



European
Social
Charter

Charte
sociale
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— Ukraine and the European Social Charter —

Signatures, ratifications and accepted provisions

Ukraine ratified the Revised European Social Charter on 21/12/2006, accepting 76 of the 98 paragraphs of the Charter.

It has not accepted the system of collective complaints.

Charter in domestic law

Automatic incorporation into domestic law.

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 Ukraine](#) in 2012 and in 2017. The Committee considers that there are no significant obstacles to the acceptance of Articles 2§3, 12§2, 12§3, 13§2, 13§3, 19§§1-3, 19§§5-10 and 19§12.

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 Ukraine

Between 2008 and 2022, Ukraine has submitted 13 reports on the application of the Revised Charter.

The [13th report](#), which was submitted on 27/08/2021, concerns the accepted provisions relating to thematic group 2 "Health, social security and social protection" (Articles 3, 11, 12, 13, 14, 23 and 30).

Conclusions with respect to these provisions have been published in March 2022.

The 14th report, which was to be submitted by 31/12/2021, should concern the accepted provisions relating to thematic group 3 "Labour rights", namely:

- the right to just conditions of work (Article 2);
- the right to a fair remuneration (Article 4);
- the right to organise (Article 5);
- the right to bargain collectively (Article 6);
- the right to information and consultation (Article 21);
- the right to take part in the determination and improvement of the working conditions and working environment (Article 22);
- the right to dignity at work (Article 26);
- the right of workers' representatives to protection in the undertaking and facilities to be accorded to them (Article 28);
- the right to information and consultation in collective redundancy procedures (Article 29).

Conclusions with respect to these provisions will be published in March 2023.

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-conformity ³

Thematic Group 1 "Employment, training and equal opportunities" - Conclusions 2020

►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)

- It has not been established that the prohibition of discrimination in employment is effectively implemented in practice;
- The restriction on access of nationals of other states parties to civil service is excessive, which constitutes a discrimination on grounds of nationality;
- Legislation does not provide for a shift in the burden of proof in discrimination cases.

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

It has not been established that:

- vocational guidance within the education system and in the labour market is guaranteed;
- the legislation provides for an individual leave for training for all employed persons.

►Article 9 - Right to vocational guidance

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

►Article 10§1 - Right to vocational training -technical and vocational training - Access to higher technical and university education

It has not been established that the system of secondary and higher vocational education operates in an efficient manner.

►Article 10§2 - Right to vocational training- Apprenticeship

It has not been established that an effective apprenticeship system exists.

►Article 10§3 – Right to vocational training – Vocational training and retraining of adult workers

It has not been established that the legislation provides for an individual leave for training for all employed persons.

►Article 10§4 - Right to vocational training - Long term unemployed persons

It has not been established that:

- special measures for the retraining and reintegration of the long-term unemployed, including youth, have been effectively provided or promoted;
- equal treatment with respect to access to training and retraining for the long-term unemployed persons is guaranteed to nationals of other State Parties to the Charter lawfully residing in Ukraine.

►Article 15§1 - Right of persons with disabilities to independence, social integration and participation in the life of the community -Vocational training for persons with disabilities

The right of children with disabilities to mainstream education is not effectively guaranteed.

►Article 15§2 -Right of persons with disabilities to independence, social integration and participation in the life of the community- Employment of persons with disabilities

- The employment of persons with disabilities is not effectively guaranteed
- It has not been established that the obligation to provide reasonable accommodation is effectively guaranteed.

►Article 18§2 - Right to engage in a gainful occupation in the territory of other States Parties - Simplifying existing formalities and reducing dues and taxes

- There is a dual procedure for obtaining work and residence permits;

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

- It has not been established that measures have been taken to reduce chancery fees and other charges payable by foreign workers or their employers.

► *Article 18§3 - Right to engage in a gainful occupation in the territory of other States Parties - Liberalising regulations*

Loss of employment leads to the cancellation of the residence permit.

► *Article 18§4 - Right to engage in a gainful occupation in the territory of other States Parties- Right of nationals to leave the country*

There are restrictions on the right of Ukrainian citizens to leave the national territory.

► *Article 20 - Right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex*

- There is no shift in the burden of proof in gender discrimination cases;
- The right to equal pay is not guaranteed in practice;
- There is sufficient measurable progress in respect of the obligation to promote the right to equal pay.

