

— Serbia and the European Social Charter —

Signatures, ratifications and accepted provisions

Serbia ratified the Revised European Social Charter on 14 September 2009 accepting 88 of its 98 paragraphs. It has not yet accepted the system of collective complaints.

Table of accepted provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1	
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3	
6.4 ¹	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 ²	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				

¹ with the exception of professional military personnel of the Serbian Army

² al. 1 b and 1 c are accepted

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 a [report concerning Serbia](#) in 2015. The Committee gave an overall favourable view with respect to acceptance of the following provisions : Articles 2§4, 10§5, 19§12, 27 and 31.

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 Serbia

Between 2011 and 2019, Serbia has submitted 7 reports on the application of the Revised Charter.

The [7th report](#), submitted on 17/04/2018 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 8th report, which was to be submitted by 31/10/2018, should concern 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-conformity ³

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

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

It has not been established that employment policy efforts have been adequate in combatting unemployment and promoting job creation.

► *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 is guaranteed;
- It has not been established that the right of an employed person to an individual leave for training is guaranteed;
- It has not been established that the right of persons with disabilities to mainstream education and vocational training is effectively guaranteed.

► *Article 9 - Right to vocational guidance*

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

► *Article 10§3 - Right to vocational training - vocational training and retraining of adult workers*

It has not been established that the right of an employed person to an individual leave for training is guaranteed.

► *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 have been effectively provided or promoted.

► *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*

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

- It has not been established that the legal obligation to provide reasonable accommodation is respected;
- Persons with disabilities are not guaranteed effective access to the open labour market.

► *Article 15§3 - 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 anti-discrimination legislation covers communication;
- It has not been established that persons with disabilities have effective access to transport and housing.

► *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*

Formalities to obtain the residence and work permits have not been simplified.

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

It has not been established that the right to equal treatment in employment without discrimination on grounds of sex is guaranteed in practice.

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

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

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

- It has not been established that level of protection against ionising radiation is adequate;
- Domestic workers are not covered by occupational health and safety regulations.

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

The duration of payment of unemployment benefits for people who have been insured up to five years is too short.

► *Article 12§4 - Right to social security - Social security of persons moving between States*

Equal treatment with regard to access to family benefits is not guaranteed to nationals of all other States Parties.

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

The level of social assistance paid to a single person without resources is not adequate.

► *Article 23 – Right of elderly persons to social protection*

Adequate resources are not guaranteed.

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

There is no adequate overall and coordinated approach to combating poverty and social exclusion.

Thematic Group 3 « Labour rights » - Conclusions 2018

► *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§7 – Right to just conditions of work – Night work*

There is no provision in the legislation for compulsory medical examinations prior to employment on night work and regularly thereafter.

► *Article 4§1 - Right to a fair remuneration - Decent remuneration*

The national minimum wage is not sufficient to ensure a decent standard of living.

► *Article 4§4 - Reasonable notice of termination of employment – Reasonable notice of termination of employment*

- In general no notice periods are provided for by legislation in case of dismissal;
- The notice period applicable to dismissal on grounds of underperformance, is not reasonable for employees with more than three months of service;
- The notice period applicable to dismissal during the probationary period is not reasonable for employees with more than three months of service.

► *Article 4§5 - Reasonable notice of termination of employment – Limits to deduction from wages*

Deductions from wages upon the employee's consent are not subject to a limit and as a result such deductions may deprive employees with lowest income and their dependants of their means of subsistence.

► *Article 5 - Right to organise*

The conditions imposed by legislation in order to form an employers' organisation constitutes an obstacle to the freedom to organise.

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

- Restrictions on the right to strike in certain sectors are too extensive and go beyond the limits permitted by Article G;
- When establishing a minimum service to be provided during a strike workers (nor their organisations) are not involved on an equal footing with employers when deciding on the nature or degree of the minimum service to be provided;
- Employers have the power to unilaterally determine the minimum service required during a strike

► *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 and/or their representatives to participate in the organization of social and socio-cultural services within an undertaking is not guaranteed and
- Legal remedies are not available to workers in the event of infringement of their right to take part in the determination and improvement of working conditions and the working environment.

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

► *Article 7§4 - Right of children and young persons to protection - Working time*

The duration of daily and weekly working time for young workers under the age of 16 is excessive.

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

Equal treatment of nationals of other States Parties regarding the payment of family benefits is not ensured.

