

— France and the European Social Charter —

Signatures, ratifications and accepted provisions

France ratified the European Social Charter on 09/03/1973 and the Revised European Social Charter on 07/05/1999, accepting all of its 98 paragraphs.

It accepted the 1995 Additional Protocol providing for a system of collective complaints on 07/05/1999, but has not yet made a declaration enabling national NGOs to submit collective complaints.

The Charter in domestic law

Under Article 55 of the Constitution: "Treaties or agreements regularly ratified or approved have, from the time of publication, an authority superior to that of laws, provided, in the case of each agreement or treaty, that it is applied by the other party."

Table of Accepted Provisions

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Monitoring the implementation of the European Social Charter ¹

I. Collective complaints procedure ²

Collective complaints (under examination)

Union Syndicale Solidaires SDIS v. France (Complaint No. 176/2019).

The complaint was registered on 5 February 2019

Syndicat CFDT de la métallurgie de la Meuse v. France (Complaint No. 175/2019).

The complaint was registered on 31 January 2019

Syndicat CGT YTO France v. France (Complaint No. 174/2019).

The complaint was registered on 30 January 2019

Confédération générale du travail (CGT) v. France (Complaint No. 171/2018)

The complaint was registered on 7 September 2018.

Inclusion International - Inclusion Europe - European Disability Forum (EDF) v. France (Complaint No. 168/2018)

The Committee [declared](#) the complaint admissible on 16 October 2018.

International Federation of Associations of the Elderly (FIAPA) v. France (Complaint No. 162/2018)

The Committee [declared](#) the complaint admissible on 16 October 2018.

Confédération générale du Travail Force Ouvrière v. France (Complaint No. 160/2018)

The Committee [declared](#) the complaint admissible on 11 September 2018

Confédération générale du travail (CGT) v. France (Complaint No. 155/2017)

The Committee [declared](#) the complaint admissible on 23 January 2018.

Confédération générale du travail (CGT) et Confédération française de l'encadrement-CGC (CFE-CGC) v. France (Complaint No. 149/2017)

The Committee [declared](#) the complaint admissible on 12 September 2017.

International Federation of Associations of the Elderly (FIAPA) v. France (Complaint No. 145/2017)

The Committee [declared](#) the complaint admissible on 12 September 2017.

Fédération FIECI and Syndicat SNEPI CFE-CGC v. France (Complaint No. 142/2017)

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

University Women of Europe (UWE) v. France (Complaint No.130/2017)

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

¹ 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](#).

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

SAIGI-Syndicat des Hauts Fonctionnaires v. France (Complaint No. 29/2005)

The Committee [declared](#) the complaint inadmissible on 14 June 2005.

Syndicat national des dermato-vénérologues (SNDV) v. France (Complaint No. 28/2004)

The Committee [declared](#) the complaint inadmissible on 13 June 2005.

b. No violation

Union syndicale des magistrats administratifs (USMA) v. France (Complaint No. 84/2012)

- No violation of Article 4§2 (the right to increased rate of remuneration for overtime work)

[Decision on admissibility and the merits of 2 December 2013.](#)

Follow up:

- [Resolution CM/Res ChS \(2014\) 5 on 2 April 2014](#) of the Committee of Ministers.

Comité européen d'action spécialisée pour l'Enfant et la Famille dans leur milieu de vie (EUROCEF) v. France (Complaint n° 82/2012)

- No violation of Articles 16 (right to appropriate social, legal and economic protection for the family) and 30 (right to protection against poverty and social exclusion), taken alone or in combination with Article E (non-discrimination)

[Decision on the merits of 19 March 2013.](#)

Follow up:

- [Resolution CM/ResChS\(2013\) 14 on 10 July 2013](#) of the Committee of Ministers.

Syndicat de Défense des Fonctionnaires v. France (Complaint No. 73/2011)

- Non-application of Articles 2§6 (information on the employment contract), 20 (right to equal opportunities and treatment in employment and occupation without sex discrimination) and E (non-discrimination) in conjunction with Article 20
- Non-violation of Articles 12 (right to social security) et 1§2 (right to work – freely undertaken work)

[Decision on the merits of 12 September 2012.](#)

Follow up:

- [Resolution CM/Res ChS \(2012\) 6 on 28 November 2012](#) of the Committee of Ministers.

European Council of Police Trade Unions (CESP) v. France (Complaint No. 54/2008)

- Non-violation of Articles 2§1 (reasonable working time) and 4 (right to a fair remuneration)

[Decision on the merits of 2 December 2010.](#)

Follow up:

- [Resolution CM/ResChS\(2011\)1 on 19 January 2011](#) of the Committee of Ministers.