Thematic Group 2 "Health, social security and social protection" - Conclusions 2021

► *Article 3§1 - Right to safe and healthy working conditions - Health and safety and the working environment*

- There are no funds provided to implement the National Programme on the Improvement of Occupational Safety and Health and the Working Environment 2014–2018 (National Programme).
- It has not been established that initiatives in the injury-prone sectors other than coal mining have helped to create a culture of prevention in respect of occupational health and safety in practice.
- It has not been established that Ukraine has carried out activities in terms of research, knowledge and communication relating to psychosocial risks.
- It has not been established that there have been resources allocated or materials developed for the improvement of occupational safety and health aimed at undertakings in the private sector.
- It has not been established that consultation with the competent occupational health and safety bodies within enterprises, in particular enterprises where there are no workers' representatives is being carried out.

► *Article 3§2 - Right to safe and healthy working conditions - Safety and health regulations*

- The coverage of occupational hazards by specific occupational health and safety legislation and regulations is insufficient;
- It has not been established that levels of prevention and protection required in relation to the establishment, alteration and upkeep of workplaces are in line with the international reference standards;
- It has not been established that the levels of protection against ionising radiation are adequate;
- It has not been established that temporary workers, interim workers and workers on fixed-term contracts enjoy the same standard of protection as workers on contracts with indefinite duration;
- It has not been established that self-employed, home and domestic workers are covered by occupational health and safety regulations;
- It has not been established that consultation with employers' and workers' organisations is ensured.

► *Article 3§3 - Right to safe and healthy working conditions - Enforcement of safety and health regulations*

- Measures taken to reduce the number of fatal accidents at work are not sufficient;
- It has not established that the activities of the Labour Inspectorate are effective.

► *Article 3§4 - Right to safe and healthy working conditions - Occupational health services*

There is no strategy to develop occupational health services for all workers.

► *Article 11§1 - Right to protection of health - Removal of the causes of ill-health*

- The measures taken to reduce infant and maternal mortality rates have been insufficient;
- Insufficient measures have been taken to effectively guarantee the right of access to healthcare.

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

Les politiques de dépistage ne sont pas systématiquement mises en place dans le pays.

► *Article 23 - Right of the elderly to social protection*

It has not been established that the level of the minimum pension is adequate.

► *Article 30 – Right to be protected against poverty and social exclusion*

Il n'existe pas d'approche globale et coordonnée adéquate en place pour lutter contre la pauvreté et l'exclusion sociale.

Thematic Group 3 "Labour rights" - Conclusions 2018

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

Workers may give up their right to compensatory time off in exchange for a financial compensation.

► *Article 2§7 - Right to just conditions of work - Night work*

- Possibilities of transfer to daytime work are not sufficiently provided for;
- Laws and regulations do not provide for continuous consultation with workers' representatives on night work conditions and on measures taken to reconcile the needs of workers with the special nature of night work;
- There is no provision in the legislation for compulsory medical examinations prior to employment on night work and regularly thereafter.

► *Article 4§3 - Right to a fair remuneration - Non-discrimination between women and men with respect to remuneration*

There is no shift in the burden of proof in gender discrimination cases.

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

Notice periods are not reasonable in the following circumstances:

- dismissal as a result of changes in the organisation of production or labour or a reduction in staff numbers; dismissal for unfitness for medical reasons, lack of qualifications or the reinstatement of the previous post holder, for workers with more than seven years of service;
- termination of employment or dismissal on all other grounds, beyond five years of service.

► *Article 4§5 - Right to a fair remuneration - Limits to deduction from wages*

- Following all authorised deductions, the wages of workers with the lowest pay are not sufficient to enable them to provide for themselves or their dependants;
- Guarantees in place to prevent workers from waiving their right to limited deductions of wages are insufficient.

► *Article 5- Right to organise*

Right of nationals of other Contracting Parties to the Charter to form trade unions is restricted.

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

- Civil servants are denied the right to strike,
- The restrictions on the right to strike for employees working in the emergency and rescue facilities, nuclear facilities and in the transport sector go beyond the limits permitted by Article G of the Charter.

► *Article 26§1- Right to dignity in the workplace - Sexual harassment*

It has not been established that there is appropriate and effective redress (compensation and reinstatement) in cases of sexual harassment.

► *Article 26§2- Right to dignity in the workplace – Moral harassment*

- It has not been established that, in relation to the employer's responsibility, there are sufficient and effective remedies against moral (psychological) harassment in the workplace or in relation to work;
- It has not been established that appropriate and effective redress (compensation and reinstatement) is guaranteed in cases of moral (psychological) harassment.

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

- Workers' representatives other than trade union members are not granted sufficient protection against dismissal;

- It has not been established that workers' representatives are effectively protected against prejudicial acts other than dismissal.

Thematic Group 4 "Children, families, migrants" - Conclusions 2019

► *Article 7§1 - Right of children and young persons to protection - Prohibition of employment under the age of 15*

- The definition of light work is not sufficiently precise;
- The prohibition of employment under the age of 15 is not guaranteed in practice.

