

## — Russian Federation and the European Social Charter —

### Signatures, ratifications and accepted provisions

The Russian Federation signed the Revised European Social Charter on 14 September 2000 and ratified it on 16 October 2009, accepting 67 of the Revised Charter's 98 paragraphs.

It has not yet accepted the Additional Protocol providing for a 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	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 the Russian Federation](#) in 2015 and in 2019.

The Committee is of the opinion that there are no legal obstacles for acceptance by the Russian Federation of the following provisions: Article 2§2, Article 12§3, Article 13§3, Article 15§3, Article 19§1, Article 19§3, Article 19§4(a) and (b), Article 25 and Article 31§1.

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

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

## I. Reporting system <sup>2</sup>

### Reports submitted by the Russian Federation

Between 2011 and 2022, the Russian Federation has submitted 10 reports on the application of the Revised Charter.

The [10<sup>th</sup> report](#), which was submitted on 26/02/2021, 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.

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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> 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>3</sup>

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

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

- Indirect discrimination is not expressly prohibited by law;
- Discrimination on grounds of sexual orientation in employment is not expressly prohibited by law;
- Foreign nationals cannot be employed in the municipal and state service, which constitutes a discrimination on grounds of nationality;
- The legislation does not provide for a shift in the burden of proof in discrimination cases.

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

- It has not been established that the right to vocational guidance within the education system and in the labour market is guaranteed;
- It has not been established that the right to vocational guidance in the labour market is guaranteed equally to nationals of other states parties.

► *Article 9 - Right to vocational guidance*

- It has not been established that the right to vocational guidance within the education system and in the labour market is guaranteed;
- It has not been established that the right to vocational guidance in the labour market is guaranteed equally to nationals of other states parties.

► *Article 1551 – 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 there are adequate remedies in the event of discrimination on grounds of disability in education.

► *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 obligation to provide reasonable accommodation is effectively guaranteed.

► *Article 1854 - Right to engage in a gainful occupation in the territory of other States Parties- Right of nationals to leave the country*

There are still restrictions on the right of Russian citizens to leave the country.

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

- Women are not permitted to work in all professions which constitutes discrimination based on sex;
- The legislation does not provide for a shift in the burden of proof in gender pay discrimination cases;
- The obligation to make measurable progress in reducing the gender pay gap has not been fulfilled.

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

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

- It has not been established that measures to reduce the excessive rate of fatal accidents are adequate;
- The activities of the labour inspectorate cannot be considered as effective because of understaffing.

► *Article 354 - Right to safe and healthy working conditions - Occupational health services*

It has not been established that there is a strategy to progressively provide access to occupational health services for all workers in all sectors of the economy.

► *Article 1152 - Right to protection of health - Advisory and educational facilities*

It has not been established that sexual and reproductive education is provided in schools.

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

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

It has not been established that adequate measures were taken to overcome environmental pollution.

**Thematic Group 3 "Labour rights" - Conclusions 2018**

► *Article 2§3 – Right to just conditions of work – Annual holiday with pay*

In certain circumstances, the law allows all annual leave to be carried over to the following year.

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

Weekly rest days may be postponed over a period exceeding twelve successive working days.

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

The legislation does not provide for the shift in the burden of proof in discrimination cases.

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

- Severance pay of two weeks' salary applicable to termination of employment on the grounds of medical incapacity, call-up for military service, judicial or administrative reinstatement of the previous post-holder, is not reasonable for employees with more than six months of service;
- Notice period of three days applicable to dismissal during probationary period is not reasonable;
- No notice period is provided where the dismissal is due to the death of the employer who is a natural person;
- Notice periods are applicable to employees of self-employed persons or religious organisations or to home workers are left to the discretion of the parties to the employment contact.

► *Article 4§5 – Right to a fair remuneration-Limits to wage deductions*

Following all authorised deductions, the wages of employees with the lowest pay do not enable them to provide for themselves or their dependants.

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

- The restrictions on the right to strike for civil aviation personnel engaged in air traffic management and for public railway transport workers do not comply with the conditions established by Article G of the Charter;
- The percentage of workers required to call a strike is too high.

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

- The protection afforded to some workers' representatives does not extend beyond the end of their mandate;
- Adequate protection and appropriate facilities are not afforded to workers' representatives other than trade union representatives.

**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*

It has not been established that the prohibition of employment under the age of 15 is effectively enforced.

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

It has not been established that the legislation on the prohibition of employment of children subject to compulsory education is effectively enforced.

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

The Criminal Code does not criminalise the simple possession of child pornography.

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

The minimum amount of maternity benefits is manifestly too low.

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

- There is no adequate protection of women against domestic violence in law and in practice;
- It has not been established that there is an adequate supply of housing for vulnerable families;
- It has not been established that the protection of Roma families with respect to housing, including in terms of eviction conditions, is adequate.

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

- Not all forms of corporal punishment are prohibited in all settings;
- The maximum length of pre-trial detention is excessive;
- Children serving a period of detention may in certain circumstances be detained with adults.

► *Article 17§2 – Right of children and young persons to social, legal and economic protection – Free primary and secondary education; regular attendance at school*

Here is nothing to establish that children in an irregular situation, asylum seeking children or Roma children are guaranteed equal and effective access to education.