Confédération française démocratique du travail (CFDT) v. France (Complaint No. 50/2008)

- Non-violation of Articles 4 (right to a fair remuneration), 12 (right to social security), 18 (right to engage in a gainful occupation in the territory of other States Parties) and 19 (right of migrant workers and their families to protection and assistance) in conjunction with Article E (non-discrimination)

[Decision on the merits of 9 September 2009.](#)

Follow up:

- [Resolution CM/ResChS\(2009\)8 on 9 December 2009](#) of the Committee of Ministers.

Syndicat des Agrégés de l'Enseignement supérieur (SAGES) v. France (Complaint No. 26/2004)

- Non-violation of Article 5 (right to organise) and Article E (non-discrimination)

[Decision on the merits of 15 June 2005.](#)

Follow up:

- [Resolution ResChS\(2005\)14 on 7 September 2005](#) of the Committee of Ministers.

Syndicat occitan de l'Education v. France (Complaint No. 23/2003)

- Non-violation of Articles 5 (right to organise) and 6§1 (right to joint consultation)

[Decision on the merits of 7 September 2004.](#)

Follow up:

- [Resolution ResChS\(2004\)6 on 17 November 2004](#) of the Committee of Ministers.

European Federation of Employees in Public Services v. France (Complaint No. 2/1999)

- Non-violation of Articles 5 and 6 (right to organise and to bargain collectively)
[Decision on the merits of 4 November 2000.](#)

Follow up:

- [Resolution ResChS\(2001\)2 on 7 February 2001](#) of the Committee of Ministers.

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

Médecins du Monde –International v. France (Complaint No. 67/2011)

- Violation of Article 13 §§1 and 4 (right to social and medical assistance)
- Violation of Article 19§8 (guarantees concerning deportation)

[Decision of the merits of 11 September 2012.](#)

Follow up:

- [Resolution CM/ResChS CM/ResChS\(2013\)6 on 26 March 2013](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up](#) (4 December 2015)
- [2nd Assessment of the European Committee of Social Rights on the follow-up](#) (6 December 2018)

European Roma and Travellers Forum (ERTF) v. France (Complaint No. 64/2011)

- Violation of Article E (non-discrimination) in conjunction with Articles 19§8, (guarantees concerning deportation)

[Decision of the merits of 24 January 2012.](#)

Follow up:

- [Resolution CM/ResChS\(2013\)1 on 5 February 2013](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up](#) (4 December 2015)
- [2nd Assessment of the European Committee of Social Rights on the follow-up](#) (6 December 2018)

Centre on Housing Rights and Evictions (COHRE) v. France (Complaint No. 63/2010)

- Violation of article E (non-discrimination) in conjunction with articles 19§8 (guarantees concerning deportation)

[Decision on the merits of 28 June 2011.](#)

Follow up:

- [Resolution CM/ResChS\(2011\)9 on 9 November 2011](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up](#) (4 December 2015)
- [2nd Assessment of the European Committee of Social Rights on the follow-up](#) (6 December 2018)

European Roma Rights Centre v. France (Complaint No. 51/2008)

- Violation of Article E in conjunction with Article 31 (right to housing)
- Violation of Article E in conjunction with Article 16 (right of the family to social, legal and economic protection)

[Decision on the merits of 19 October 2009.](#)

Follow up:

- [Resolution CM/ResChS\(2010\)5 on 30 June 2010](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up](#) (4 December 2015)

Syndicat Sud Travail Affaires Sociales v. France (Complaint No. 24/2004)

- Violation of Article 1§2 (prohibition of discrimination in employment)

[Decision on the merits of 8 November 2005.](#)

Follow up:

- [Resolution ResChS\(2006\)5 on 12 July 2006](#) of the Committee of Ministers.

Fédération internationale des Ligues des Droits de l'Homme v. France (Complaint No. 14/2003)

- Violation of Article 17§1 (children's right to social, economic and legal protection)

[Decision on the merits of 8 September 2004.](#)

Follow up:

- [Resolution ResChS\(2005\)6 on 4 May 2005](#) of the Committee of Ministers.

