

## – Croatia and the European Social Charter –

### Signatures, ratifications and accepted provisions

Croatia ratified the European Social Charter as well as the Additional Protocol to the Charter on 26/02/2003. It has accepted 40 of the Charter's 72 paragraphs, and 3 of the 4 articles of the Additional Protocol.

Croatia ratified the Amending Protocol to the Charter and the Additional Protocol providing for a system of collective complaints on 26/02/2003. It has not made a declaration enabling national NGOs to submit collective complaints.

Croatia signed the Revised European Social Charter on 6 November 2009, but has not yet ratified it.

### The Charter in domestic law

Automatic incorporation based on Article 134 of the Constitution "*International agreements concluded and ratified in accordance with the Constitution and made public shall be part of domestic legislation of the Republic of Croatia and shall prevail over national laws. Their provisions may be changed or repealed only under the conditions and in the way specified therein, or in compliance with the general rules of international law*".

### Table of Accepted Provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	3.1	3.2	3.3
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
9	10.1	10.2	10.3	10.4	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	16	17	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
AP1	AP2	AP3	AP4	AP= Additional Protocol				Grey = Accepted provisions			

## Monitoring the implementation of the European Social Charter <sup>1</sup>

### I. Collective complaints procedure <sup>2</sup>

#### Collective complaints (under examination)

*University Women of Europe (UWE) v. Croatia (Complaint No. 126/2016)*

The Committee [declared](#) the complaint admissible on 4 July 2017.

#### Collective complaints (proceedings completed)

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

###### a. Inadmissibility

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###### b. No violation

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

*International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Croatia (Complaint No. 45/2007)*

- Violation of Article 11§2 (right to health)

[Decision on the merits of 30 March 2009.](#)

Follow up:

- [Resolution Res \(2009\)7 on 21 October 2009](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up \(13 September 2017\).](#)

##### 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 and where progress has been made but which has not yet been remedied

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##### 5. Complaints where the Committee has found a violation which has not yet been remedied

*Matica hrvatskih sindikata v. Croatia (Complaint No. 116/2015)*

- Violation of Article 6§2 (the right to bargain collectively – negotiation procedures).

[Decision on the merits of 21 March 2018](#)

Follow up:

- [Resolution Res \(2018\)10 on 24 October 2018](#) of the Committee of Ministers.

*Centre on Housing Rights and Evictions (COHRE) v. Croatia (Complaint No. 52/2008)*

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<sup>1</sup> The European Committee of Social Rights (“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](#).

<sup>2</sup> Detailed information on the Collective Complaints Procedure is available on the [relevant webpage](#).

- Violation of Article 16 (the right of the family to social, legal and economic protection) read in the light of the non-discrimination clause of the Preamble

Decision on the merits of 22 June 2010.

Follow up:

- Resolution CM/ResChS(2011)6 on 5 May 2011 of the Committee of Ministers.
- Assessment of the European Committee of Social Rights on the follow-up (13 September 2017).

## II. Reporting system<sup>3</sup>

### Reports submitted by Croatia

Between 2006 and 2019, Croatia has submitted 10 reports on the application of the 1961 Charter.

The [9<sup>th</sup> report](#), submitted on 19/01/2018 covers the accepted provisions of the Social Charter relating to thematic group 3 "Labour rights" (Articles 2, 4, 5, 6, Article 2 of the Additional Protocol, Article 3 of the Additional Protocol).

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

The [10<sup>th</sup> report](#), submitted on 04/01/2019, concerns the follow-up given to the relevant decisions of the Committee in the framework of the collective complaints procedure.

The assessments of the Committee on the follow up to decisions in complaints will be published in January 2020.

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<sup>3</sup> 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-conformity <sup>4</sup>

### Thematic Group 1 « Employment, training and equal opportunities » - Conclusions XX-1 (2012)

No report was submitted by the Croatian Government on the follow-up given to decisions on the merits of collective complaints in which the Committee found a violation. In view of the lack of information, the Committee was unable to examine the situation in 2016.

For the most recent Conclusions adopted concerning the relevant Articles, see Conclusions XX-1 (2012).

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

Employment policy efforts have been inadequate in combatting unemployment and promoting job creation.

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

The list of jobs which are barred to foreign nationals is too broad.

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

It has not been established that:

- the right to vocational guidance is guaranteed;
- the right to specialised guidance and training for persons with disabilities is guaranteed.

► *Article 9 - Right to vocational guidance*

It has not been established that the right to vocational guidance is guaranteed equally to nationals of other States Parties.

