



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

21 May 2012

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

GEORGIA

Document prepared by the Secretariat

TABLE OF CONTENTS

| | |
|--|----|
| I. SUMMARY | 3 |
| Appendix 1: Georgia and the European Social Charter | 5 |
| Appendix 2 : Programme | 9 |
| Appendix 3 : Declaration of the Committee of Ministers on the 50 th anniversary of the European Social Charter | 11 |

I. SUMMARY

The meeting with the Georgian authorities took place within the framework of the procedure adopted by the Ministers' Deputies in December 2002 concerning the provisions not accepted by the States Parties (Article 22 of the 1961 Charter). The Deputies 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".

In accordance with this decision, five years after ratification of the Revised Charter (and every five years thereafter), the European Committee of Social Rights ("the Committee") reviews non-accepted provisions with the authorities of the state concerned with a view to securing a higher level of acceptance. Experience has shown that governments tend to overlook that selective acceptance of Charter provisions is intended to be transitory. The aim of the new procedure is therefore to require them to review the national situation at regular intervals and encourage them to accept more provisions.

Georgia ratified the Revised Charter in 2005 and accepted only the minimum required number of provisions. The meeting on the non-accepted provisions of the Charter was organised in Tbilisi on 9 July 2010.

The representatives of the Government provided information in relation to non-accepted provisions of the Charter.

As regards Articles 10 and 15, according to the authorities, considerable progress had been achieved in supporting and promoting vocational training since 2007 when the VET law was adopted. Measures taken in the framework of the reform of the education system also included improving access to vocational education and lifelong learning for all groups of population. To strengthen social partnership in VET a National Council had been set up where NGOs are also represented. Moreover, since 2009 ten schools in Tbilisi had been selected to implement inclusive education and mainstreaming programmes for children with disabilities.

As regards access to education, financial obstacles still existed to guarantee effective access to education at all levels for all vulnerable groups, including in higher education. However, social grants programme for vulnerable groups had been launched.

As regards Article 24, the Constitution and the Labour Code guarantee the right to protection against dismissal by obliging the employer to provide a valid reason for termination of employment. The mediation council for labour disputes was set up. According to the authorities, the only obstacle to the acceptance of Article 24 was the requirement to provide 'adequate' compensation in case of unlawful dismissal. However, this issue was also being discussed with the ILO as well as with the EU in the context of GSP+¹.

The representatives also provided information in relation to health and safety in the workplace where legislative amendments were underway to harmonise the laws with

¹ EU's Generalized System of Preferences.

international norms, also involving the setting up of public and private inspection services.

Regarding Articles 13, 23 and 30, significant reforms had been implemented and measures taken to define the criteria for needs assessment with a view to better targeting social assistance for persons without resources, including the elderly as well as persons with disabilities.

Following these presentations and discussions, the delegation of the European Committee of Social Rights concluded provisionally that Georgia could accept some of the provisions (e.g. Articles 3, 8, 10 and 15), while it was not yet ready to accept others (e.g. Articles 13, 23, 24 and 30).

The Georgian authorities were invited to provide written information on the non-accepted provisions before 30 December 2010. Regrettably, the authorities failed to provide any information.

The Committee remains at the disposal of the Georgian authorities, and encourages the authorities to consider acceptance of the non-accepted Charter provisions identified in 2010 as posing no problems for acceptance.

The next examination of the provisions not accepted by Georgia will take place in 2015.

APPENDIX 1

GEORGIA AND THE EUROPEAN SOCIAL CHARTER

Situation of Georgia as of February 2012

Ratifications

Georgia ratified the Revised European Social Charter 22/08/2005, accepting 63 of the Revised Charter's 98 paragraphs.

Georgia has not yet ratified the Additional Protocol providing for a system of Collective Complaints.

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 | | | | | | | | | | |
| Grisé = Dispositions acceptées | | | | | | | | | | | |

Reports *

Between 2007 and 2011 Georgia has submitted 4 reports on the application of the Revised Charter.

The [4th report](#), submitted on 17/12/2010, concerns the provisions accepted by Georgia relating to Thematic Group 4 "Children, families, migrants", i.e. (Articles 7, 8§§3, 4 and 5, 17§1, 19 and 27). Conclusions in respect of these provisions were published in January 2012.

The 5th report concerns the provisions accepted by Georgia relating to Thematic Group 1 "Employment, training and equal opportunities", i.e.

- the right to work (Article1),
- the right to vocational training (Article 10§§2 and 4),
- the right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15§3),
- the right to engage in a gainful occupation in the territory of other States Parties (Article 18),
- the right of men and women to equal opportunities (Article 20).

Conclusions in respect of these provisions will be published in December 2012.

* [Following a decision taken by the Committee of Ministers in 2006](#), the provisions of both the European Social Charter and the Revised 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 will be reported on once every four years.

Situation of Georgia with respect to the application of the Revised Charter

Cases of non-conformity

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

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

It has not been established that measures taken to reduce infant and maternal mortality rates,

which are significantly higher than in other European countries, are adequate.

([Conclusions 2009](#))

► *Article 11§2 - Right to protection of health - Advisory and educational facilities*

The measures for counselling and screening of pregnant women and children are not adequate.

([Conclusions 2009](#))

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

It has not been demonstrated that adequate measures have been adopted in the field of environmental health, on tobacco consumption, alcohol use, drug abuse, food safety or to prevent accidents.

([Conclusions 2009](#))

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

The minimum levels of old age, disability and survivors benefits are manifestly inadequate.

([Conclusions 2009](#))

► *Article 14§1 - Right to benefit from social services - Promotion or provision of social services maintenance of social services*

There is no general social services system.