Syndicat national des Professions du Tourisme v. France (Complaint No. 6/1999)

- Violation of Articles 1§2 (prohibition against all forms of discrimination in access to employment), 10 (the right to vocational training) and E (non-discrimination) of the Revised European Social Charter

[Decision on the merits of 10 October 2000.](#)

Follow up:

- [Recommendation RecChS\(2001\)1 on 30 January 2001](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up](#) (4 December 2015)
- [2nd Assessment of the European Committee of Social Right on the follow-up](#) (6 December 2018)

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

European Roma and Travellers Forum (ERTF) v. France (Complaint No. 119/2015)

- Violation of Article 17§2 (right of children and young persons to be protected against negligence, violence or exploitation)
- Violation of Article E (non-discrimination) in conjunction with Article 10§§3 and 5 (right of vocational training)
- Violation of Article E (non-discrimination) in conjunction with Article 17§2
- Violation of Article E (non-discrimination) in conjunction with Article 31 (right to housing)
- Violation of Article E (non-discrimination) in conjunction with Article 30 (right to protection against poverty and social exclusion)

[Decision on the merits of 5 December 2017.](#)

Follow up:

- [Resolution CM/ResChS\(2018\)4 of the Committee of Ministers on 4 July 2018](#)

European Council of Police Trade Unions (CESP) v. France (Complaint No. 101/2013)

- Violation of Article 5 (the right to organize)
- No violation of Article 6§1 (the right to bargain collectively – joint consultation)
- Violation of Article 6§2 (the right to bargain collectively – negotiation procedures)

[Decision on the merits of 27 January 2016](#)

Follow up:

- [Resolution CM/ResChS\(2016\)5 on 5 October 2016](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up](#) (6 December 2018)

European Roma and Travellers Forum (ERTF) v. France (Complaint No. 64/2011)

- Violation of Article E (non-discrimination) in conjunction with Articles 19§8, (guarantees concerning deportation)
- Violation of Article 30 (right to protection against poverty and social exclusion)
- Violation of Article 31§§1, 2 and 3 (right to housing)
- Violation of Article 16 (right of the family to social, legal and economic protection)

[Decision of the merits of 24 January 2012.](#)

Follow up:

- [Resolution CM/ResChS\(2013\)1 on 5 February 2013](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up](#) (4 December 2015)
- [2nd Assessment of the European Committee of Social Rights on the follow-up](#) (6 December 2018)

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

Confédération générale du travail (CGT) v. France (Complaint No. 154/2017)

- Violation of Article 4§2 (right to a fair remuneration) in respect of the reasonableness of the reference period

[Decision on the merits of 18 October 2018](#)

Confédération Générale du Travail Force Ouvrière (CGT-FO) v. France (Complaint No. 118/2015)

- Violation of Article 6§2 (right to bargain collectively) on the issue of prohibiting designation clauses

[Decision on the merits of 3 July 2018](#)

Comité européen d'action spécialisée pour l'Enfant et la Famille dans leur milieu de vie (EUROCEF) v. France (Complaint No. 114/2015)

- Violation of Article 17§§1 and 2 (right of children and young persons to social, legal and economic protection)
- Violation of Article 7§10 (right of children and young persons to protection)
- Violation of Article 11§1 (right to protection of health)
- Violation of Article 13§1 (right to social and medical assistance)
- Violation of Article 31§2 (right to housing)

[Decision on the merits of 24 January 2018](#)

Association for the Protection of All Children (APPROACH) Ltd v. France (Complaint No. 92/2013)

- Violation of Article 17 (the right of mothers and children to social and economic protection)

[Decision on the merits of 12 September 2012.](#)

Follow up:

- [Resolution CM/ResChS\(2015\)6 on 15 April 2015](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up](#) (6 December 2018).

Action européenne des handicapés (AEH) c. France (Complaint No. 81/2012)

- Violation of Article 15 (right of persons with disabilities to independence, social integration and participation in the life of the community)
- Violation of Article E (non-discrimination) taken in conjunction with Article 15

[Decision on the merits of 11 September 2013](#)

Follow up:

- [Resolution Res/CMChS\(2014\) 2 of 5 February 2014](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up](#) (4 December 2015)
- [2nd Assessment of the European Committee of Social Rights on the follow-up](#) (6 December 2018).

European Council of Police Trade Unions v. France (Complaint No. 68/2011)

- Violation of Article 4§2 (right to a fair remuneration)

[Decision of the merits of 23 October 2012.](#)

Follow up:

- [Resolution CM/ResChS CM/ResChS\(2013\)10 on 11 June 2013](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up](#) (4 December 2015)
- [2nd Assessment of the European Committee of Social Rights on the follow-up](#) (6 December 2018).

Médecins du Monde –International v. France (Complaint No. 67/2011)

- Violation of Article E (non-discrimination), in conjunction with Articles 31§§1 and 2 (right to housing)
- Violation of Article 16 (right of the family to social, legal and economic protection)
- Violation of Article 30 (right to protection against poverty and social exclusion)
- Violation of Article 19§8 (guarantees concerning deportation)
- Violation of Article 17§2 (children's right to social, economic and legal protection)
- Violation of Article 11§§ 1, 2 and 3 (right to protection of health)
- Violation of Article 13 §§1 and 4 (right to social and medical assistance)

[Decision of the merits of du 11 September 2012.](#)

Follow up:

- [Resolution CM/ResChS CM/ResChS\(2013\)6 on 26 March 2013](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up](#) (4 December 2015)
- [2nd Assessment of the European Committee of Social Rights on the follow-up](#) (6 December 2018).

