



European
Social
Charter

Charte
sociale
européenne



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX**

19 October 2021

**THIRD REPORT
ON THE NON-ACCEPTED PROVISIONS OF THE EUROPEAN
SOCIAL CHARTER**

THE NETHERLANDS

Document prepared by the Secretariat

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OPINION

With respect to the procedure provided by Article 22 of the 1961 Charter – examination of non-accepted provisions - the Committee of Ministers in December 2002 decided that "states having ratified the revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification" and "invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the states concerned" (Decision of the Committee of Ministers of 11 December 2002).

Following this decision, the European Committee of Social Rights examines - in a meeting or by written procedure - the actual legal situation and the situation in practice in the countries concerned from the point of view of the degree of conformity of the situation with non-accepted provisions. This review is done for the first time five years after the ratification of the revised European Social Charter, and every five years thereafter, to assess the situation on an ongoing basis and to encourage States to accept new provisions. Indeed, experience has shown that States tend to overlook that the selective acceptance of the provisions of the Charter should be only a temporary phenomenon and not a rule.

As the Netherlands ratified the Charter on 3 May 2006, the procedure provided for by Article 22 of the 1961 Charter was applied for the first time in 2011 and for the second time in 2016. In both cases, the European Committee of Social Rights decided to apply the written procedure to examine the situation concerning the only provision of the Charter not accepted by the Netherlands - Article 19§12 (teaching mother tongue of migrant).

In order to carry out the procedure for the third time in 2021, the authorities of the Netherlands were invited to submit a report (written information) on the non-accepted provision concerned, including on any progress achieved towards accepting Article 19§12 of the Charter and, if appropriate, the reasons for the delay in accepting this provision.

In their reply, received by the European Committee of Social Rights on 29 June 2021, the Government confirms that in order to promote social cohesion, the priority is to teach migrants the Dutch language. Since 2004, the Government is no longer involved in providing education to children in their parents' mother tongue. However, through private initiative it is still possible to provide education in foreign languages outside the formal education system. In addition, Article 9, paragraph 13 of the Primary Education Act and Article 6a of the Secondary Education Act create the possibility to temporarily provide education in a different language than the Dutch language, if this is beneficial for the development of the pupil.

The Government stresses that the policy with regard to language education is maintained and therefore confirms that the Netherlands still does not intend to accept Article 19§12 of the Charter, and that the rationale for this position has not changed since 2011.

The Committee takes note of the position of the Netherlands, but invites the Government to reconsider it with a view to accepting this provision. In this respect, the Committee notes that the Netherlands is already bound by the European Convention on the Legal Status of Migrant Workers (ETS No. 93), Article 15 of which covers the same issues.

The Committee further invites the Netherlands to make a declaration enabling national NGOs to submit collective complaints (pursuant to Article 2 of the 1995 Additional Protocol providing for a system of collective complaints).

The next examination of the provision not accepted by the Netherlands will take place in 2026.

— The Netherlands and the European Social Charter —

Signatures, ratifications and accepted provisions

The Netherlands ratified the 1961 European Social Charter on 22/04/1980, accepting 71 (initially 69) of its 72 paragraphs and the Revised European Social Charter on 03/05/2006, accepting 97 of its 98 paragraphs (only applying to the Kingdom in Europe).

It ratified the 1988 Additional Protocol on 5/08/1992, accepting 3 of its 4 paragraphs and the 1991 Amending Protocol on 1/06/1993.

11 paragraphs (namely, Articles 1, 5, 6, 16 of the 1961 Charter and Article 1 of the 1988 Additional Protocol) remain applicable to Aruba, Curaçao, Sint Maarten and the Caribbean Part (special municipalities of Bonaire, Sint Eustatius and Saba).

The Netherlands accepted the 1995 Additional Protocol providing for a system of collective complaints on 03/05/2006 but has not yet made a declaration enabling national NGOs to submit collective complaints.

The Charter in domestic law

Automatic incorporation into domestic law.

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 the Netherlands](#) in 2011 and 2016.

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

APPENDIX II

Declaration of the Committee of Ministers on the 50th anniversary of the European Social Charter

(Adopted by the Committee of Ministers on 12 October 2011 at the 1123rd meeting of the Ministers' Deputies)

The Committee of Ministers of the Council of Europe,

Considering the European Social Charter opened for signature in Turin on 18 October 1961 and revised in Strasbourg on 3 May 1996 ("the Charter");

Reaffirming that all human rights are universal, indivisible and interdependent and interrelated;

Stressing its attachment to human dignity and the protection of all human rights;

Emphasizing that human rights must be enjoyed without discrimination;

Reiterating its determination to build cohesive societies by ensuring fair access to social rights, fighting exclusion and protecting vulnerable groups;

Underlining the particular relevance of social rights and their guarantee in times of economic difficulties, in particular for individuals belonging to vulnerable groups;

On the occasion of the 50th anniversary of the Charter,

1. Solemnly reaffirms the paramount role of the Charter in guaranteeing and promoting social rights on our continent;
2. Welcomes the great number of ratifications since the Second Summit of Heads of States and Governments where it was decided to promote and make full use of the Charter, and calls on all those member states that have not yet ratified the Revised European Social Charter to consider doing so;
3. Recognizes the contribution of the collective complaints mechanism in furthering the implementation of social rights, and calls on those members states not having done so to consider accepting the system of collective complaints;
4. Expresses its resolve to secure the effectiveness of the Social Charter through an appropriate and efficient reporting system and, where applicable, the collective complaints procedure;
5. Welcomes the numerous examples of measures taken by States Parties to implement and respect the Charter, and calls on governments to take account, in an appropriate manner, of all the various observations made in the conclusions of the European Committee of Social Rights and in the reports of the Governmental Committee;
6. Affirms its determination to support States Parties in bringing their domestic situation into conformity with the Charter and to ensure the expertise and independence of the European Committee of Social Rights;

7. Invites member states and the relevant bodies of the Council of Europe to increase their effort to raise awareness of the Charter at national level amongst legal practitioners, academics and social partners as well as to inform the public at large of their rights.