation of individuals and voluntary or other organisations in the establishment and maintenance of such services.

Didn't ratify whole of this article: Albania, Moldova, Romania, Former Yugoslav Republic of Macedonia

#### **QUESTIONS to the national members of your INGO**

1. Are the social services in your country suffering from the present crisis ( lowering of financial means, more people asking for help??)

**Yes, notably.**

2. Are there groups of population that don't have access to social services?

**In theory, no, but in practice, some regions are beginning to restrict the rights of foreign population.**

#### **Article 23 The right of elderly persons to social protection**

With a view to ensuring the effective exercise of the right of elderly persons to social protection, the Parties undertake to adopt or encourage, either directly or in cooperation with public or private organisations, appropriate measures designed in particular:

- to enable elderly persons to remain full members of society as long as possible , by means of:
  - a. adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life;
  - b. provision of information about services and facilities available for elderly persons and their opportunities to make use of them;

– to enable elderly persons to choose their life-style freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of:

a. provision of housing suited to their needs and their state of health or of adequate support for adapting their housing;

b. the health care and the services necessitated by their state ;

– to guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in the institution.

APPENDIX to article 23, paragraph 1

For the purpose of the application of this paragraph, the term “for as long as possible” refers to the elderly person’s physical, psychological and intellectual capacities.

Note: for those State that have only ratified the first Charter of 1961 this article 23 is the article 4 of the additional, protocol; the wording is the same

Didn’t ratify whole of this article : Albania, Germany, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Cyprus, Croatia, Estonia, Georgia, Hungary, Iceland, Latvia, Lithuania, Luxembourg, Moldova, Poland, Romania, the Russian Federation, the former Yugoslav republic of Macedonia, UK,

#### **QUESTIONS to the national members of your INGO**

1. Does your country develop o policy for allowing elderly persons to remain in their familiar surroundings?

**Welfare benefits have decreased due to the crisis.**

If so, are there:

- Helps for adaptations in their home? **Yes**
- Helps for their daily life? **Yes**

2. Is a financial support available for them?

**Yes. They are covered as other beneficiaries in the field of dependency, equally in the case of municipal care work, although depending on the Autonomous Community, they are awarded more or less easily and during more or less time.**

3. Is there a legal provision for helps to decision making and for the protection of the person? Is an appropriate training provided to those who are responsible for this legal protection?

**Yes. Guardianship in the civil sphere. In the future, it will be transferred to a support system.**

4. Is an appropriate training provided to all those who are involved in providing support to elderly persons? What kind of training?

**Very basic**

**Article 30 The right to protection against poverty and social exclusion**



With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake:

- a. to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance;
- b. to review these measures with a view to their adaptation if necessary.

Didn't ratify this article:

- The States that are only Parties to the Charter of 1061: Croatia, Czech Republic, Denmark, Germany, Greece, Iceland, Latvia, Luxembourg, Poland, Spain, UK
- Albania, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Cyprus, Georgia, Hungary, Lithuania, Malta, Moldova, Montenegro, Romania, Russian Federation, the former Yugoslav republic of Macedonia.

**QUESTIONS to the national members of your INGO**

1. Do you observe an increase in poverty in your country?

**Yes, it is increasing.**

2. Which group of population does the most experience poverty:

- young people
- unemployed
- elderly persons
- single families

**The first three**

3. What is, for you, the meaning of "extreme poverty"?

**It is when a person does not have anything to eat and is at a level of social exclusion.**

*Thank you for sending your answers as soon as possible*