Centre on Housing Rights and Evictions (COHRE) v. France (Complaint No. 63/2010)

- Violation of article E (non-discrimination) in conjunction with articles 31§2 (right to housing - reduction of homelessness) and 19§8 (guarantees concerning deportation)

[Decision on the merits of 28 June 2011.](#)

Follow up:

- [Resolution CM/ResChS\(2011\)9 on 9 November 2011](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up](#) (4 December 2015)
- [2nd Assessment of the European Committee of Social Rights on the follow-up](#) (6 December 2018)

European Council of Police Trade Unions (CESP) v. France (Complaint No. 57/2009)

- Violation of Article 4§2 (right to a fair remuneration)

[Decision of the merits of 1 December 2010.](#)

Follow up:

- [Resolution CM/ResChS\(2013\)9 on 29 May 2013](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up](#) (4 December 2015)
- [2nd Assessment of the European Committee of Social Rights on the follow-up](#) (6 December 2018)

Confédération française de l'Encadrement (CFE-CGC) v. France (Complaint No. 56/2009)

- Violation of Article 2§1 (reasonable working time)

[Decision on the merits of 23 June 2010.](#)

Follow up:

- [Resolution CM/ResChS\(2011\)5 on 6 April 2011](#) of the Committee of Ministers.

Confédération Générale du Travail (CGT) v. France (Complaint No. 55/2009)

- Violation of Article 2§1 (reasonable working time)
- Violation of Article 2§5 (weekly rest period)
- Violation of Article 4§2 (right to a fair remuneration)

[Decision of the merits of 23 June 2010.](#)

Follow up:

- [Resolution CM/ResChS\(2011\)4 on 6 April 2011](#) of the Committee of Ministers.

European Roma Rights Centre v. France (Complaint No. 51/2008)

- Violation of Article 31§§1 and 2 (right to housing)
- Violation of Article 16 (right of the family to social, legal and economic protection)
- Violation of Article 30 (right to protection against poverty and social exclusion), read alone and in conjunction with Article E (non-discrimination)
- Violation of Article 19§4c (right of migrant workers and their families to protection and assistance)

[Decision on the merits of 19 October 2009.](#)

Follow up:

- [Resolution CM/ResChS\(2010\)5 on 30 June 2010](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up](#) (4 December 2015)
- [2nd Assessment of the European Committee of Social Rights on the follow-up](#)

European Federation of National Organisations Working with the Homeless (FEANTSA) v. France (Complaint No. 39/2006)

- Violation of Article 31§§1 and 2
- Violation of Article 31§3 in conjunction with Article E (non-discrimination)

[Decision on the merits of 5 December 2007.](#)

Follow up:

- [Resolution Res ChS \(2008\)8 on 2 July 2008](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up](#) (4 December 2015)
- [2nd Assessment of the European Committee of Social Rights on the follow-up](#) (6 December 2018)

European Council of Police Trade Unions (CESP) v. France (Complaint No. 38/2006)

- Violation of Article 4§2 (right to increased rate of remuneration for overtime work)

[Decision on the merits of 3 December 2007.](#)

Follow up:

- [Resolution ResChS\(2008\)6 on 23 April 2008](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up](#) (4 December 2015)
- [2nd Assessment of the European Committee of Social Rights](#) (6 December 2018)

International Movement ATD Fourth World v. France (Complaint No. 33/2006)

- Violation of Article 30 (right to protection against poverty and social exclusion), read alone and in conjunction with Article E - non-discrimination
- Violation of Article 31§§1 and 2 and 31§3 (right to housing), in conjunction with Article E

[Decision on the merits of 5 December 2007.](#)

Follow up:

- [Resolution Res ChS \(2008\)7 on 2 July 2008](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up](#) (4 December 2015)

- 2nd Assessment of the European Committee of Social Rights (6 December 2018)

Confédération Générale du Travail v. France (Complaint No. 22/2003)

- Violation of Articles 2§§1 and 5 (right to reasonable working hours and right to a weekly rest period)

[Decision on the merits of 7 December 2004.](#)

Follow up:

- [Resolution ResChS\(2005\)8 on 4 May 2005](#) of the Committee of Ministers.

