



European
Social
Charter

Charte
Sociale
Européenne



COUNCIL
OF EUROPE

CONSEIL
DE L'EUROPE

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

January 2012

**1ST REPORT ON THE NETHERLANDS
WITHIN THE FRAMEWORK OF THE PROCEDURE
ON NON-ACCEPTED PROVISIONS
(ARTICLE 22 OF THE 1961 CHARTER)**

Document prepared by the Secretariat

Situation of the Netherlands as of December 2011

Ratifications

The Netherlands ratified the European Social Charter on 22/04/1980 and the Revised European Social Charter on 03/05/2006, accepting 97 of its 98 paragraphs.

It accepted the 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.

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			

The Charter in domestic law

Automatic incorporation into domestic law.

Reports *

Between 1982 and 2011, the Netherlands submitted 20 reports on the application of the Charter and 5 on the application of the Revised Charter.

The [4th report](#), submitted on 25 January 2011, concerns the accepted provisions of the Revised Charter relating to Thematic Group 4 "Children, families and migrants" (Articles 7, 8, 16, 19§§1 to 11, 27 and 31). Conclusions in respect of these provisions were published in January 2012.

The Netherlands submitted its [5th report](#) on 3 November 2011 concerning accepted provisions of the Charter relating to Thematic Group 1 "Employment, training and equal opportunities", i.e.

- the right to work (Article 1),
- the right to vocational guidance (Article 9),
- the right to vocational training (Article 10),
- the right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15),
- 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),
- the right to protection in cases of termination of employment (Article 24),
- the right to workers to the protection of claims in the event of insolvency of the employer (Article 25).

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 1961 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 is reported on once every four years.

PROCEDURE PROVIDED BY ARTICLE 22 OF THE 1961 CHARTER

Under the procedure provided by Article 22 of the 1961 Charter – examination of non-accepted provisions - agreed by the Committee of Ministers in December 2002¹, the Deputies had 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 had "invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the states concerned".

Following this decision, five years after ratification of the Revised Social Charter (and every five years thereafter), the European Committee of Social Rights would review non-accepted provisions with the countries concerned, with a view to securing a higher level of acceptance. Experience had shown that states tended to forget that selective acceptance of Charter provisions was meant to be a temporary phenomenon. The aim of the new procedure was therefore to require them to review the situation after five years and encourage them to accept more provisions.

As the Netherlands ratified the Revised Charter on 3 May 2006, 2011 was the first time the procedure provided by Article 22 of the 1961 Charter was applied. By a letter dated 25 March 2011, the European Committee of Social Rights, asked the Dutch authorities to produce a report, by 30 June 2011, on the only non-accepted provision of the Revised Charter, Article 19§12 (teaching mother tongue of migrant).

By a letter dated 4 July 2011, the Dutch authorities replied that the Netherlands does not intend to accept Article 19§12 of the Charter as facilitating special mother-tongue classes for children of migrant workers is not a priority. With a view to encourage social cohesion, the Government's priority is teaching migrants the Dutch language.

The Committee observes nonetheless that the Netherlands has ratified the European Convention on the Legal Status of Migrant Workers (ETS No. 93) and is bound by its Article 15, which states that:

"The Contracting Parties concerned shall take actions by common accord to arrange, so far as practicable for the migrant worker's children, special courses for the teaching of the migrant worker's mother tongue, to facilitate, inter alia, their return to their State of origin."

In the light of this obligation already undertaken, the Committee wishes to encourage the Netherlands to accept Article 19§12 of the Charter.

¹ Committee of Ministers decision of 11 December 2002.