

– Bosnia and Herzegovina and the European Social Charter –

Signatures, ratifications and accepted provisions

Bosnia and Herzegovina ratified the Revised European Social Charter on 07/10/2008, accepting 51 of its 98 paragraphs.

It has not accepted the system of collective complaints.

The Charter in domestic law

According to Article III paragraph 3(b) of the Constitution of Bosnia and Herzegovina, general principles of international law shall be an integral part of the law of Bosnia and Herzegovina and its Entities.

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					

Reports on non-accepted provisions

The European Committee of Social Rights ("the Committee") examines the situation of non-accepted provisions of the Revised Charter every 5 years after the ratification. It adopted [reports concerning Bosnia and Herzegovina](#) in 2013 and in 2019.

Further information on the reports on non-accepted provisions is available on the [relevant webpage](#).

Monitoring the implementation of the European Social Charter ¹

I. Reporting system ²

Reports submitted by Bosnia and Herzegovina

Between 2011 and 2019, Bosnia and Herzegovina has submitted 9 reports on the application of the Revised Charter.

The [8th report](#), submitted on 11/12/2017, covers the accepted provisions of the Revised Social Charter relating to thematic group 3 "Labour rights" (Articles 2, 4, 5, 6, 21, 22, 26, 28, 29).

Conclusions with respect to these provisions have been published in March 2019.

The [9th report](#), which was submitted on 26/02/2019, concerns the accepted provisions relating to thematic group 4 "Children, families, migrants", namely:

- the right of children and young persons to protection (Article 7),
- the right of employed women to protection (Article 8),
- the right of the family to social, legal and economic protection (Article 16),
- the right of mothers and children to social and economic protection (Article 17),
- the right of migrant workers and their families to protection and assistance (Article 19),
- the right of workers with family responsibilities to equal opportunities and equal treatment (Article 27),
- the right to housing (Article 31).

Conclusions with respect to these provisions will be published in January 2020.

¹ The Committee monitors compliance with the Charter under two procedures, the reporting system and the collective complaints procedure, according to Rule 2 of the Committee's rules: « 1. The Committee 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 ».

Further information on the [procedures](#) may be found on the [HUDOC database](#) and in the [Digest of the case law of the Committee](#).

² Following a [decision taken by the Committee of Ministers in 2006](#), the provisions of the 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.

Following a [decision taken by the Committee of Ministers in April 2014](#), States having accepted the collective complaints procedure are required, in alternation with the abovementioned report, to provide a simplified report on the measures taken to implement the decisions of the Committee adopted in collective complaints concerning their country. The alternation of reports is rotated periodically to ensure coverage of the four thematic groups.

Detailed information on the Reporting System is available on the [relevant webpage](#). The reports submitted by States Parties may be consulted in the [relevant section](#).

Situations of non-conformity³

Thematic Group 1 « Employment, training and equal opportunities » - Conclusions 2016

► *Article 1§1 - Right to work - Policy of full employment*

Employment policy efforts have not been adequate in combatting unemployment and promoting job creation.

► *Article 1§2 - Right to work – Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)*

The federal legislation does not prohibit discrimination in employment on grounds of age and disability.

► *Article 1§4 - Right to work - Vocational guidance, training and rehabilitation*

It has not been established that the right to vocational guidance within the education system and labour market is guaranteed.

► *Article 9 - Right to vocational guidance*

It has not been established that the right to vocational guidance within the education system and labour market is guaranteed.

► *Article 20 - Right to equal opportunities and equal treatment in employment and occupation without sex discrimination*

- Women are not permitted to work in all professions which constitutes discrimination based on sex;
- The right to equal opportunities in employment without discrimination on grounds of sex is not guaranteed in practice.

Thematic Group 2 « Health, social security and social protection » - Conclusions 2017

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

Screening policies are not systematically in place in the country.

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

It has not been established that measures have been taken to guarantee a healthy environment.

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

- It has not been established that the existing social security schemes cover a significant percentage of the active population;
- The minimum duration of payment of unemployment benefit for people who have been insured up to five years is too short;
- It has not been established that the levels of social security benefits are adequate.

► *Article 12§2 - Right to social security - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security*

It has not been established that Bosnia and Herzegovina maintains a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security.