Confédération française de l'Encadrement-CGC v. France (Complaint No. 16/2003)

- Violation of Article 2§1 (right to reasonable working hours)
- Violation of Article 4§2 (right to increased rate of remuneration for overtime work)

[Decision on the merits of 12 October 2004.](#)

Follow up:

- [Resolution ResChS\(2005\)7 on 4 May 2005](#) of the Committee of Ministers.

Autism-Europe v. France (Complaint No. 13/2002)

- Violation of Article 15 (right of persons with disabilities to education and training)
- Violation of Article 17§1 (children's right to social, economic and legal protection)
- Violation of Article E (non-discrimination)

[Decision on the merits of 4 November 2003.](#)

Follow up:

- [Resolution ResChS\(2004\)1 on 10 March 2004](#) of the Committee of Ministers.

- [Assessment of the European Committee of Social Rights on the follow-up](#) (4 December 2015)

- 2nd Assessment of the European Committee of Social Rights on the follow-up (6 December 2018)

Confédération française de l'Encadrement-CGC v. France (Complaint No. 9/2000)

- Violation of Article 2§1 (right to reasonable working hours)
- Violation of Article 4§2 (right to increased rate of remuneration for overtime work)

[Decision on the merits of 16 November 2001.](#)

Follow up:

- [Resolution ResChS\(2002\)4 on 26 March 2002](#) of the Committee of Ministers.

II. Reporting system³

Reports submitted by France

Between 1975 and 2019, France submitted 18 reports on the application of the 1961 Charter and 18 reports on the application of the Revised Charter.

The [17th report](#), submitted on 29/11/2018, 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 were published in January 2019.

The [18th report](#), which was submitted on 24/01/2019, 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.

³ 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 ⁴

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

► *Article 152 - Right to work - Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)*

The restrictions on access to the profession of advocate imposed on non-EEA nationals are excessive, which constitutes discrimination based on nationality.

► *Article 154 - Right to work - Vocational guidance, training and rehabilitation*

It has not been established that the right of persons with disabilities to vocational training is guaranteed.

► *Article 1055 – Right to vocational training – Full use of facilities available*

- There is a length of residence requirement of two years for non-EEA nationals to qualify for scholarships granted on the basis of social criteria;
- It has not been established that there is a mechanism to evaluate the efficiency of vocational education.

► *Article 1551 – Right of persons with disabilities to independence, social integration and participation in the life of the community - Education and training for persons with disabilities*

It has not been established that the right of persons with disabilities to education and vocational training is guaranteed.

► *Article 1552 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Employment of persons with disabilities*

- It has not been established that the right to reasonable accommodation in the workplace is effectively guaranteed to persons with disabilities;
- It has not been established that persons with disabilities are guaranteed effective equal access to employment.

► *Article 1553 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Integration and participation of persons with disabilities in the life of the community*

- It has not been established that persons with disabilities have effective access to technical aids;
- Persons with disabilities are not guaranteed effective access to transport.

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

► *Article 352 – Right to safe and healthy working conditions - Safety and health regulations*

Certain categories of self-employed workers are not sufficiently covered by the occupational health and safety regulations.

► *Article 353 - Right to safe and healthy working conditions - Enforcement of safety and health regulations*

Measures taken to reduce the number of accidents at work are insufficient.

► *Article 1251 – Right to social security – Existence of a social security system*

The minimum level of invalidity pensions is inadequate.

► *Article 1254 - Right to social security - Social security of persons moving between States*

- Equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties;
- The right to maintenance of accruing rights is not guaranteed to nationals of all other States Parties.

► *Article 1351 – Right to social and medical assistance – Adequate assistance for every person in need*

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

- The amount of social assistance, consisting of basic assistance and any additional benefits that may apply is not adequate ;
- Non-EU nationals are subject to a length of residence requirement of five years to be eligible for RSA.

Thematic Group 3 « Labour rights » - Conclusions 2014

According to the applicable rules, Conclusions 2018 only refer to the information submitted by the French 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 2014.

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

On-call periods during which no effective work is undertaken are assimilated to rest periods.

► *Article 2§5 - Right to just conditions of work - Weekly rest period*

On-call periods, occurring on Sunday, are wrongly regarded as rest periods.

► *Article 4§2 - Right to a fair remuneration - Increased remuneration for overtime work*

- The number of hours of work performed by employees who come under the annual working time system and who do not benefit from a higher rate for overtime, under this flexible working time system, is abnormally high.
- On-call periods during which no effective work is undertaken are assimilated to rest periods.
- The flat rate compensation for overtime work performed by the ordinary members of the supervision and enforcement corps of the police does not guarantee an increased rate of remuneration.
- The increase in the command bonus for senior managers can only compensate a very small number of overtime hours and compensatory time off provided to senior police officers working overtime when performing certain duties are equivalent in length to the overtime worked.

