

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



8 December 2009

**REPORT ON THE MEETING
WITH THE AZERBAIDJAN GOVERNMENT
WITHIN THE FRAMEWORK OF THE PROCEDURE
ON NON-ACCEPTED PROVISIONS
(ARTICLE 22 OF THE 1961 CHARTER)**

(Baku, 23 – 24 June 2009)

Document prepared by the Secretariat

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Situation of Azerbaijan with respect to the Revised Charter, 1 June 2009

Ratifications

Azerbaijan ratified the revised European Social Charter on 02/09/2004 and has accepted 47 of the 98 paragraphs.

It has not signed the Additional Protocol of 1995 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										Grey = Accepted provisions

The Charter in domestic law

Automatic incorporation into domestic law.

Reports

Azerbaijan submitted its 1st report on the application of the revised Charter in 2007 regarding the accepted provisions of Thematic Group 1 “Employment, training and equal opportunities” (Articles 1, 9 and 20). The 2nd report on the accepted provisions of Thematic Group 2 “Health, social security and social protection” (Articles 3, 11, 12, 13, 14, 23 and 30) was submitted on 24/11/2008 and is currently under examination by the Committee.

The 3rd report concerns the accepted provisions relating to Thematic Group 3 “Labour rights” (Articles 1, 4, 5, 6, 21, 22, 26, 28 and 29) and was submitted on 11/11/2009. It will be examined by the Committee in 2010.

Non-accepted provisions

Article 2 – The right to just conditions of work

Article 3 – The right to safe and healthy working conditions

Article 10 – The right to vocational training

Article 12 – The right to social security

Article 13 – The right to social and medical assistance

Article 15 – The right of persons with disabilities to independence, social integration and participation in the life of the community

Article 17 – The right of children and young persons to social, legal and economic protection

Article 18 – The right to engage in a gainful occupation in the territory of other Parties

Article 19 – The right of migrant workers and their families to protection and assistance

Article 23 – The right of elderly persons to social protection

Article 25 – The right of workers to the protection of their claims in the event of the insolvency of their employer

Article 30 – The right to protection against poverty and social exclusion

Article 31 – The right to housing

Executive summary of the meeting

The meeting with the Azerbaijan 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.

The detailed programme of the meeting, including the different speakers, can be found in Appendix II.

Azerbaijan having ratified the Revised Charter in 2004, the meeting which took place in Baku on 23-24 June 2009 was the first of its kind there. It was co-organised by the Department of the European Social Charter and the Ministry of Labour and Social Protection of the Population of the Republic of Azerbaijan. Given the number of provisions not accepted yet by Azerbaijan and the meeting's limited time frame, it was decided to focus on a selected number of provisions, namely Articles 2, 3, 13, 17, 19 and 30.

The meeting was opened by Mr Ilgar RAHIMOV, Deputy Minister of Labour and Social Protection of Population of the Republic of Azerbaijan. Mr Elnur SULTANOV, Head of the international cooperation department of the Ministry of Labour and Social Protection of the Population, moderated the meeting. In addition to representatives of the relevant ministries, participants included representatives of the Azerbaijan Confederation of Trade Unions, the National Confederation of Employers of Azerbaijan, the National NGO Forum, the State Statistics Committee and the Ombudsman's office (see Appendix II).

The delegation of the Committee consisted of Ms Csilla KOLLONAY LEHOCZKY and Ms Jarna PETMAN, both members of the Committee, assisted by Mr Henrik KRISTENSEN, Deputy Executive Secretary of the European Committee of Social Rights, and Mr Gerald DUNN, Administrator at the Department of the European Social Charter.

On the first day, the delegation of the Committee presented the Committee's case-law regarding the above-mentioned selected Articles and provisions.¹ After each presentation, the state of national legislation and practice was explained by

¹ For more details see the "Digest of the case law of the European Committee of Social Rights", available at: http://www.coe.int/t/dghl/monitoring/socialcharter/Digest/DigestIndex_en.asp

representatives of various services of the ministries concerned (see Appendix II). An exchange of views took place afterwards between the delegation of the Committee, representatives of the authorities and other participants.