([Conclusions 2009](#))

► *Article 14§2 - Right to benefit from social services - Public participation in the establishment and maintenance of social welfare services*

It has not been established that measures are taken to encourage individuals and voluntary organisations to participate in the establishment and running of social welfare services.

([Conclusions 2009](#))

Thematic Group 3 "Labour rights"

► *Article 2§1 - Right to just conditions of work - Reasonable working time*

The Labour Code permits employers and workers to agree on working time without fixing a maximum limit on weekly working hours.

([Conclusions 2010](#))

► *Article 4§2 - Right to a fair remuneration - Increased remuneration for overtime work*

The Labour Code permits employers and workers to agree on overtime hours without limitations and does not guarantee workers the right to an increased remuneration or a longer rest period in compensation for overtime work.

([Conclusions 2010](#))

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

The Labour Code does not specify any period of notice for termination of employment nor does it make any provision for a reasonable period of notice for employees during their probationary period.

([Conclusions 2010](#))

- ▶ *Article 5 - Right to organise*

An excessive number of members is required to establish a trade union, there are restrictions on the right to organise that may be included in employment contracts and protection against discrimination based on trade union membership in the context of recruitment and dismissal is insufficient.

([Conclusions 2010](#))

- ▶ *Article 6§2 – Right to bargain collectively – Negotiation procedures*

It has not been established that an employer may not unilaterally disregard a collective contract and that the conclusion of collective agreements is promoted.

([Conclusions 2010](#))

- ▶ *Article 6§3 – Right to bargain collectively – Conciliation and arbitration*

There is no effective conciliation, mediation or arbitration service.

([Conclusions 2010](#))

Thematic Group 4 “Children, families, migrants”

- ▶ *Article 17§1 – Right of children and young persons to social, legal and economic protection - Assistance, education and training*

Corporal punishment of children is not explicitly prohibited in the home.

([Conclusions 2011](#))

- ▶ *Article 19§10 and 19§12 – Right of migrant workers and their families to protection and assistance - Equal treatment for the self-employed - Teaching mother tongue of migrant*

No measures to promote the teaching of the migrant worker’s mother tongue have been taken.

([Conclusions 2011](#))

The European Committee of Social Rights has been unable to assess compliance with the following provisions and has invited the Georgian Government to provide more information in the next report:

Thematic Group 1 “Employment, training and equal opportunities”

(Report to be submitted by 31/10/2011)

- ▶ Article 1§§1, 2 and 4 – Conclusions 2008
- ▶ Article 10§4 - Conclusions 2008
- ▶ Article 15§3 – Conclusions 2008
- ▶ Article 18§4 – Conclusions 2008
- ▶ Article 20 – Conclusions 2008

Thematic Group 2 “Health, social security and social protection”

(Report to be submitted by 31/10/2012)

- ▶ Article 12§3 – Conclusions 2009

Thematic Group 3 “Labour rights”

(Report to be submitted by 31/10/2013)

- ▶ Article 2§§2 and 5 – Conclusions 2010
- ▶ Article 6§§1 and 4 – Conclusions 2010
- ▶ Article 26§§1 and 2 – Conclusions 2010
- ▶ Article 29 – Conclusions 2010

Thematic Group 4 “Children, families, migrants”

(Report to be submitted by 31/10/2014)

- ▶ Article 7 – Conclusions 2011
- ▶ Article 8§5 – Conclusions 2011
- ▶ Article 19§§1, 2, 3, 4, 5, 6, 7, 8 and 11 – Conclusions 2011
- ▶ Article 27 – Conclusions 2011

APPENDIX 2

9 July 2010, Tbilisi, Georgia Meeting on non-accepted provisions

PROGRAMME

9.30 – 10.00 Registration

10.00 –10.30 **Introductory Remarks**

Mr Ramon Prieto-Suarez, Department of the European Social Charter, Council of Europe

Representative of Georgia

10.30 – 11.15 **Group 1 – Employment, training and equal opportunities (Articles 10§§ 1and 5; Article 15§§ 1and 2 and Article 24)**

-Mr Andrzej Swiatkowski, Vice-President of the European Committee of Social Rights (ECSR)
- Presentation of the national situation by a representative of Georgia

Discussion

11.15-11.45 **Coffee break**

11.45 – 12.30 **Group 2 – Health, social security and social protection (Articles 3, 13, 23 and 30)**

-Mr Ramon Prieto-Suarez, Department of the European Social Charter, Council of Europe
- Presentation of the national situation by a representative of Georgia

Discussion

12.30-14.00 Lunch

14.00 – 14.30 **Group 3 – Labour Rights (Article 4§1)**

- Ms Nino Chitashvili, Department of the European Social Charter, Council of Europe
- Presentation of the national situation by a representative of Georgia

| | |
|----------------------|--|
| | Discussion |
| 14.30 – 15.15 | Group 4 – Children, Families, migrants (Articles 8§§1 and 2, Article 16 and Article 17§2) - Mr Lauri Leppik, member of the European Committee of Social Rights (ECSR) - Presentation of the national situation by a representative of Georgia Discussion |
| 15.15 – 15.30 | Concluding observations on non-accepted provisions |
| 15.30-16.00 | Coffee break |
| 16.00 – 16.30 | Collective complaints procedure – acceptance by Georgia Mr Andrzej Swiatkowski and Mr Lauri Leppik – European Committee of Social Rights (ECSR) Discussion |
| 17.00 – 17.30 | Closing remarks |

APPENDIX 3

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;

Emphasising 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. Recognises 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.