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

Corporal punishment is not prohibited in the home and in institutions.

► *Article 19§6 - Right of migrant workers and their families to protection and assistance - Family reunion and Article 19§10 – Right of migrant workers and their families to protection and assistance - Equal treatment for the self-employed*

Family members of a migrant worker are not granted an independent right to stay after exercising their right to family reunion.

► *Article 19§8 - Right of migrant workers and their families to protection and assistance - Guarantees concerning deportation and Article 19§10 – Right of migrant workers and their families to protection and assistance - Equal treatment for the self-employed*

A migrant worker may be expelled where there exists reasonable doubt that he/she will take advantage of the stay for purposes other than those declared.

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

Thematic Group 1 « Employment, training and equal opportunities »

- ▶ Article 1§2 - Conclusions 2016
- ▶ Article 18§4 - Conclusions 2016

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

- ▶ Article 11§1 - Conclusions 2017
- ▶ Article 11§2 - Conclusions 2017
- ▶ Article 11§3 - Conclusions 2017
- ▶ Article 12§3 - Conclusions 2017
- ▶ Article 13§3 - Conclusions 2017
- ▶ Article 14§1 - Conclusions 2017
- ▶ Article 14§2 - Conclusions 2017

Thematic Group 3 « Labour rights »

- ▶ Article 2§6 - Conclusions 2018
- ▶ Article 4§3 - Conclusions 2018
- ▶ Article 21 - Conclusions 2018
- ▶ Article 26§1 - Conclusions 2018
- ▶ Article 26§2 - Conclusions 2018
- ▶ Article 29 - Conclusions 2018

Thematic Group 4 « Children, families, migrants »

- ▶ Article 7§1 - Conclusions 2015
- ▶ Article 7§3 - Conclusions 2015
- ▶ Article 7§5 - Conclusions 2015
- ▶ Article 7§6 - Conclusions 2015
- ▶ Article 7§9 - Conclusions 2015
- ▶ Article 7§10 - Conclusions 2015
- ▶ Article 8§1 - Conclusions 2015
- ▶ Article 8§3 - Conclusions 2015
- ▶ Article 8§5 - Conclusions 2015
- ▶ Article 17§2 - Conclusions 2015
- ▶ Article 19§3 - Conclusions 2015
- ▶ Article 19§4 - Conclusions 2015
- ▶ Article 19§7 - Conclusions 2015
- ▶ Article 19§9 - 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 »

- ▶ In 2013, the Labour Code was amended with a view to extending the protection to women on a fixed-term employment contract (Law on Amendments to the Labour Code of 8 April 2013).
- ▶ The Employment of Foreign Nationals Act, adopted in November 2014, enables free access to the Serbian labour market for EU Member State citizens.
- ▶ Law on the Professional Rehabilitation and Employment of Persons with Disabilities (Official Gazette Nos. 36/2009 and 32/2013), which came into force on 23 May 2009 and was amended on 16 April 2013. It prohibits all discrimination against persons with disabilities and aims to create the conditions for equal access for persons with disabilities to the open labour market and to promote professional rehabilitation.

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

- ▶ A new mechanism has been launched at national level for those municipalities and cities which do not have means to launch social care services: the so-called "earmarked transfer", which under the law regulating funding of local governments, can fund several social care services from the State budget.

Thematic Group 3 « Labour rights »

- ▶ Under Article 68 of the amended Labour Code (came into force on 29 July 2014), employees are entitled to annual leave and cannot waive that right. Under Article 114, during annual leave employees are entitled to be paid at the rate of their average salary for the preceding twelve months.
- ▶ Under the amended Article 66 of the Labour Code, employees are entitled to a minimum of 12 hours of uninterrupted rest within each 24 hour period, unless otherwise specified in the Code. Employees who agree to flexible working time arrangements (Article 57) are entitled to a minimum of 11 hours' uninterrupted rest within each 24 hour period. Under Article 67, if employees are required to work on their weekly rest day their employer must grant them an uninterrupted rest period of at least 24 hours in the following week, before their next scheduled weekly rest period.

Thematic Group 4 « Children, families, migrants »

- ▶ In 2013, the Labour Code was amended with a view to extending the protection to women on a fixed-term employment contract (Law on Amendments to the Labour Code of 8 April 2013).
- ▶ A new Employment of Foreign Nationals Act was adopted in November 2014, enabling free access to the Serbian labour market for EU Member State citizens.