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

The statutory notice periods are not reasonable notice for employees with seven to ten years of service.

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

Only representative trade unions have the right to call strikes in the public sector.

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

Some employees are excluded from the calculation of staff numbers which is carried out to determine the minimum thresholds beyond which staff representative bodies must be set up to ensure the information and consultation of workers.

Thematic Group 4 « Children, families, migrants » - Conclusions 2011

According to the applicable rules, Conclusions 2015 only refer to the information submitted by the French 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 2011.

► *Article 7§2 – Right of children and young persons to protection - Prohibition of employment under the age of 18*

The legislation does not lay down an absolute prohibition for persons under the age of 18 to work on dangerous activities outside the vocational training context or without having had such training beforehand.

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

- The remuneration of breastfeeding breaks is not guaranteed for employed women covered by the Labour Code.
- Women working in the civil service are not entitled to breastfeeding breaks.

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

The housing conditions of Travellers' families are not adequate.

► *Article 17§1 – Right of mothers and children to social and economic protection – Assistance, education and training*

- All forms of corporal punishment of children are not prohibited;
- The maximum periods of pre-trial detention of children are too long.

► *Article 19§4 - Right of migrant workers and their families to protection and assistance - Equality regarding employment, right to organise and accommodation*

- It has not been established that in respect of access to employment, working conditions and accommodation migrant workers enjoy treatment which is not less favourable than that of nationals;
- The housing conditions of Roma migrant workers in a legal situation are not adequate.

► *Article 19§6 - Right of migrant workers and their families to protection and assistance - Family reunion*

The requirement for foreign nationals wishing to be joined by their close relatives to have been residing lawfully in France for at least eighteen months is excessive.

► *Article 19§8 - Right of migrant workers and their families to protection and assistance - Guarantees concerning deportation*

During the reference period Roma were expelled for reasons not permitted by the Charter.

► *Article 19§10 - Right of migrant workers and their families to protection and assistance - Equal treatment for the self-employed*

The situation in France is not in conformity with Article 19§10 of the Charter on the same grounds for which it is not in conformity with paragraphs 4, 6 and 12 of the same Article.

► *Article 19§12 - Right of migrant workers and their families to protection and assistance - Teaching mother tongue of migrant*

It has not been established that France promotes and facilitates the teaching of the migrant worker's mother tongue to the children of migrant workers.

► *Article 31§1 – Right to housing - Adequate housing*

- The length of residence requirement to be entitled to submit an application to the committee in charge of the DALO procedure is excessive;
- Unfit housing is considerable and suitable amenities are lacking for a large number of dwellings;
- Failure to create a sufficient number of stopping places for Travellers and poor living conditions and operational failures on such sites;
- Access to housing for settled Travellers is lacking;
- Progress as regards the eradication of substandard housing conditions is insufficient for a large number of Roma.

► *Article 31§2 – Right to housing - Reduction of homelessness*

- The measures to reduce the number of homeless persons are insufficient;
- The implementation of the legislation on the prevention of evictions is not satisfactory and there is a lack of measures to provide rehousing solutions for evicted families;
- Travellers' human dignity was not respected while carrying out eviction procedures.

► *Article 31§3 – Right to housing - Right to affordable housing*

- Insufficient supply of housing accessible to low-income groups and of social housing, in particular because of the shortfall of construction of social housing and of shortcomings of the system of legal redress;
- The social housing allocation system and the related remedies are not functioning correctly;
- The implementation of legislation on stopping places for Travellers is deficient.

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

Thematic Group 1 « Employment, training and equal opportunities »

- ▶ Article 1§1 - Conclusions 2016
- ▶ Article 1§3 - Conclusions 2016
- ▶ Article 10§3 - Conclusions 2016
- ▶ Article 24 - Conclusions 2016

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

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Thematic Group 3 « Labour rights »

- ▶ Article 2§2 - Conclusions 2014
- ▶ Article 4§1 - Conclusions 2014
- ▶ Article 4§5 - Conclusions 2014
- ▶ Article 5 - Conclusions 2014

According to the applicable rules, Conclusions 2018 only refer to the information submitted by the French 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).

Thematic Group 4 « Children, families, migrants »

- ▶ Article 19§1 - Conclusions 2011
- ▶ Article 19§11 - Conclusions 2011

According to the applicable rules, Conclusions 2015 only refer to the information submitted by the French 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).

