

## – Romania and the European Social Charter –

### Signatures, ratifications and accepted provisions

Romania ratified the Revised European Social Charter on 07/05/1999 and has accepted 65 of the Revised Charter's 98 paragraphs.

Romania has not accepted the system of collective complaints.

### The Charter in domestic law

Automatic standing incorporation based on the Constitution, Article 11: "1. The Romanian State pledges to fulfill as such and in good faith its obligations as deriving from the treaties it is a party to. 2. Treaties ratified by Parliament, according to the law, are part of national law. 3. If a treaty Romania is to become a party to, contains provisions contrary to the Constitution, its ratification shall only take place after the revision of the Constitution".

### 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		

### Reports on non-accepted provisions

The European Committee of Social Rights ("the Committee") examines the situation of non-accepted provisions of the Revised Charter every 5 years after the ratification. It adopted [reports concerning Romania](#) in 2004, in 2009 and in 2015. The Committee considers that there are no obstacles to the immediate acceptance of Articles 2§3, 10§§1-5, 19§§1-5, 27§1 and 27§3. Moreover, the acceptance of the following provisions is also possible: 19§9, 22 and 26§§1-2.

Further information on the reports on non-accepted provisions is available on the [relevant webpage](#).

## Monitoring the implementation of the European Social Charter <sup>1</sup>

### I. Reporting system <sup>2</sup>

#### Reports submitted by Romania

Between 2001 and 2022, Romania has submitted 20 reports on the application of the Revised Charter.

The 20<sup>th</sup> report, which was submitted on 11/08/2021, concerns the accepted provisions relating to thematic group 2 "Health, social security and social protection" (Articles 3, 11, 12, 13, 14, 23 and 30).

Conclusions with respect to these provisions have been published in March 2022.

The 21<sup>th</sup> report, which was to be submitted by 31/12/2021, should concern 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 to 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).

Conclusions with respect to these provisions will be published in March 2023.

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<sup>1</sup> The Committee monitors compliance with the Charter under two procedures, the reporting system and the collective complaints procedure, according to Rule 2 of the Committee's rules: « 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 ».

Further information on the [procedures](#) may be found on the [HUDOC database](#) and in the [Digest of the case law of the Committee](#).

<sup>2</sup> 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.

Following a [decision taken by the Committee of Ministers in April 2014](#), States having accepted the collective complaints procedure are required, in alternation with the abovementioned report, to provide a simplified report on the measures taken to implement the decisions of the Committee adopted in collective complaints concerning their country. The alternation of reports is rotated periodically to ensure coverage of the four thematic groups.

Detailed information on the Reporting System is available on the [relevant webpage](#). The reports submitted by States Parties may be consulted in the [relevant section](#).

## Situations of non-conformity <sup>3</sup>

### Thematic Group 1 “Employment, training and equal opportunities” - Conclusions 2020

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

It has not been established that the national authorities have fulfilled their obligations to prevent labour exploitation of domestic workers.

► *Article 1§3 – Right to work – Free placement services*

It has not been established that employment services operate in an efficient manner.

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

- It has not been established that the right of employed persons to vocational training is effectively guaranteed;
- It has not been established that the right of persons with disabilities to mainstream training was effectively guaranteed.

► *Article 15§1 – Right of persons with disabilities to independence, social integration and participation in the life of the community – Vocational training for persons with disabilities*

The right of children with disabilities to mainstream education and training is not effectively guaranteed.

► *Article 15§2 – Right of persons with disabilities to independence, social integration and participation in the life of the community – Employment of persons with disabilities*

Persons with disabilities are not guaranteed effective access to employment.

► *Article 25 - Right of workers to protection of their claims in the event of the insolvency of their employer*

It has not been established that workers' claims in case of insolvency of the employer are adequately protected in practice.

### Thematic Group 2 “Health, social security and social protection” - Conclusions 2021

► *Article 3§2 – Right to safe and healthy working conditions – Safety and health regulations*

It has not been established that domestic workers are protected by occupational health and safety regulations.

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

Measures taken to reduce the high rate of fatal accidents at work are not sufficient.

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

- The measures taken to reduce infant and maternal mortality rates have been insufficient;
- Transgender people have to undergo sterilisation in order to receive legal recognition.

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

Efficient immunisation and epidemiological monitoring programmes are not in place.

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

The minimum level of unemployment benefit is inadequate.

► *Article 12§3 – Right to social security – Development of the social security system*

Efforts made to progressively raise the system of social security to a higher level are inadequate.

► *Article 12§4 – Right to social security – Social security of persons moving between states*

Maintenance of accruing rights is not ensured with all States Parties.

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<sup>3</sup> Further information on the situations of non-conformity is available on the [HUDOC database](#).

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

- Uninsured persons without resources are not entitled to adequate medical assistance;
- The level of social assistance paid to a single person without resources is inadequate;
- Foreign nationals unlawfully present who cannot apply for international protection are not entitled to social assistance rights.

### **Thematic Group 3 “Labour rights” – Conclusions 2018**

► *Article 4§1 – Right to a fair remuneration - Decent remuneration – Conclusions 2014*

The national minimum wage is not sufficient to ensure a decent standard of living.

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

- The notice period for dismissal for physical or mental incapacity or for professional inadequacy or as a result of the abolition of posts is insufficient;
- The legislation makes no provision for notice periods during probationary periods and in the event of the death of the employer who is a natural person, or winding up of an employer who is a legal person.

