— Denmark and the European Social Charter —

Signatures, ratifications and accepted provisions

Denmark ratified the European Social Charter on 03/03/1965.

It ratified the Additional Protocol on 27/08/1996. It has accepted 45 of the 72 paragraphs of the Charter and all 4 Articles of the Protocol.

Denmark has signed, but not yet ratified the Revised Charter and the Additional Protocol providing for a system of collective complaints.

The Charter in domestic law

Statutory ad hoc incorporation by specific implementing legislation.

Table of Accepted Provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	3.1	3.2	3.3
4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3	6.4	7.1	7.2
7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1	8.2	8.3	8.4
9	10.1	10.2	10.3	10.4	11.1	11.2	11.3	12.1	12.2	12.3	12.4
13.1	13.2	13.3	13.4	14.1	14.2	15.1	15.2	16	17	18.1	18.2
18.3	18.4	19.1	19.2	19.3	19.4	19.5	19.6	19.7	19.8	19.9	19.10
AP1	AP2	AP3	AP4	AP=Additional Protocol				Grey = Accepted provisions			

Monitoring the implementation of the European Social Charter [1]

I. Reporting system [2]

Reports submitted by Denmark

Between 1968 and 2022, Demark submitted 40 reports on the application of the 1961 Charter.

The 40th report, which was submitted on 27/04/2021, concerns the accepted provisions relating to thematic group 2 “Health, social security and social protection” (Articles 3, 11, 12, 13, 14 and Article 4 of the Additional Protocol).

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

The 41th 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 2 of the Additional Protocol);
- the right to take part in the determination and improvement of the working conditions and working environment (Article 3 of the Additional Protocol).

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

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[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] 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 XXII-1 (2020)

► *Article 10§4 - Right to vocational training - Encouragement for the full utilisation of available facilities*
Non-EEA nationals are subject to a length of residence requirement of two years before being eligible receiving financial support for education and training.

► *Article 1 of the 1988 Additional Protocol - Right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex*
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 XXII-2 (2021)

► *Article 12§4 - Right to social security - Social security of persons moving between states*
The ten-year residence requirement imposed on nationals of States Parties not covered by EU regulations or bound by bilateral agreement with Denmark for entitlement to an early retirement pension for persons with disabilities or to ordinary old-age pension is excessive.

► *Article 13§1 – Right to social and medical assistance - Adequate assistance for every person in need*
- The levels of social assistance (*kontanthjælp*) paid to persons under 30 years of age and of integration allowance paid to single persons are not adequate;
- Nationals of States Parties can have their residence permit withdrawn on the sole ground of being in receipt of social assistance for more than six months.

► *Article 4 of the 1988 Additional Protocol - Right of the elderly to social protection*
There is no legislation prohibiting discrimination on grounds of age outside of employment.

Thematic Group 3 "Labour rights" - Conclusions XXI-3 (2018)

► *Article 2§2- Right to just conditions of work – Public holidays with pay*
It has not been established that workers receive a sufficiently increased salary for work on public holidays.

► *Article 5- Right to organise*
The legislation on the International Ships Register provides that collective agreements on wages and working conditions concluded by Danish trade unions are only applicable to seafarers resident in Denmark.

► *Article 6§2 - Right to bargain collectively – Negotiation procedures*
The right to collective bargaining of non-resident seafarers engaged on vessels entered in the International Shipping Register is restricted.

► *Article 6§4 - Right to bargain collectively - Collective action*
- Civil servants employed under the Civil Service Act denied the right to strike;
- The workers who are not members of a trade union that has called a strike are prevented from participating in the strike unless they join the relevant trade union, and they do not enjoy the same protection as the trade union members if they participate in a strike.

Thematic Group 4 "Children, families, migrants" - Conclusions XXI-4 (2019)

► *Article 17 – Right of mothers and children to social and economic protection*
- The maximum length of pre trial detention is excessive;
- Children can be placed in solitary confinement for up to four weeks.

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

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

Thematic Group 1 “Employment, training and equal opportunities”

- ► Article 1§4 - Conclusions XXII-1 (2020)
- ► Article 15§1 - Conclusions XXII-1 (2020)

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

- ► Article 3§2 - Conclusions XXII-2 (2021)
- ► Article 14§2 - Conclusions XXII-2 (2021)

Thematic Group 3 “Labour rights”

- ► Article 4§1 - Conclusions XXI-3 (2018)
- ► Article 4§3 - Conclusions XXI-3 (2018)

Thematic Group 4 “Children, families, migrants”

- ► Article 16 - Conclusions XXI-4 (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. 1385 of 21 December 2005 on equal opportunities removed the upper limit to compensation in employment discrimination cases.

► Sections 198 and 199 of the Criminal Code which provided for criminal sanctions to be applied in cases of deliberate idleness or lack of means of subsistence were repealed (Act No. 141/1999).

► Prohibition of both direct and indirect discrimination in the labour market with regard to race, colour, religion, political opinion, sexual orientation and national, social or ethnic origin (1996 Act on prohibition against discrimination in the labour market).

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

► Act No. 356 of 9 April 2013 amended the Working Environment Act. The amendment pinpoints that the Act also deals with the psychological working environment.

► Since January 2012 inspections by the WEA are risk-based, and all enterprises with two or more full-time employees (FRE) will be inspected at least once before the end of 2019.

► A number of measures were introduced in favour of persons who had exhausted their right to unemployment benefits, such as a special education allowance (Act No. 1374 of 23 December 2012, Act No. 790 of 28 June 2013) or temporary labour-market benefits (Act No. 1610 of 26 December 2013, Act No. 174 of 24 February 2015). Furthermore, measures were taken to maintain unemployment benefits during sickness, for the first 14 days (Act No. 720 of 25 June 2014). Additional measures in favour of unemployed people were taken in the framework of the Employment reform 2014 (Act No. 1486 of 23 December 2014).

►In 2019, the executive order on carcinogens and mutagens was amended to implement Directive (EU) 2017/2398 of the European Parliament and of the Council of 12 December 2017 amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work. A national provision regarding prohibition of recirculation on building sites of local exhaust air from work processes was amended to allow for recirculation as long as the air is effectively cleaned.

Thematic Group 3 "Labour rights"

►The legislation relating to annual holiday with pay was amended in 2012 so that to allow the workers to interrupt their holidays in case of sickness or accident during their annual leave. The days not taken can thus be postponed, after a waiting period of up to five days per holiday year and upon presentation of medical documentation of the illness (Section 13, Subsections 3-6 of the Holiday Act, entered into force on 1 May 2012).

► Progress has been made concerning the new strategy relating to the working environment up to 2020 aimed at reducing the number of serious accidents, the number of employees who are psychologically overloaded and the number of employees who experience musculoskeletal disorders. An expert committee on how to enhance the undertaken efforts has been established.

Thematic Group 4 "Children, families, migrants"

► The Children Act No. 460/2001 introduced new paternity rules and abolished the distinction between children born out of wedlock and legitimate children.