On the second day, Mr Kristensen gave information and pointers to the authorities in order to facilitate the preparation of their next report on Thematic Group 3 "Labour rights" regarding those provisions which have been accepted by Azerbaijan (Articles 4, 5, 6, 21, 22, 26, 28 and 29). Azerbaijan not having signed or ratified the 1995 Additional Protocol, Ms Kollonay Lehoczky then provided an overview of the collective complaint mechanism. The Azerbaijan authorities were encouraged to accept the collective complaint mechanism as soon as possible.

Finally, in the light of the discussions having taken place, Mr Sultanov recapitulated the provisional conclusions reached as to the possible acceptance of the provisions examined during the meeting (see Appendix IV):

- National legislation and practice were deemed to be in line with Articles 13 and 19, making acceptance of these provisions technically possible;
- While this was considered to be also the case with paragraphs 1, 2, 4, 5, 6 and 7 of Article 2, the authorities were of the view that Article 2§3 requirements were not complied with yet. Preference was expressed for accepting Article 2 as a whole at a later stage;
- Similarly, while legislation and practice were deemed in line with Article 17§2, this was not considered to be the case yet with Article 17§1, and therefore acceptance of the full Article was not yet envisaged;
- As regards Articles 3 and 30, while national legislation and practice were thought to be globally in line with them, some aspects remained problematic and acceptance was thus not foreseen in the short term.

Appendix I

Composition of the Delegation of the European Committee of Social Rights and Government representatives

- The delegation of the European Committee of Social Rights:

Ms Csilla KOLLONAY LEHOCZKY, member
Ms Jarna PETMAN, member

The delegation was assisted by:

Mr Henrik KRISTENSEN, Deputy Executive Secretary of the European Committee of Social Rights
Mr Gerald DUNN, Administrator, Department of the European Social Charter

- The following representatives of the Azeri authorities participated in the meeting:

- Ministry of Labour and Social Protection of the Population:

Mr Ilgar RAHIMOV, Deputy Minister
Mr Babek HUSEINOV, Senior advisor of the department of poverty problems and targeted social assistance policy
Mr Abulfat MAHARRAMOV, Head of the division of labour relations and remuneration of the department of labour policy
Mr Eldar MAMMADOV, Deputy head of the labour policy department
Mr Elnur SULTANOV, Head of the international cooperation department
Mr Rauf TAGIYEV, Head of the migration department
Mr Azad TAGIZADE, Head of the department of social services for disabled, lonely and elderly

- Ministry of Economic Development:

Mr Jamaladdin GULIYEV, Deputy head of the department of economic policy

- Ministry of Education:

Mr Agil VELIYEV, Senior advisor of the international relations department

- Ministry of Health:

Mr Yusif BABAYEV, Senior advisor of the medical services department

- State Committee of Family, Women and Children Affairs:

Ms Jeiran RAKHMATULLAYEVA, Deputy head of the department of child issues

Appendix II

Programme

Tuesday 23 June 2009

9.30 – 10.00 Registration

10.00 –10.30 Introductory Remarks

- Mr. Ilgar Rahimov, Deputy Minister of Labour and Social Protection of Population of the Republic of Azerbaijan
- Mr Henrik Kristensen, Deputy Head of the Department of the European Social Charter, Council of Europe

FIRST PART – Non-accepted provisions

10.30 – 11.15 Working conditions (Articles 2 and 3)

- Ms Jarna Petman, Member of the European Committee of Social Rights
- Presentation of the national situation by a representative of Azerbaijan
Mr. Eldar Mammadov, Deputy head of the labour policy department of the MLSPP
- Discussion

