



European
Social
Charter

Charte
sociale
européenne



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

12 May 2014

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

SWEDEN

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SUMMARY

In December 2002, the Committee of Ministers 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 it "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, it was agreed that 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 would be 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 forget that the selective acceptance of the provisions of the Charter should be only a temporary phenomenon.

As Sweden ratified the Revised Charter on 29 May 1998, the procedure provided by Article 22 of the 1961 Charter was applied for the first time in the context of a meeting between the European Committee of Social Rights and representatives of various Swedish ministries in Stockholm, on 26 and 27 November 2003. Sweden being the first member state to ratify the Revised Charter in May 1998, the Stockholm meeting was the first under the new procedure adopted by the Committee of Ministers in December 2002. In summarising the discussions of the meeting, the President of the Committee noted that although further analysis was obviously needed, it would appear that Sweden could accept the following provisions: Articles 2§1, 2§7, 3§4, 4§5, 7§5 and 8§4¹.

The second meeting on the non-accepted provisions took place in Strasbourg on 21 October 2008. While taking account of the detailed information provided by the Swedish delegation in respect of each of the 15 non-accepted provisions, the European Committee of Social Rights reiterated its view expressed in 2003 that the provisions then mentioned could be accepted by Sweden. In particular, it concluded that the discussion had shown that there was no contradiction whatsoever between the Committee's case law and the situation in law and in practice in Sweden in respect of 3 provisions: Articles 2§7, 3§4 and 8§4. The Swedish Government was therefore invited to consider acceptance of these provisions².

¹ See Report on the meeting with the Swedish Government within the framework of Article 22 procedure (Stockholm, 26-27 November 2003), p. 5. The Committee's report is available at the following address: http://www.coe.int/t/dghl/monitoring/socialcharter/non-acceptedprov/Sweden2003_en.pdf.

² See report on the meeting with the Swedish Government within the framework of the procedure on non-accepted provisions (Article 22 of the 1961 Charter) (Strasbourg, 21 October 2008), p. 5. The Committee's report is available at the following address: http://www.coe.int/t/dghl/monitoring/socialcharter/non-acceptedprov/Sweden2008_en.pdf.

With a view to carrying out the procedure for the third time, the Swedish authorities were invited to hold a meeting in 2013. However, the authorities finally indicated their preference for the preparation of a written contribution in 2013.

By a letter dated 21 March 2014, the Swedish authorities informed the Committee that the Government's position in respect of the provisions under consideration (Articles 2§§1, 2, 4 and 7, 3§4, 4§§2 and 5, 7§§5 and 6, 8§2, 8§§4 and 5, 12§4, 24 and 28) remained the same as in the overview of 2008, and that the rationale for this position had not changed since 2008.

The Committee remains at the disposal of the Swedish authorities and encourages them to consider acceptance of the non-accepted provisions identified in 2003 and confirmed in 2008 as posing no problems for acceptance. The next examination of the provisions not accepted by Sweden will take place in 2018.

APPENDIX 1

— Sweden and the European Social Charter —

Ratifications

Sweden ratified the European Social Charter on 17/12/1962: it accepted 62 of the Charter's 72 paragraphs.

Sweden ratified the Additional Protocol to the European Social Charter on 05/05/89, the Amending Protocol to the European Social Charter on 18/03/1992 and the Additional Protocol providing for a system of collective complaints on 29/05/1998. It has not yet made a declaration enabling national NGOs to submit complaints.

Sweden ratified the Revised European Social Charter on 29/05/1998: it accepted 83 of the Revised Charter's 98 paragraphs.

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

Statutory *ad hoc* incorporation by specific implementing legislation.

Reports *

Between 1964 and 2000, Sweden submitted 20 reports on the application of the Charter. Between 2001 and 2013, it submitted 13 reports on the Revised Charter.

The 12th report submitted by Sweden on 30 November 2012 covers the accepted provisions relating to the Thematic Group 2 "Health Social security and Social protection", (Articles 3, 11, 12, 13, 14, 23 and 30). The Conclusions in respect of these provisions were published in January 2014.

The 13th report submitted by Sweden on 31 October 2013 covers the accepted provisions relating to the Thematic Group 3 "Labour rights", i.e.:

- 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 to information and consultation in collective redundancy procedures (Article 29)

Conclusions in respect of these provisions will be adopted in December 2014.

* [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.