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

Thematic Group 1 « Employment, training and equal opportunities »

- ▶ Act 2012-1189 of 26 October 2012 on establishing "jobs for the future" strengthens the role of collective bargaining with regard to occupational equality between and equal remuneration of women and men.
- ▶ Abolition of discrimination constituted by differences in treatment between guides certified by the *Réunion des Musées nationaux* and state-certified interpreters and national lecturers, as regards their freedom to conduct guided tours in the Palace of Versailles (Administrative Court of Appeal of Versailles, Judgment of 14 October 2009, *Syndicat National des Professions de Tourisme - SNPT*).
- ▶ General principles governing the rights of persons with disabilities: access to fundamental rights, citizenship, compensation, resources, advice and information, assessment of needs, accessibility, etc. (Act No. 2005-102 of 11 February 2005 on equal rights and opportunities, participation and citizenship of persons with disabilities).
- ▶ Repeal of the provisions of the Criminal and Merchant Marine Disciplinary Codes authorising penal sanctions for disciplinary offences committed by seafarers where neither the safety of the vessel nor the life and health of those on board were endangered (Social Modernisation Act, No. 2002-73 of 17 January 2002).
- ▶ Measures to assist autistic children – funding of early medico-social action centres (CAMSPs) and special education and home care services (SESSAD) and launch of a long-term action plan on autism.

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

- ▶ Incorporation of the recommendations of the International Commission for Radiation Protection (ICRP) on dose limits for workers exposed to ionising radiation (Decree No. 2003-296 of 31 March 2003).
- ▶ Ban on the sale of tobacco to young persons aged under 16 (Act No. 2003-715 of 31 July 2003).
- ▶ A framework agreement on the prevention of psychosocial risks in public service jobs was signed by all the employers' representatives and most trade unions and Prime Ministerial Circular on the implementation of the framework agreement was signed on 20 March 2014.
- ▶ The Law of 17 August 2015 on social dialogue and employment set up a system for the representation of employees and employers in companies with fewer than 11 employees through regional interoccupational joint committees (CPRIs) set up on 1 July 2017 whose task is to provide information, advice and co-ordination relating to the specific problems of very small companies, particularly with regard to working conditions and health.
- ▶ Decree No. 2012-639 of 4 May 2012 on the risks of exposure to asbestos adds a requirement to Article R. 4412-100 of the Labour Code for employers to respect an occupational exposure limit value of 100 fibres/litre of air inhaled over eight hours of work and provides for this value to be lowered to 10 fibres/litre from 1 July 2015 onwards.
- ▶ Decree No. 2015-789 of 29 June 2015 on the risks of exposure to asbestos also adds a requirement to Article R. 4412-110 of the Labour Code for employers to provide workers with individual protection equipment ensuring that this exposure limit is respected and to assess the risks of exposure to asbestos.
- ▶ Improvement in 2014 in access to health care through the extension of supplementary universal health coverage (CMU-C) and assistance for the payment of supplementary health insurance (ACS); the number of recipients of these benefits grew by 6.5% and 3.9% respectively between 2013 and 2014, reaching a total of 6 million persons covered by the end of 2014.

- ▶ The Act of 17 August 2015 on social dialogue and employment introduced the Activity Premium. Financed by the State, the Activity Premium is a supplement to income for low-income workers. According to the report, young people between the ages of 18 and 24, whether employed or self-employed, are now eligible for this allowance.
- ▶ France has implemented a secure information system which facilitates quantitative and qualitative analysis of reports received on the national listening and assistance hotline in order to respond to situations where elderly people, among other people, who are living at home or in institutions are being ill-treated.
- ▶ Numerous measures have been undertaken to combat poverty and exclusion, both on the prevention side and on accompanying people living in poverty, in particular within the Multi-annual Antipoverty and Social Inclusion Plan (2013-2017), which is overseen by the Government, has an inter-ministerial nature and was designed by a number of players, including individuals experiencing hardship. The Plan has led to decompartmentalising social policies.
- ▶ Defrayal of costs of urgent care delivered to foreigners illegally resident in France and non-beneficiaries of State Medical Assistance (circular DHOS/DSS/DGAS No. 2005-141 of 16 March 2005 and the decision of the Conseil d'Etat of 7 June 2006, case No. 285576).