► *Article 7§2 - Right of children and young persons to protection - Prohibition of employment under the age of 18 for dangerous or unhealthy activities*

The prohibition of employment under the age of 18 for dangerous or unhealthy activities is not effectively guaranteed.

► *Article 7§3 - Right of children and young persons to protection – Prohibition of employment of children subject to compulsory education*

- The definition of light work is not sufficiently precise;
- The duration of working time for children aged 16-18 who are still subject to compulsory education is excessive and therefore the work cannot be qualified as light.

► *Article 7§10 - Right of children and young persons to protection - Special protection against physical and moral dangers*

Not all children under the age of 18 are protected against sexual exploitation.

► *Article 8§1 - Right of employed women to protection of maternity- Maternity leave*

It has not been established that there are sufficient safeguards in law or in practice to protect employees from pressure to take less than six weeks' postnatal leave.

► *Article 8§5 - Right of employed women to protection of maternity-- Prohibition of dangerous, unhealthy or arduous work*

In case of reassignment to a different post, the law does not guarantee the employees' right to return to their previous employment at the end of their maternity/nursing period.

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

- Women are not ensured adequate protection against domestic violence, in law and in practice;
- It has not been established that the level of family benefits is adequate.

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

The ratio of children in institutional care to the number of children in foster-care or other forms of family-based care is too high.

► *Article 27§2 – Right of workers with family responsibilities to equal opportunity and treatment - Parental leave*

- The level of parental leave benefit is inadequate,
- There is no guarantee of an individual, non-transferable right to parental leave.

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

It has not been established that sufficient measures are taken to improve the substandard housing conditions of Roma.

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

- The legal protection for persons threatened by eviction is not adequate;
- It has not been established that the right to shelter is adequately guaranteed.

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

Thematic Group 1 “Employment, training and equal opportunities”

- ▶Article 10§5 - Conclusions 2020
- ▶Article 15§3 - Conclusions 2020

Thematic Group 2 “Health, social security and social protection”

- ▶Article 11§3 - Conclusions 2021
- ▶Article 12§3 - Conclusions 2021
- ▶Article 12§4 - Conclusions 2021
- ▶Article 14§1 - Conclusions 2021

Thematic Group 3 “Labour rights”

- ▶Article 2§4 - Conclusions 2018
- ▶Article 2§6 - Conclusions 2018

Thematic Group 4 “Children, families, migrants”

- ▶Article 7§4 - Conclusions 2019
- ▶Article 7§5 - Conclusions 2019
- ▶Article 7§6 - Conclusions 2019
- ▶Article 8§4 - Conclusions 2019
- ▶Article 17§2 - Conclusions 2019

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

Thematic Group 1 "Employment, training and equal opportunities"

► Law No. 5207-VI on Principles of Prevention and Combating Discrimination in Ukraine which was enacted on 6 September 2012 forbids direct and indirect discrimination, based, among other things, on disability and applies in particular to the field of education, public services and relations between employers and employees.

► By its Decision No. 872 of 15 August 2011, the Cabinet of Ministers approved the rules governing the organisation of inclusive education in secondary schools.

► Law No. 1324 of 5 June 2014 on amendments to some of the laws on inclusive education was enacted to ensure continuity and consistency in the integration of children with special needs into general education.

Thematic Group 2 "Health, social security and social protection"

► As a result of measures taken in 2008-2009, the average size of pensions increased by 64.5% compared to 2007.

► A reform of subsidies was implemented in 2014-2015 aiming at simplifying procedures and strengthening social protection.

Thematic Group 3 "Labour rights"

► A publication-manual for employers "Adherence to the principle of equal treatment and non-discrimination in the work place in the public and private sectors of Ukraine" was developed and distributed. This manual contains in particular a section on "Sexual harassment" and covers a range of issues related to employer's policies and norms of conduct, as well as recommendations on how to act and respond to possible complaints, etc.

► The Law on Employment of Population, as amended, imposes on the employer an obligation to consult trade unions and to take measures to prevent collective redundancy or minimize the dismissals and / or their negative consequences. In this respect, the employer is required to submit information to the competent territorial bodies, two months in advance, about a planned redundancy of workers for reasons of economic, technological, structural or similar nature or because of liquidation, reorganisation, or change in the form of ownership of an enterprise, institution or organisation (Article 50).

► Ukraine accepted Article 12§3 of the Charter in 2017.

Thematic Group 4 "Children, families, migrants"

► The Law of 15 March 2012 on amendments to the Family Code has amended Article 22 of the Family Code and set the equal minimum legal age of marriage at 18 for both genders.

► The Law on Professional Development of Employees of 21 January 2012, which provides rules for organising employees' professional training, was adopted.

► Efforts have been made to ensure that children cannot be taken into care on the grounds of the financial circumstances of their families.