Situation of Sweden with respect to application of the Revised Charter

Examples of progress achieved in the implementation of social rights under the Social Charter³

Thematic Group 1 "Employment, training and equal opportunities"

- ▶ Entry into force in 2006 of the Children and School Students (Prohibition of Discrimination and Other Degrading Treatment) Act (2006:67). It, *inter alia*, prohibits discrimination of children and pupils on the basis of disability in the field of education.
- ▶ Under legislation adopted in 2005, foreign students are now entitled to work in Sweden without obtaining a work permit for as long as their residence permit is valid.
- ▶ Adoption of the Act of 7 April 1994 against ethnic discrimination, including in employment
- ▶ Adoption of Act No. 433 of 1991 on equal opportunities

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

- ▶ In 2001, legislation was enacted which makes health education a school subject in its own right
- ▶ Entry into force on 1 January 2001 of the new Social Security Act (*Socialförsäkringslagen* No. 1999/799) which contains provisions concerning work-related benefits which are no longer related to residence in Sweden; and all direct references to nationality have been abolished
- ▶ Abolition of the provision of the legislation governing seafarers which provided that seamen could be bound by coercive measures to remain at their post (Act No. 282 of 18 May 1973 on the Merchant Navy)

Thematic Group 3 "Labour rights"

- ▶ Recourse to the closed shop provisions has been made more restrictive (Act of 10 June 1976 on participation in decisions in employment)

Thematic Group 4 "Children, families, migrants"

- ▶ The Act on the working environment has been extended to cover children under 18 who do not receive any income, including children related to their employer (1990) and those who work in their employer's home (1996)
- ▶ Abolition of the requirement for employers to pay for language courses for their migrant workers (Repeal in 1986 of Act No. 650 of 1972)

Cases of non-conformity

Thematic Group 1 "Employment, training and equal opportunities"

- ▶ *Article 10§5 – Right to vocational training - Full use of facilities available*

Nationals of other States Parties to the Charter and the 1961 Charter not members of the EU must have a permanent residence permit in order to be entitled to study support for education and vocational training. (Conclusions 2012)

³ « 1. The European Committee of Social Rights 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 » (Article 2 of the Rules of the Committee).

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

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

It has not been established that the minimum level of the unemployment and sickness benefits are adequate.

([Conclusions 2009](#)) (Conclusions 2013)

▶ *Article 23 – Right of the elderly to social protection*

The scope of the legal framework to combat age discrimination outside employment is not sufficiently wide.

([Conclusions 2009](#)) (Conclusions 2013)

Thematic Group 3 "Labour rights"

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

Certain workers under 30 with five or more years' service are granted only one month's notice of termination of employment.

([Conclusions 2010](#))

Thematic Group 4 "Children, families, migrants"

▶ *Article 7§9 – Right of children and young persons to protection - Regular medical examination*

a regular medical examination for all young workers is not guaranteed by legislation.

([Conclusions 2011](#))

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

Children unlawfully present in the territory do not have effective access to education.

([Conclusions 2011](#))

▶ *Article 19§§8 and 10 – Right of migrant workers and their families to protection and assistance - Equal treatment for the self-employed; - Guarantees concerning deportation*

Migrant workers expelled on account of national security have no right of appeal to an independent body.

([Conclusions 2011](#))

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

Thematic Group 1 "Employment, training and equal opportunities"

(Report to be submitted before 31 October 2015)

None

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

(Report to be submitted before 31 October 2016)

None

Thematic Group 3 "Labour rights"

(Report to be submitted before 31 October 2013)

▶ Article 5 - Conclusions 2010

▶ Article 29 – Conclusions 2010

Thematic Group 4 "Children, families, migrants"

(Report to be submitted before 31 October 2014)

▶ Article 19§1 - Conclusions 2011

▶ Article 31§1 - Conclusions 2011

Collective Complaints and State of Procedure in Sweden ²

Collective complaints (under examination)

Federation of Catholic Family Associations in Europe (FAFCE) v. Sweden (No 99/2013)

Collective complaints (proceeding completed)

1. Complaints inadmissible or where the Committee has found no violation

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2. Complaints where the Committee has found a violation, which has been remedied

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3. Complaints where the Committee has found a violation and where progress has been made but not yet examined by the Committee

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4. Complaints where the Committee has found a violation, which has not yet been remedied

Confederation of Swedish Enterprises v. Sweden (No 12/2002)

Violation of Article 5 (right to organise), decision on the merits of 15 May 2003.

Swedish Trade Union Confederation (LO) and Swedish Confederation of Professional Employees (TCO) v. Sweden (No. 85/2012)

Violation of Article 6§2 (right to bargain collectively), violation of Article 6§4 (right to bargain collectively), violation of Article 19§4a (right of migrant workers to protection and assistance), violation of Article 19§4b (right of migrant workers to protection and assistance), decision on the admissibility and merits of 3 July 2003.

¹ The case-law of the Committee on collective complaints may be consulted on the European Social Charter's website on the [Collective Complaint webpage](#). Searches on complaints may also be carried out in the [European Committee of Social Rights Caselaw database](#).

APPENDIX 2

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.