

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



25 February 2008

**REPORT ON THE MEETING WITH REPRESENTATIVES OF  
THE ALBANIAN GOVERNMENT ON PROVISIONS  
OF THE REVISED EUROPEAN SOCIAL CHARTER  
NOT ACCEPTED BY ALBANIA**

Tirana, 24 and 25 October 2007

*Prepared by the Secretariat*

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## INTRODUCTION

### Situation of Albania under the Revised Charter 1 October 2007

#### Ratifications

Albania ratified the revised European Social Charter on 14/11/2002 and has accepted 64 of the revised Charter's 98 paragraphs.

It has not signed the collective complaints protocol.

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	

#### Activities in the country

An Action Plan seminar on the follow-up to the first conclusions on the Revised European Social Charter took place in Tirana on 24/25 October 2006. A seminar on non-accepted provisions took place in Tirana on 24/25 October 2007.

#### Reports

Albania's 1<sup>st</sup> report on the application of the revised Charter concerned hard-core provisions and was submitted on 19 July 2005.

The second report on part of the non-hard core provisions was submitted 8 September 2006.

#### The Charter in domestic law

Automatic incorporation into domestic law based on Article 122 of the Constitution.

## CONTEXT OF THE MEETING

The Tirana meeting took place in the framework of the new procedure for examination of non-accepted provisions – Article 22 of the Revised Social Charter – agreed by the Committee of Ministers in December 2002<sup>1</sup>.

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.

In the case of Albania, the European Committee of Social Rights had agreed with the Albanian authorities that it would meet representatives of various ministries in Tirana on 24 and 25 October 2007. Due to the high number of provisions not accepted by Albania, it was also agreed to have the meeting focusing on a selection of these provisions. Accordingly, the meeting dealt only with 22 provisions out of the 34 provisions not accepted by Albania (cf. the table above), namely Articles 9, 10§§1, 2, 3, 4, and 5, 12§§1, 2, 3, and 4, 14§§1 and 2, 16, 17§§1 and 2, 18§§1, 2, 3, and 4, 27§1, 2, and 3.

The Albanian authorities submitted a preliminary report on non-accepted provisions on the day of the Delegation's arrival in Tirana, however a final updated report in electronic format has never been forwarded to the Secretariat despite repeated requests. The present report therefore provides only a brief summary of the comments and provisional assessments of the members of the Delegation.

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<sup>1</sup> Committee of Ministers decision of 11 December 2002.

## EXECUTIVE SUMMARY

The meeting consisted of presentations by members of the delegation on the case law relating to the selected provisions which have not been accepted by Albania. Representative(s) of the competent Ministry gave an explanation of the national situation with regard to the provisions in question. This was followed by discussions on the situation in Albania concerning the individual provisions.

The delegation was provided with a preliminary outline report prepared by the Albanian authorities on the non-accepted provisions upon its arrival in Tirana. This was supplemented by information presented orally during the meeting.

The views expressed by the ECSR delegation during the meeting were based mainly on the existing case law since, due to the lack of time, it could only examine the written information provided by the Albanian authorities in a cursory manner.

Following the meeting the Albanian authorities did not provide the additional information required from the members of the delegation. Notwithstanding several reminders, the up-dated electronic version of the report has never been submitted to the Secretariat thereby preventing it from preparing an extensive report on the non-accepted provisions. In the following a few comments are made only on the provisions for which acceptance seems not to be hindered by major obstacles.

The exchange of view, which went beyond the provisions selected for the meeting, showed that the state of Albanian law and practice in fact would permit acceptance of a number of additional provisions (see below). The delegation concluded that immediate acceptance seemed possible in respect of four provisions. In respect of a further three provisions acceptance might also be possible in the medium term and only in respect of six provisions did acceptance not seem feasible in the medium term.

The Albanian authorities, nonetheless, expressed the opinion that, although the legal situation is in conformity with the Revised Charter, the practice may not be the same as a consequence of the problems encountered in the implementation of the legal framework. They expressed however their commitment to improve the situation to bring it progressively in conformity with the Revised Charter.

It is recalled that an opinion expressed by the ECSR delegation that Albania could accept a provision does not imply that the situation will automatically be found to be in conformity with the revised Charter; it simply indicates that no major obstacles to ratification of and compliance with the provision have been found.

The ECSR, however, considers that, in order for the present report to serve as a basis for a more detailed analysis and consultation process on the part of the Albanian Government to determine exactly which provisions can be accepted, it must be completed with the information given on the occasion of the meeting. It is therefore of the utmost importance that the Albanian authorities transmit the final report on the non-accepted provisions.