► *Article 13§1 - Right to social and medical assistance - Adequate assistance for every person in need*

- It has not been established that appropriate medical assistance is provided to all persons in need in all Entities.
- It has not been established that the level of social assistance paid to a single person without resources is adequate.

► *Article 13§3 - Right to social and medical assistance - Prevention, abolition or alleviation of need*

It has not been established that there are services offering advice and assistance to persons without resources.

³ Further information on the situations of non-conformity is available on the [HUDOC database](#).

► *Article 16 - Right of the family to social, legal and economic protection*

It has not been established that the child benefit in the Federation of Bosnia and Herzegovina and the Republika Srpska constitutes an adequate income supplement.

Thematic Group 3 « Labour rights » - Conclusions 2018

► *Article 252 - Right to just conditions of work - Public holidays with pay*

Work performed on a public holiday is not adequately compensated.

► *Article 253 – Right to just conditions of work - Annual holiday with pay*

The minimum period of paid annual leave is less than four weeks or 20 working days.

► *Article 254 - Right to just conditions of work - Elimination of risks in dangerous or unhealthy occupations*

There is no adequate prevention policy, covering the whole country, for the risks in inherently dangerous or unhealthy occupations.

► *Article 256 - Right to just conditions of work – Information on the employment contract*

The Labour Code of the Republika Srpska does not require employers to inform employees in writing of the key aspects of the employment relationship or of the employment contract

► *Article 257 – Right to just conditions of work - Night work*

A free compulsory medical examination was not provided by law to all workers about to take up night work.

► *Article 6§1 - Right to bargain collectively - Joint consultation*

It has not been established that joint consultation is sufficiently promoted.

► *Article 6§4 - Right to bargain collectively - Collective action*

The sectors in which the right to strike may be restricted are overly extensive and the restrictions do not satisfy the conditions laid down in Article G of the Charter.

► *Article 21 - Right of workers to be informed and consulted*

It has not been established that:

- all workers enjoy the right to information and consultation, and
- the supervision of respect of the right to information and consultation is guaranteed.

► *Article 22 - Right of workers to take part in the determination and improvement of working conditions and working environment*

- The right to participate in the decision-making process within undertakings with regard to working conditions, work organization and working environment, is not effectively guaranteed;
- The right of workers to take part in the determination and improvement of the protection of health and safety is not effectively secured.

► *Article 28 - Right of workers' representatives to protection in the undertaking and facilities to be accorded to them*

- The protection granted to workers' representatives in Brčko District is not extended for a reasonable period after the expiration of their mandate,
- It has not been established that facilities afforded to workers' representatives are adequate in all three entities of Bosnia and Herzegovina

Thematic Group 4 «Children, families, migrants» - Conclusions 2015

► *Article 752 - Right of children and young persons to protection - Prohibition of employment under the age of 18 for dangerous or unhealthy activities*

The legislation does not define or provide a list of dangerous or unhealthy activities prohibited to young workers under 18.

► *Article 753 - Right of children and young persons to protection - Prohibition of employment of children subject to compulsory education*

It has not been established that the effective protection against employment of children subject to compulsory education is ensured in practice (**Conclusions 2015 and 2017**).

► *Article 754 - Right of children and young persons to protection - Working time for young persons under 18*

The limit of 40 hours per week for young workers under the age of 16 is excessive.

► *Article 755 - Right of children and young persons to protection - Fair pay*

Young workers' wages are not fair.

► *Article 756 - Right of children and young persons to protection - Inclusion of time spent on vocational training in the normal working time*

The legislative framework does not provide for time spent at the training with the consent of employer to be included in normal working time and remunerated as such.

► *Article 758 - Right of children and young persons to protection - Prohibition of night work*

It has not been established that the regulations regarding prohibition of night work for young persons under 18 years of age are implemented in practice (**Conclusions 2015 and 2017**).

► *Article 759 - Right of children and young persons to protection - Regular medical examination*

Legislation does not provide for compulsory regular medical examinations for young workers under 18 years of age employed in occupations prescribed by national laws or regulations.

► *Article 851 - Right of employed women to protection of maternity - Maternity leave*

Maternity benefits are not adequate or not provided for in certain parts of the country.