► *Article 4§5 – Right to a fair remuneration – Limits to deduction from wages*

After the deduction of the combined amount of all authorised deductions, the wages of workers with the lowest pay do not allow them to provide for themselves or their dependants.

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

A trade union can only take collective action if it meets representativeness criteria and if the strike is approved by at least half of the respective trade union’s members.

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

- The protection against dismissal granted to trade union representatives and other elected workers’ representatives does not extend beyond the end of their mandate;
- It has not been established that facilities afforded to workers’ representatives are adequate.

### **Thematic Group 4 “Children, families, migrants” - Conclusions 2019**

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

Prohibition of working under the age of 15 is not effectively enforced.

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

- Children who are still subject to compulsory education are not guaranteed an uninterrupted rest period of at least two weeks during summer holiday;
- The protection against employment of children subject to compulsory education is not effectively guaranteed.

► *Article 7§5 – Right of children and young persons to protection – Fair pay*

Young workers and apprentices’ wages are not fair.

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

There are no clear indications on the intervention of the labour inspectorate on the time spent on vocational training during the normal working time and the remuneration for young workers.

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

The Labour Code does not provide sanctions for the employers that do not respect paid annual leave.

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

Data are not provided on the findings of the Labour Inspectorate in relation to prohibition of night work for young persons under 18, including the nature and number of violations detected and sanctions imposed.

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

- The measures taken do not ensure an adequate protection of women against domestic violence;
- It has not been established that affordable and good quality childcare is ensured for families;
- The notice period before eviction is too short;
- Families can be evicted during winter;
- The protection of Roma families with respect to housing, including in terms of eviction conditions, is inadequate.

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

The net enrolment rate in primary education is too low.

► *Article 19§8 - Right of migrant workers and their families to protection and assistance - Guarantees concerning deportation*

A migrant worker may be considered as a threat to public order and therefore expelled where he/she has been convicted for a minor crime.

**The Committee has been unable to assess compliance with the following provisions and has invited the Romanian Government to provide more information in the next report:**

**Thematic Group 1 "Employment, training and equal opportunities"**

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

▶Article 11§2 - Conclusions 2021

**Thematic Group 3 "Labour rights"**

▶Article 2§2 - Conclusions 2018

▶Article 4§3 - Conclusions 2018

▶Article 6§2 - Conclusions 2018

**Thematic Group 4 "Children, families, migrants"**

▶Article 7§2 - Conclusions 2019

▶Article 7§4 - Conclusions 2019

▶Article 7§10 - Conclusions 2019

▶Article 17§1 - Conclusions 2019

## **II. Examples of progress achieved in the implementation of rights under the Charter (non-exhaustive list)**

### **Thematic Group 1 "Employment, training and equal opportunities"**

- ▶ Prohibition of all forms of discrimination on grounds of sex in access to social security benefits (Act No. 76/2002).
- ▶ Prohibition of all forms of discrimination on grounds of sex in all aspects of working life and right to equal pay for a work of equal value (Act No. 202/2002).
- ▶ In April 2014 the Department for Equality of Opportunities between Women and Men (DEOWM) was established to monitor the enforcement of the Gender Equality Law.
- ▶ Prohibition of all forms of discrimination in employment (Ordinance No. 137/2000 as modified by Act No. 48/2002).
- ▶ The requirement of the Romanian nationality for the representation within the Economic and Social Council was removed (Article 94 of Law No. 62/2011 on Social Dialogue).
- ▶ Exemption of all persons with disabilities working on individual employment contracts from tax on their wages (Governmental Emergency Ordinance No. 102/1999 approved by Act No. 519/2002).
- ▶ Prohibition of discrimination in employment on the grounds of disability (Decree No. 77/2003 and Labour Code as revised).
- ▶ Adoption of an antidiscriminatory legislation to promote an equal and free access to any form of education for people with disabilities (Act No. 448/2006 on the protection and promotion of the rights of people with disabilities).
- ▶ Phasing out of compulsory military service (Act No. 395/2005).

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

- ▶ Adoption of the Law on Safety and Health at Work No. 319/2006 which entered into force on 1 October 2006.
- ▶ Adoption of the Law no 95/2006 on the reform in the field of health care.
- ▶ Adoption of the Law no. 47 of 16 June 2005 on the national system of social assistance.
- ▶ Restrictions on tobacco advertising and sale (Act No. 148/2000).
- ▶ Measures preventing and combating the effects of the tobacco products (Act No. 90/2004).

### **Thematic Group 3 "Labour rights"**

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### **Thematic Group 4 "Children, families, migrants"**

- ▶ Right of female employees to a compulsory 42 days postnatal leave (Article 16 of Government Emergency Ordinance No 96/2003).

- ▶Adoption of a comprehensive framework on the protection and promotion of the rights of the child and setting up of the National Authority for the Protection of the Rights of the Child (Act No. 272/2004 on the Protection of the Rights of the Child).
- ▶National action plan to eliminate child labour approved by Government decision No. 1769/2004.
- ▶Prohibition of trafficking of children for any kind of exploitation, including sexual (Act No. 678/2001 on the Prevention and Combat of Trafficking in Human Beings).
- ▶Adoption of measures to prevent and protect children and young persons against domestic violence (Act No. 217/2003).
- ▶Section 28 of Act No. 272/2004 on the Protection and Promotion of the Rights of the Child, promulgated through Decree No. 481/2004 (in force in 2005), provides that a child has the right to be shown respect for his or her personality and individuality and may not be made subject to physical punishment or to other humiliating or degrading treatment.