### **Provisions which could be accepted by Albania with no major obstacles**

9 – Vocational guidance

10§1 – Promotion of technical and vocational training and the granting of facilities for access to higher technical and university education

10§2 – Apprenticeship

10§3 – Vocational training and retraining for adult workers

10§4 – Long-term unemployed persons

10§5 – Full use of facilities available

18§1 – Applying existing regulations in a spirit of liberality

18§2 – Simplification of existing formalities and reduction of dues and taxes

18§3 – Liberalisation of regulations

18§4 – Right of nationals to leave the country

27§1 (a and b) – Participation in professional life

27§2 – Parental leave

27§3 – Prohibition of dismissal for reasons relating to family responsibilities

As regards these provisions, the members of the Delegation found no major obstacles to ratification, though certain discrimination issues could possibly appear under Article 18. In any event, there is a clear need for more precise information on the issues covered by these provisions, in particular on Articles 10 and 18.

### **Provisions which could be possibly accepted by Albania in the medium term**

12 – Right to social security

14 – Right to benefit from social welfare services

17 – Right of children and young persons to social, legal, and economic protection

As regards these provisions, the members of the Delegation found various obstacles to exist. Under Article 12, the number of branches covered by social security in Albania and the level of benefits may pose problems, in particular the non-existence of the family branch. The geographical cover of social services may also represent an obstacle under Article 14. Article 17 requires a ban on corporal punishment, which is not yet established in Albania.

**Provisions which could not be accepted by Albania in the medium term**

13 – Right to social and medical assistance

15 – Right of physically or mentally disabled persons to vocational training, rehabilitation, and social resettlement

16 – Right of the family to social, legal, and economic protection

23 – Right of elderly persons to social protection

30 – Right to protection against poverty and social exclusion

31 – Right to housing

As regards these provisions, the members of the Delegation found that the situation in law and practice does not allow their acceptance even in the medium term. Substantial developments in the law and practice would be necessary.

## **APPENDIX**

### **Composition of the delegation and Government representatives**

The Council of Europe delegation comprised the following persons:

Mr Stein EVJU, member and former President of the European Committee of Social Rights (ECSR)

Mrs Czilla KOLLONAY-LEHOCZKY, member of ECSR

Mr Lauri LEPPIK, member of the ECSR

Mr Henrik KRISTENSEN, Deputy Executive Secretary of the European Committee of Social Rights

Mrs Gisella GORI, administrator, European Social Charter Department

The following representatives of Albanian authorities participated to the meeting:

#### **Representatives of the Ministry of Labour, Social Affairs and Equal Opportunities:**

Mr Astrit KUKA, Director of Pension Policies Department

Mrs Etleva MURATI, Senior Officer, Social Services Department

Mrs Ilda PODA, Senior Officer, Social Services Department

Mrs Raina KOVAÇI, Director of Equal Opportunities Department

Mrs Mimoza HASANI, Adviser, Employment, Vocational Training Policies Department

Mrs Maylinda HAFIZI, Director of Migration Policies Department

#### **Representatives of the Ministry of Justice:**

Mrs Elona HASKA, Senior officer, Children Rights Department

#### **Representatives of the Ministry of Education:**

Mr Rruzhdin KEÇI, Adviser

In addition, other civil servants of the various Ministries represented participated in the meeting.



**PROGRAMME**

<b>Wednesday 24 October 2007</b>
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- |                      |   |
|----------------------|---|
| <b>9.00 – 9.30</b>   | <b>Introductory Remarks</b>   |
|                      | Ms M. ZAÇE, Deputy Minister of Labour, Social Affairs and Equal Opportunities<br>Mr H. KRISTENSEN, Deputy Executive Secretary of the European Committee of Social Rights, Council of Europe   |
| <b>9.30 – 11.30</b>  | <b>Provisions related to social protection</b>  |
|                      | Article 12 §§ 1, 2, 3, and 4 – the right to social security<br>Presentation by Mr L. LEPPIK, Member of the European Committee of Social Rights<br>The Albanian situation (law and practice): presentation by Government representatives   |
| <b>11.00 – 11.30</b> | <b>Coffee break</b>   |
| <b>11.30 – 12.30</b> | <b>Provisions related to social services</b>  |
|                      | Article 14 §§ 1 and 2 – the right to benefit from social welfare services<br>Presentation by Mr L. LEPPIK, Member of the European Committee of Social Rights<br>The Albanian situation (law and practice): presentation by Government representatives   |
| <b>12.30 – 14.00</b> | <b>Lunch</b>  |
| <b>14.00 – 15.30</b> | <b>Provisions related to children protection</b>  |
|                      | Article 17 §§ 1 and 2 – the right of children and young persons to social, legal and economic protection<br>Presentation by Ms C. KOLLONAI-LEHOCZKY, Member of the European Committee of Social Rights<br>The Albanian situation (law and practice): presentation by Government representatives |
| <b>15.30 – 16.00</b> | <b>Coffee break</b>   |