11.15 – 11.30 Coffee break

11.30 – 12.30 Education, Children and Young Persons (Article 17§§1 and 2)

- Ms Csilla Kollonay Lehoczky, Member of the European Committee of Social Rights
- Presentation of the national situation by a representative of Azerbaijan
Mr. Azad Tagizade, Head of the department of social services for disabled, lonely and elderly of the MLSPP
Ms. Jeiran Rakhmatullayeva, deputy head of the department of child issues of the State Committee of Family, Women and Children Affairs
Mr. Agil Veliyev, senior advisor of the international relations department of the Ministry of Education
- Discussion

12.30 – 14.00 Lunch

14.00 – 14.45 Social Services (Article 13)

- Ms Csilla Kollonay Lehoczky, Member of the European Committee of Social Rights
- Presentation of the national situation by a representative of Azerbaijan
Mr. Babek Huseinov, senior advisor of the department of poverty problems and targeted social assistance policy of the MLSPP
Mr. Yusif Babayev, senior advisor of the medical services department of the Ministry of Health
- Discussion

- 14.45 – 15.30** **Migrants and their families (Article 19)**
- Ms Jarna Petman, Member of the European Committee of Social Rights
 - Presentation of the national situation by a representative of Azerbaijan
 - Mr. Rauf Tagiyev, head of the migration department of the MLSPP
 - Discussion
- 15.30 – 15.45** **Coffee break**
- 15.45– 16.30** **Poverty (Article 30)**
- Mr Gerald Dunn, Department of the European Social Charter
 - Presentation of the national situation by a representative of Azerbaijan
 - Mr. Jamaladdin Guliyev, Deputy head of the department of economic policy of the Ministry of Economic Development
 - Discussion
- 16.30 – 17.00** **Concluding observations on non-accepted provisions**

Wednesday 24 June 2009

SECOND PART – The Revised European Social Charter and the work of the European Committee of Social Rights (reporting system and collective complaints)

- 09.30 – 10.30** **Preparation of the next report (Articles 4, 5, 6, 21, 22, 26, 28 and 29)**
- Mr Henrik Kristensen and Mr Gerald Dunn, Department of the European Social Charter
- Mr. Abulfat Maharramov, head of the division of labour relations and remuneration of the department of labour policy of the MLSPP
- Discussion
- 10.30 – 10.45** **Coffee break**
- 10.45 – 11.15** **Collective complaints – acceptance by Azerbaijan**
- Ms Csilla Kollonay Lehoczky, Member of the European Committee of Social Rights
- Discussion
- 11.15 – 12.00** **Closing remarks**

List of other speakers

Mr Elnur SULTANOV, Head of the international cooperation department of the Ministry of Labour and Social Protection of the Population (moderator)

Mr Chingiz TAGIYEV, Representative of the Azerbaijan Trade Unions Confederation

Ms Sadagat GAMBAROVA, Representative of the National Confederation of Employers of Azerbaijan

Mr Rauf ZEYNI, Head of the National NGO Forum

Mr Nemat KHUDUZADE, Deputy head of the labour statistics department of the State Statistics Committee of the Republic of Azerbaijan

Appendix III

CEAD Synopsis

Title Meeting on non-accepted provisions
Description - Original Location:
Status Completed
Date 23/06/2009 - 24/06/2009
Countries CoE Members: [Azerbaijan](#)
Bilateral

CoE Programmes (PoA and VC)



Programme of Activities

Chapter I – Social Cohesion
LoA IV.1 – [Ensuring social cohesion](#)
Programme IV.1.1 [European Social Charter](#)
Project [2008/DGHL/1421 Implementation of ECSR decisions and conclusions and improvement of communication on the ESC](#)
Expected Result [2 The number of ratifications of the RESC/ESC instruments and the number of provisions accepted are increased.](#)

