

SUMMARIES OF THE COUNCIL OF EUROPE TREATIES

The summaries available hereunder are designed to meet a practical need, that of supplying the public at large with concise descriptions of the Council of Europe treaties. The summaries are necessarily short and can therefore only give a first introduction to the main features of each treaty.

Subject-matter: EUROPEAN SOCIAL CHARTER

European Social Charter ([ETS No. 35](#)), open for signature, in Turin, on 18 October 1961.

Entry into force: 26 February 1965.

The European Social Charter of 1961 is the counterpart of the European Convention on Human Rights in the sphere of economic and social rights.

The Charter of 1961 guarantees the enjoyment, without discrimination, of fundamental social and economic rights defined in the framework of a social policy that Parties undertake to pursue, by all appropriate means (Part I).

Of the rights guaranteed by the Charter, the right to work, the right to organise, the right to bargain collectively, the right to social security, the right to social and medical assistance, the right to the social, legal and economic protection of the family, and the right to protection and assistance for migrant workers and their families are regarded as particularly significant (Part II).

Any State ratifying the Charter must undertake to be bound by at least 5 of Articles 1, 5, 6, 12, 13, 16 and 19, and by such a number of Articles or numbered paragraphs, provided that the total number of Articles or paragraphs is not less than 10 Articles or 45 numbered paragraphs of Part II of the Charter.

The European Social Charter sets up an international system of supervision of its application by the Parties based on national reports. Every year the Parties submit a report on some of the accepted provisions of the Charter indicating how they implement the Charter in law and in practice. The European Committee of Social Rights (former Committee of Independent Experts) examines the reports and decides whether or not the situations in the countries concerned are in conformity with the Charter. If a Party takes no action on a decision of non-conformity of the European Committee on Social Rights, the Committee of Ministers may address a recommendation to that Party, asking it to change the situation in law and in practice. The Committee of Ministers' work is prepared by a Governmental Committee comprising representatives of the governments of the Parties to the Charter, assisted by observers representing European employers' organisations and trade unions.

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Additional Protocol to the European Social Charter ([ETS No. 128](#)), open for signature, in Strasbourg, on 5 May 1988.

Entry into force: 4 September 1992.

The Additional Protocol of 1988 extends the social and economic rights guaranteed by the European Social Charter of 1961 by adding the following rights:

- the right for workers to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the ground of sex;
- the right for workers to be informed and consulted within the undertaking;
- the right for workers to take part in the determination and improvement of working conditions and the working environment in the undertaking;
- the right for elderly persons to social protection.

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Protocol amending the European Social Charter ([ETS No. 142](#)), open for signature, in Turin, on 21 October 1991.

Entry into force: The Protocol will enter into force after its ratification by all the Parties to the Charter (ETS No. 35).

The Amending Protocol of 1991 improves considerably the control machinery of the Charter.

The Protocol confirms the political role of the Committee of Ministers and of the Parliamentary Assembly of the Council of Europe. It clarifies the respective functions of two principal organs of control, – i.e. the European Committee of Social Rights (restricted body composed of independent persons, which decides whether or not the situations in the countries concerned are in conformity with the Charter in law and in practice) and the Governmental Committee (body composed of representatives of each of the Parties, which prepares the Committee of Ministers' work) –, and reinforced the participation of social partners and non-governmental organisations.

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Additional Protocol to the European Social Charter Providing for a System of Collective Complaints ([ETS No. 158](#)), open for signature, in Strasbourg, on 9 November 1995.

Entry into force: 1 July 1998.

The Additional Protocol providing a system of collective complaints of 1995 is one of measures designated to improve the effective enforcement of the social rights guaranteed by the Charter.

The Protocol entitles social partners and non-governmental organisations to lodge collective complaints of violations of the Charter in States which have ratified it. The complaint is examined by the European Committee of Social Rights which declares it admissible if the formal requirements have been met. The Committee then takes a decision on the merits of the complaint, which it forwards to the parties concerned and to the Committee of Ministers in a report, which is made public within four months of its being forwarded.

On the basis of the report of the European Committee of Social Rights, the Committee of Ministers adopts a resolution. If appropriate, it may recommend that the State concerned take specific measures to bring the situation into line with the Charter.

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European Social Charter (revised) ([ETS No. 163](#)), open for signature, in Strasbourg, on 3 May 1996.

Entry into force: 1 July 1999.

The European Social Charter (revised) of 1996 embodies in one instrument all rights guaranteed by the Charter of 1961, its additional Protocol of 1988 (ETS No. 128) and adds new rights and amendments adopted by the Parties. It is gradually replacing the initial 1961 treaty.

The European Social Charter (revised) guaranteed fundamental social and economic rights of all individuals in their daily lives. It takes account of the evolution which has occurred in Europe since the Charter was adopted in 1961, and includes the following:

New rights: right to protection against poverty and social exclusion; right to housing; right to protection in cases of termination of employment; right to protection against sexual harassment in the workplace and other forms of harassment; rights of workers with family responsibilities to equal opportunities and equal treatment; rights of workers' representatives in undertakings.

Amendments: reinforcement of principle of non-discrimination; improvement of gender equality in all fields covered by the treaty; better protection of maternity and social protection of mothers; better social, legal and economic protection of employed children; better protection of handicapped people.

Enforcement of the new Charter is submitted to the same system of control as the Charter of 1961, developed by the Amending Protocol of 1991 (ETS No. 142) and by the Additional Protocol of 1995 providing a system of collective complaints (ETS No. 158).