### Thematic Group 2 « Health, social security and social protection » - Conclusions XX-2 (2013)

According to the applicable rules, Conclusions XXI-2 (2017) only refer to the information submitted by the Croatian Government on the follow-up given to the relevant decisions of the European Committee of Social Rights in the framework of the collective complaints procedure (see above).

For the most recent Conclusions adopted concerning the relevant Articles, see Conclusions XX-2 (2013).

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

- It has not been established that means of subsistence are guaranteed to persons in need, whose social assistance is withdrawn as penalty for having refused a job offer;
- The level of social assistance is manifestly inadequate;
- Nationals of other States Parties are subject to an excessive length of residence requirement to be eligible for social assistance.

► *Article 13§4 – Right to social and medical assistance - Specific emergency assistance for non-residents*

It has not been established that all non-resident foreign nationals in need – whether legally present or in an irregular situation – are entitled to emergency medical and social assistance.

### Thematic Group 3 « Labour rights » – Conclusions XXI-3 (2018)

► *Article 2§1 – Right to just conditions of work – Reasonable working time*

The working hours in a 24-hour period may be up to 16 hours.

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

The right to call a strike is reserved to trade unions, and the time frame for registering a trade union, which may take up to thirty days, infringes the right to strike.

### Thematic Group 4 « Children, families, migrants » - Conclusions XIX-4 (2011)

No report was submitted concerning the Articles in thematic group 4; therefore the Committee was unable to adopt Conclusions in the 2015 cycle.

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<sup>4</sup> Further information on the situations of non-conformity is available on the [HUDOC database](#).

For the most recent Conclusions adopted concerning the relevant Articles, see Conclusions XIX-4 (2011).

▶ *Article 7§4 – Right of children and young persons to protection – Working time for young persons under 16*

Working hours for persons between the age of fifteen and sixteen are excessive.

▶ *Article 7§5 – Right of children and young persons to protection - Fair pay*

Apprentices do not enjoy a right to appropriate allowances.

▶ *Article 7§6 - Right of children and young persons to protection - Inclusion of time spent on vocational training in the normal working time*

Time spent by young workers in vocational training is not considered as working time.

▶ *Article 8§3 - Right of employed women to protection - Time off for nursing mothers*

Breastfeeding breaks are not paid as normal working hours and that the amount of the benefits paid in lieu may result in loss of salary.

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

Equal treatment of nationals of other States party in the payment of family benefits is not ensured because of excessive residence requirement

▶ *Article 17 – Right of mothers and children to social and economic protection*

Young imprisoned offenders are not in all circumstances separated from adults.

**The Committee has been unable to assess compliance with the following provisions and has invited the Croatian Government to provide more information in the next report:**

**Thematic Group 1 « Employment, training and equal opportunities »**

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

- ▶ Article 14§1 - Conclusions XX-2 (2013)
- ▶ Article 14§2 - Conclusions XX-2 (2013)

**Thematic Group 3 « Labour rights »**

- ▶ Article 3 of the 1988  
Additional Protocol - Conclusions XXI-3 (2018)

**Thematic Group 4 « Children, families, migrants »**

- ▶ Article 7§3 - Conclusions XIX-4 (2011)
- ▶ Article 7§10 - Conclusions XIX-4 (2011)
- ▶ Article 8§2 - Conclusions XIX-4 (2011)

### **III. Examples of progress achieved in the application of rights under the Charter** ***(non-exhaustive list)***

#### **Thematic Group 1 « Employment, training and equal opportunities »**

▶ New labour legislation which repeals the prohibition on women performing night work with certain exceptions relating to maternity entered into force on 1 January 2010.

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

▶ Government decision to withdraw a biology textbook, which had been found to contain discriminatory statements, from the national curriculum relating to sexual and reproductive health education.

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▶ The Act on Amendments to the Social Welfare Act (Official Gazette, no. 79/07) provides that in addition to social welfare rights, beneficiaries are also entitled to other forms of assistance free of charge, including counselling and help to overcome special difficulties.

#### **Thematic Group 3 « Labour rights »**

▶ In 2014 entered in to force the Labour Act 93/2014 that regulates employment relationships in Croatia. The Labour Act 93/2014 contains provisions on the right to information and consultation and enables participation of workers in decision-making through three legal mechanisms: 1. works council, 2. workers' assemblies and 3. employers' bodies.

#### **Thematic Group 4 « Children, families, migrants »**

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