► *Article 852 - Right of employed women to protection of maternity - Illegality of dismissal during maternity leave*

- In the Federation of Bosnia and Herzegovina there is no adequate protection against dismissal of employees during pregnancy or maternity leave;
- It has not been established that adequate compensation is provided for in cases of unlawful dismissal during pregnancy or maternity leave in the Republika Srpska (**Conclusions 2015 and 2017**).
- In the District of Brčko, adequate compensation is not provided for in cases of unlawful dismissal during pregnancy or maternity leave.

► *Article 854 - Right of employed women to protection of maternity - Regulation of night work*

- It has not been established that night work of pregnant women, women having recently given birth and women who are nursing their infant is adequately regulated in the Federation of Bosnia and Herzegovina (**Conclusions 2015 and 2017**).
- Night work of pregnant women, women having recently given birth and women who are nursing their infant is not adequately regulated in the District of Brčko.

► *Article 855 - Right of employed women to protection of maternity - Prohibition of dangerous, unhealthy or arduous work*

There are no adequate regulations on dangerous, unhealthy and arduous work in respect of pregnant women, women who have recently given birth and who are breastfeeding their child.

► *Article 16 - Right of the family to social, legal and economic protection*

- family benefits do not cover a significant number of families in the Federation of Bosnia and Herzegovina;
- it has not been established that the child benefit in the Federation of Bosnia and Herzegovina and the Republika Srpska constitutes an adequate income supplement (**Conclusions 2015 and 2017**);
- equal treatment of foreign nationals of other States Parties who are lawfully resident or regularly working with respect to family benefits is not ensured.

► *Article 1751 - Right of children and young persons to social, legal and economic protection - Assistance, education and training*

All forms of corporal punishment are not prohibited in the home in the Federation of Bosnia and Herzegovina and the Brčko District.

The Committee has been unable to assess compliance with the following rights and has invited the Government of Bosnia and Herzegovina to provide more information in the next report in respect of the following provisions:

Thematic Group 1 « Employment, training and equal opportunities »

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Thematic Group 2 « Health, social security and social protection »

- ▶ Article 11§1 - Conclusions 2017
- ▶ Article 13§2 - Conclusions 2017
- ▶ Article 14§1 - Conclusions 2017
- ▶ Article 14§2 - Conclusions 2017
- ▶ Article 23 - Conclusions 2017

Thematic Group 3 « Labour rights »

- ▶ Article 2§1 - Conclusions 2018
- ▶ Article 2§5 - Conclusions 2018
- ▶ Article 4§3 - Conclusions 2018
- ▶ Article 5 - Conclusions 2018
- ▶ Article 6§2 - Conclusions 2018
- ▶ Article 6§3 - Conclusions 2018

Thematic Group 4 « Children, families, migrants »

- ▶ Article 7§1 - Conclusions 2015
- ▶ Article 17§2 - Conclusions 2015

II. Examples of progress achieved in the implementation of rights under the Charter (non-exhaustive list)

Thematic Group 1 « Employment, training and equal opportunities »

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Thematic Group 2 « Health, social security and social protection »

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Thematic Group 3 « Labour rights »

► Federation of Bosnia and Herzegovina – The new Labour Code that came into force on 14 April 2016 provides for a minimum of twenty working days [of annual holiday with pay], which may be increased under the provisions of the collective agreement or the relevant internal company rules or employment contract. Employees may not waive their right to annual leave, or be denied that right, and they may not be granted financial compensation instead of taking unused days of annual leave (Articles 47-52 of the Labour Code).

► In the Republika Srpska, the new Labour Code has been enacted and came into force on 20 January 2016. Articles 78-80 entitle employees to annual leave of at least 20 working days after six months of uninterrupted work. Employed minors are entitled to a minimum of 24 working days of holiday and persons working in certain specific conditions to a minimum of 30 working days.

Thematic Group 4 « Children, families, migrants »

► In accordance with the Council of Minister's decision, as of 29 September 2010 all employees of the Bosnia and Herzegovina State Institutions, regardless of their place of residence, are entitled to maternity benefits in the amount of the average net salary earned in the last three months before the maternity leave.

► Section 45 of the Brčko District Labour Act was amended on 23 August 2014 and a new Decision on the Conditions and Manners of Payment of Compensation of Salary during Maternity Leave (No. 34-000890/13 of 15 January 2014) entered into force on 22 January 2014.