**16.00 – 18.00 Provisions related to family protection**

Article 16 – the right of the family to social, legal and economic protection

Article 27 §§ 1, 2 and 3 – The right of workers with family responsibilities to equal opportunities and equal treatment

Presentation by Ms C. KOLLONAI-LEHOCZKY, Member of the European Committee of Social Rights

The Albanian situation (law and practice): presentation by Government representatives

<b>Thursday 25 October 2007</b>
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**9.00 – 9.30 Meeting with Mr K. BARKA, Minister of Labour, Social Affairs and equal Opportunities****9.30 – 11.00 Provisions related to education, vocational training and employment**

Article 9 – the right to vocational guidance

Article 10 §§ 1, 2, 3, 4, and 5 – the right to vocational training

Article 18 §§ 1, 2, 3, and 4 – the right to engage in a gainful occupation in the territory of other Parties

Presentation by Mr S. EVJU, Member of the European Committee of Social Rights


The Albanian situation (law and practice): presentation by Government representatives

**11.00 – 11.30 Coffee break****11.30 – 12.15 The procedure of collective complaints**

Ms G. GORI, Administrator, Department of the European Social Charter, Council of Europe

**12.15 Concluding discussion and closing of the seminar**

## CEAD Synopsis

<b>Title</b>	<b>Meeting on non-accepted provisions</b>
<b>Description</b>	
<b>Status</b>	Completed
<b>Date</b>	24/10/2007 - 25/10/2007
<b>Countries</b>	CoE Members: <a href="#">Albania</a> Bilateral
<b>CoE Programmes (PoA and VC)</b>	
	
<b>Programme of Activities</b>	
Chapter	I – Social Cohesion
LoA	<input type="checkbox"/> IV.1 – <a href="#">Ensuring social cohesion</a>
Programme	<input type="checkbox"/> IV.1.1 <a href="#">European Social Charter</a>
Project	<a href="#">2006/DG2/935 Implementation of ECSR decisions and conclusions and improvement of communication on the ESC</a>
Expected Result	<a href="#">2 The number of ratifications of the RESC/ESC instruments and the number of provisions accepted are increased</a>
<b>Nature of Intervention</b>	<a href="#">Monitoring and Compliance</a>
<b>Activity Type</b>	<a href="#">Evaluation / Assessment</a>
<b>Working Method</b>	<a href="#">Data Collection / Questionnaire</a>
<b>Location</b>	Tirana, Albania
<b>Directorate (Service)</b>	<a href="#">DG II Human Rights (European Social Charter)</a>
<b>CoE Contact</b>	GORI, Gisella <a href="#">email</a>
<b>Partners</b>	Ministry of social Affairs, Labour and Equal Opportunities - National Institution
<b>Web Pages</b>	
Documents & links	
<b>Last Modified</b>	30/10/2007
<b>Origin/DG Remarks</b>	
<b>Secretariat</b>	
<b>Estimated Cost</b>	<b>Real Cost</b>
<b>Purchase Order(s)</b>	

### Activity Synopsis (ID# 19338) ([Hide Synopsis](#))

**Objective(s)** The mission took place in the framework of the procedure relating to non-accepted provisions of the revised Charter (RESC), the objective being to increase the number of provisions of the revised Charter accepted by Albania. Being the number of non-accepted provisions particularly high, the seminar was meant to focus on a selection of them. Those provisions which Albania could more likely accept in a foreseeable future were chosen.

**Output/Results** The delegation made presentations of the case-law on the provisions. Representatives of the relevant ministries explained the national situation with respect to the provisions concerned. A written report had also been prepared. This was followed by discussions on the situation in Albania vis a vis the said provisions.

A meeting with the Minister also took place. He underlined Albania's commitment to respect the Charter obligations and to envisage the acceptance of new provisions.

**Conclusions/Follow Up** It was concluded that acceptance in a near future seemed possible in respect of certain provisions (Articles 9, 10, 18 and 27). Nonetheless the Government considered that further study was needed before acceptance. A second group of provisions (Articles 12, 14, 16, and 17) were also examined at the seminar but their acceptance is less likely to occur shortly because of the various obstacles which hinder their acceptance. A third group of provisions which were not even discussed (Articles 13, 15, 23, 30, and 31) are unlikely to be accepted in a foreseeable future.

**Participants** The meeting on non accepted provisions was attended by approximately 45 representatives from various Albanian ministries.

**Consultants/Experts** Mr. Stein EVJU, Member and Former President of the European Committee of Social Rights (ECSR)  
Mr. Lauri LEPPIK, Member of the ECSR  
Ms Csilla KOLLONAY-LEHOCZKY, Member of the ECSR

**CoE Secretariat** Mr. Henrik KRISTENSEN, Deputy Executive Secretary of the European Social Charter  
Ms Gisella Gori, Administrator, Department of the European Social Charter

**Total No. Participants** 50

Last Modified 30/10/2007 [GORI, Gisella](#)