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

**Thematic Group 1 "Employment, training and equal opportunities"**

- ▶Article 1§1 - Conclusions 2020
- ▶Article 10§1 - Conclusions 2020
- ▶Article 10§3 - Conclusions 2020

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

- ▶Article 3§1 - Conclusions 2021
- ▶Article 3§2 - Conclusions 2021
- ▶Article 11§1 - Conclusions 2021
- ▶Article 12§1 - Conclusions 2021
- ▶Article 14§2 - Conclusions 2021

**Thematic Group 3 "Labour rights"**

- ▶Article 6§2 - Conclusions 2018
- ▶Article 6§3 - Conclusions 2018

**Thematic Group 4 "Children, families, migrants"**

- ▶Article 7§4 - Conclusions 2019
- ▶Article 7§5 - Conclusions 2019
- ▶Article 7§6 - Conclusions 2019
- ▶Article 7§8 - Conclusions 2019
- ▶Article 19§9 - Conclusions 2019
- ▶Article 27§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"**

- ▶Following the amendment in 2012 of Federal Act No.1032-1 "On employment in the Russian Federation" of 19 April 1991, the subjects of the Federation are entitled to conduct active policies to promote employment.
- ▶Act No. 116-FZ "On Amendments to Certain Legislative Acts" of 5 May 2014, set the rules for accreditation and operation of private employment agencies in the Russian Federation.
- ▶The Order of the Ministry of Labour of Russia № 262 of April 17, 2014 approved the Federal state standards of public services, including vocational training and education for the unemployed.
- ▶The Law on the Protection of Disabled Persons, as amended by Federal Law no. 168-FZ of 2 July 2013, provides that employers must supply equipment for special jobs for persons with disabilities, regard being had to their disability.
- ▶With effect from 2013, Law No. 183-FZ of 2 July 2013 entitles public authorities to set quotas for the employment of persons with disabilities within organisations which have more than 35 members of staff.
- ▶With regard to the activities of the National Employment Service, standards for public services and public functions in the field of promotion of employment have been drawn up (Federal Law no. 361-FZ of 30 November 2011) in order to guarantee employment and encourage access to the inclusive employment market for persons with disabilities.
- ▶In 2011 the Council on Gender was created at the Russian Ministry of Labour whose main tasks are to prepare proposals on improvement of legislation in order to ensure gender equality.

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

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### **Thematic Group 3 "Labour rights"**

- ▶The federal laws Nos. 426-FZ of 28 December 2013 on special assessment of working conditions and 421-FZ on amendments to certain legislative acts of the Russian Federation entered into force on 1 January 2014. As a result, the procedure for certifying workplaces based on working conditions has been replaced by a procedure governing the special assessment of working conditions ("SOUT"). This procedure applies to all workers irrespective of their official occupation and position except for homeworkers, teleworkers and employees working for a private individual.

Under Article 3 (1) and (2) of Federal Law No. 426-FZ, a SOUT is a set of sequentially implemented measures to identify harmful and dangerous factors related to the working environment and labour process, and the degree to which they affect the employees, taking into account the extent to which their actual values deviate from the norms established by the government regarding working conditions and the use of individual and collective protection for workers. Conditions in the workplace are divided into various classes and subclasses (optimal, acceptable, harmful – including 4 subclasses – and hazardous working conditions) according to the degree of harmfulness and hazard, based on the results of the SOUT (Article 14). The procedure for establishing which class working conditions fall into is determined by the Methodology for assessing working conditions approved by the Ministry of Labour (Order No. 33 of 24 January 2014).

Federal Law No. 421-FZ amends certain articles of the Labour Code in order to ensure the implementation of a differentiated approach when providing workers with guarantees for working in harmful and hazardous working conditions, depending on how the conditions are classified following the special assessment. Workers employed in harmful and hazardous working conditions are entitled to a wage premium equivalent to at least 4% of the base wage rates established for various jobs with standard labour conditions (Article 147 of the Labour Code). Extra paid leave of at least 7 calendar days is granted to workers employed in working conditions classified as harmful (in at least the 2nd degree) or hazardous, based on the results of the SOUT (Article 117).

The specific duration of this leave is determined in accordance with the industry agreement, collective agreement and labour contract, and there is no upper limit on the amount of additional paid leave which may be granted. A reduced working week (36 hours maximum) is granted to workers employed in working conditions which have been classified as harmful (in at least the 3rd degree) or hazardous (Article 92).

►In 2013, under Federal Law No. 95-FZ of 7 May 2013 amending Article 22 of the Labour Code, a new system for the consultation of employees on productivity and efficiency was set up. The law establishes the right of employers to set up "production councils" – advisory bodies formed on a voluntary basis by their employees to draft proposals to improve production activities and processes, increase workforce productivity and improve employees' skills. The powers, membership and functioning of such councils and their interaction with employers are established by a local by-law.

#### **Thematic Group 4 "Children, families, migrants"**

►The Decree of the Government on the activities of establishments for orphans and children deprived of parental care was adopted on 24 May 2014. Paragraph 35 of the Decree provides that the number of children in one unit should not exceed 8 persons.