Thematic Group 3 « Labour rights »

- ▶ Obligation, in companies of over 50 employees, to conduct sectoral negotiations every year with a view to defining and putting in place measures for the abolishment of the gender pay gap (Act of 23 March 2006 on pay equality for men and women).
- ▶ Implementation of measures to re-evaluate the compensation rate for the payment of overtime worked by national police officers and adoption of Decree No. 2008-199 of 27 February 2008 (published in the Official Journal of 29 February 2008).
- ▶ All agreements fixing the number of working days for managers (forfait-jour, remuneration based on the calculation of the number of hours worked on an annual, rather than a weekly basis) shall be laid down in a collective agreement whose clauses guarantee the respect of maximum working time as well as daily and weekly rest periods, and the protection of the occupational safety and health of the worker in question (the right to health and to rest periods being guaranteed by the Constitution). It is not sufficient that these guarantees be fixed in the employment contract alone (Court of Cassation, judgment of 29 June 2011, Mr X... v. Société Y... and Court of Cassation, judgment of 31 January 2012, Mr Bernard Mottet v. Société Métaux Spéciaux (MSSA)). The breach by the employer of the provisions relating to procedures for monitoring the organisation of work of employees who come under the annual working days system does not question the validity of the annual working days system itself, but gives rise to the right of the employee to claim damages; individual annual working days systems should provide guarantees of compliance with maximum daily and weekly working hours and rest periods; the terms of a collective agreement will be annulled if they are insufficient to protect the safety and health of employees, or if they do not provide regular and accurate monitoring of employees' activities; the annual working days system will be judged invalid if the provisions of the agreement at the enterprise level and those of the collective agreement are not likely to ensure that the workload is reasonable and provide a good distribution over time of the employee's work (Cass. Soc., 29 June 2011, Mr X ... v. Société Y...; 26 September 2012, No. 11-14.540; 24 April 2013, No. 11-28.398).
- ▶ Postponement of accrued leave after the resumption of work when the employee is unable to take annual paid leave during the year stipulated by the Labour Code or a collective agreement, as a result of absences due to employment injury or occupational disease (Court of Cassation, judgment of 27 September 2007, Société Arcadie distribution Sud-Ouest v. M. Michel Vallantin ; Court of Cassation, judgment of 24 February 2009, Mrs X... v. Caisse primaire d'assurance maladie (CPAM) de Creil).
- ▶ In order to make a pay comparison, the judge must engage in a comparative analysis of the functions, tasks and responsibilities of the employees concerned (Cass. soc. 1 July 2009; Cass. soc. 28 September 2010). In an economic and social unit (ESU) that is composed of persons who are in legally different situations, in order to determine the level of remuneration of an employee, there can be no comparison

between the conditions of remuneration of this employee and other employees in the economic and social unit, unless these conditions are established by law or collective agreement, as well as where work of these employees is accomplished in the same establishment (Cass soc, 1 June 2005; Cass soc, 2 June 2010).

► The Bercy Agreements of 2 June 2008 on the renewal of social dialogue in the civil service (which were incorporated into Act No. 2010-751 of 5 July 2010 on the renewal of social dialogue and into the conclusions on the modernisation of trade union rights and methods of 29 September 2011) set in 2012 the arrangements for the exercise of the right of public officials to organise on Decree No. 82-447 of 28 May 1982 (state officials), Decree No. 85-397 of 3 April 1985 (local and regional government officials) and Decree No. 86-660 of 19 March 1986 (hospital staff). This legislation broadens the access to workplace elections by removing the requirement for trade union organisations to fulfill certain representativeness criteria or to benefit from a presumption of representativeness to present lists.

Thematic Group 4 « Children, families, migrants »

► Extension of the prohibition on employing children under 15 in family businesses in the agricultural sector (Decree No. 97-370 of 14 April 1997) and other sectors (Order No. 2001-174 of 22 February 2001).

► Definition of criteria of decent housing (Decree No. 2002-120 of 30 January 2002).

► Urgent measures to prevent evictions (circular UHC/DH2 No. 2004-10 of 13 May 2004).

► Establishment of an enforceable right to housing (the "DALO Act", No. 2007-290 of 5 March 2007).

► Right granted to employees returning from maternity or adoption leave to benefit from the general pay rises, as well as the average individual wage rise received during the period of leave by workers in the same occupational category (Act of 23 March 2006 on pay equality for men and women).

► Abolition of the requirement for foreign nationals to produce security before taking legal action (Act No. 75-596 of 9 July 1975).

► Abolition of discrimination between legitimate and illegitimate children with regard to inheritance rights (revision of the Civil Code by Act No. 2001-1135 of 3 December 2001 on the reform of the inheritance rights of surviving spouses and illegitimate children).

► Right of a female employee who is pregnant or on maternity leave and who is dismissed in contravention of Article L.122.25.2 of the Labour Code to apply to be reinstated in her former post (Court of Cassation, judgment of 9 October 2001, Mrs Hille v. société SVP Service).

► Extension of categories of foreign nationals whose length of residence makes them ineligible for deportation (Act No. 89-548 of 2 August 1989).

► Retention of 21 as the age limit for family reunion for the children of nationals of states party other than EU members or EEA parties (Cyprus, Malta, Turkey), so long as they are genuine dependents of the applicant (circular of 1 March 2000 on family reunion of foreign nationals).