Nature of Intervention [Dissemination and Support](#)
Activity Type [Evaluation / Assessment](#)
Working Method [Expert Meeting / Expertise](#)
Location Baku, Azerbaijan
Directorate (Service) [Human Rights and Legal Affairs \(Monitoring - European Social Charter\)](#)
CoE Contact DUNN, Gérald [email](#)
Partners
Web Pages [1 http://www.coe.int/t/dghl/monitoring/socialcharter/default_en.asp](#)
Documents & links
Last Modified 26/06/2009

Activity Synopsis (ID# 25858) ([Hide Synopsis](#))

Objective(s) To examine the provisions not accepted by Azerbaijan, in accordance with the procedure adopted by the Ministers' Deputies ("Article 22 procedure"), as well as the collective complaints mechanism, not accepted yet by Azerbaijan.

Output/Results The meeting took place in Baku on 23-24 June 2009. The case-law of the European Committee on Social Rights on a number of provisions not accepted by Azerbaijan was presented with a view to explaining the scope and requirements of these provisions. The collective complaints mechanism was also presented.

After presenting the national situation, the authorities indicated that they considered that their country should be in a position to accept a number of provisions, notably Art. 2 and 19, and possibly Art. 3 and 30.

Conclusions/Follow Up The authorities will continue to work on the future acceptance of a number of provisions examined during the meeting. The ECSR will draw up a report of the meeting with a view to transmitting it to the authorities of Azerbaijan in the autumn of 2009.

Participants Participants included representatives of different ministries concerned, in particular the Ministry of Labour and Social Protection of the Population with whom the meeting was co-organised, as well as representatives of a federation of trade unions, an employers' organisation, and the Ombudsman. The meeting was opened by Mr Ilgar Rahimov, Deputy Minister of Labour and Social Protection.

Consultants/Experts European Committee of Social Rights members: Ms Jarna Petman and Ms Csilla Kollonay-Lehoczky.

CoE Secretariat Henrik Kristensen, Deputy Head of the Department of the European Social Charter; Gerald Dunn, Administrator at the Department of the European Social Charter

Total No. Participants 35
Last Modified 02/07/2009

Appendix IV

Report by the Azerbaijan government on non-accepted provisions examined at the meeting

Article 2 – The right to just conditions of work

The norms stated at the paragraphs 1, 2, 4, 5, 6 and 7 of the Article 2 are in a full compliance with the national legislation of the Republic of Azerbaijan. However, there is non-compliance between the Article 114 of the Labour Code and paragraph 3 of the Article 2.

Article 3 – The right to safe and healthy working conditions

The principles stated in this article are mainly relevant with the national legislation. On the other hand, the list of underground mining, as well as in other dangerous, unhealthy or arduous work which prohibits the employment of women workers in Article 241 of the Labour Code, by containing such a prohibition, is therefore contrary to the principles of the Article 3.

Article 13 – The right to social and medical assistance

The principles stated in this article are in a full compliance with the national legislation and practice.

Article 17 – The right of children and young persons to social, legal and economic protection

There is a need to improve the standards and norms in the national legislation and practice relevant to the principles stated in the paragraph 1, Article 17. This includes the set of provisions concerning the social services for children and people with disabilities. However, paragraph 2 Article 17 is in a full compliance with the national legislation and practice.

The common opinion is that it would be more efficient to ratify the article with both paragraphs in the future.

Article 19 – The right of migrant workers and their families to protection and assistance

The principles stated in this article are in a full compliance with the national legislation and practice.

Article 30 – The right to protection against poverty and social exclusion

National legislation and practices are mainly in compliance with the principles stated in the Article 30. Economic and social reforms undertaken during the recent years have been quite effective in the reduction of poverty. The level of poverty in 2002 was 49% and the respective indicator for 2008 was 13.2% of population. However, currently, according to the national legislation, provision of “housing” is only being realized for the

martyrs' families and 1st degree disabled people of war veterans. Therefore, the ratification of the Article 30 is not possible yet.