

## — The United Kingdom and the European Social Charter —

### Signatures, ratifications and accepted provisions

The United Kingdom ratified the European Social Charter on 11/07/1962 and has accepted 60 of the Charter's 72 paragraphs.

It has not signed the Additional Protocol to the European Social Charter or the Additional Protocol Providing for a System of Collective Complaints.

The United Kingdom has signed but not yet ratified the Amending Protocol to the European Social Charter and the Revised Charter.

### The Charter in domestic law

The United Kingdom is a dualist State.

### 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			

\*On 26/06/1987 the United Kingdom denounced Article 8§4a. On 21/08/1989 the United Kingdom denounced Article 7§8 and Article 8§4b.

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

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

### Reports submitted by the United Kingdom

Between 1965 and 2019, the United Kingdom has submitted 38 reports on the application of the 1961 Charter.

The [37<sup>th</sup> report](#), submitted on 21/12/2017 covers the accepted provisions of the Social Charter relating to thematic group 3 "Labour rights" (Articles 2, 4, 5, 6, Article 2 of the Additional Protocol, Article 3 of the Additional Protocol).

Conclusions with respect to these provisions have been published in March 2019.

The [38<sup>th</sup> report](#), which was submitted by 19/12/2018, 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).

Conclusions with respect to these provisions will be published in January 2020.

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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 XXI-1 (2016)

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

The fees charged for work permits are excessive.

### Thematic Group 2 "Health, social security and social protection" - Conclusions XXI-2 (2017)

► *Article 3§1 – right to safe and healthy working conditions - Safety and health regulations*

All self-employed and domestic workers are not covered by the occupational health and safety regulations.

► *Article 12§1 – right to social security – existence of a social security system*

- The level of the Statutory Sick Pay (SSP) is inadequate;
- The minimum levels of the Employment Support Allowance (ESA) are inadequate;
- The level of long-term incapacity benefits is inadequate;
- The level of unemployment benefits is inadequate.

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

► *Article 2§2 – right to just conditions of work – public holidays with pay*

The right of all workers to public holidays with pay is not guaranteed.

► *Article 2§4 – right to just conditions of work – reduced working hours or additional holidays in dangerous or unhealthy occupations*

Workers exposed to residual occupational health risks, despite the existing risk elimination policy, are not entitled to appropriate compensatory measures.

► *Articles 2§5 – right to just conditions of work – weekly period of rest*

There are inadequate safeguards to prevent workers from working for more than twelve consecutive days without a rest period.

► *Articles 4§1 – right to a fair remuneration – decent remuneration*

The minimum wage does not ensure a decent standard of living.

► *Article 4§2 – right to a fair remuneration – increased remuneration for overtime work*

Workers have no adequate legal guarantees to ensure them increased remuneration for overtime.

► *Article 4§4 – right to a fair remuneration – reasonable notice of termination of employment*

Notice periods are not reasonable for employees with less than three years of service.

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

The absence of adequate limits on deductions from wages equivalent to the National Minimum Wage may result in depriving workers who are paid the lowest wage and their dependents of their means of subsistence.

► *Article 5 – right to organise*

Legislation which makes it unlawful for a trade union to indemnify an individual union member for a penalty imposed for an offence or contempt of court, and which severely restricts the grounds on which a trade union may lawfully discipline members, represent an unjustified incursion into the autonomy of trade unions.

► *Article 6§2 – right to bargain collectively – negotiation procedures*

Workers and trade unions do not have the right to bring legal proceedings in the event that employers offer financial incentives to induce workers to exclude themselves from collective bargaining.

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

▶ *Article 6§4 – right to bargain collectively – collective action*

- The scope for workers to defend their interests through lawful collective action is excessively circumscribed; lawful collective action is limited to disputes between workers and their employer, thus preventing a union from taking action against a de facto employer if this was not the immediate employer;
- The requirement to give notice to an employer of a ballot on industrial action, in addition to the strike notice that must be issued before taking action, is excessive;
- The protection of workers against dismissal when taking industrial action is insufficient.

**Thematic Group 4 “Children, families, migrants” - Conclusions XX-4 (2015)**

▶ *Article 7§3 – right of children and young persons to protection – Prohibition of employment of young persons subject to compulsory education*

The daily and weekly duration of light work for children who are still subject to compulsory education during school holidays is excessive.

▶ *Article 7§5 – right of children and young persons to protection – fair pay*

The minimum wage of young workers is not fair.

▶ *Article 7§10 – right of children and young persons to protection – special protection against physical and moral dangers*

The legislation permits treating children involved in prostitution as offenders.

▶ *Article 8§1 – right of employed women to protection of maternity – maternity leave*

The standard rates of Statutory Maternity Pay, after six weeks, and Maternity Allowance are inadequate.

▶ *Article 16 – right of the family to social, legal and economic protection*

- In England, the right of Roma/Traveller families to housing is not effectively guaranteed;
- Associations representing families are not consulted when family policies are drawn up.

▶ *Article 17 – right of mothers and children to social and economic protection*

- Not all forms of corporal punishment are prohibited in the home;
- The age of criminal responsibility is manifestly too low.

▶ *Article 19§3 – right of migrant workers and their families to protection and assistance – Co-operation between social services of emigration and immigration states and Article 19§10 – right of migrant workers and their families to protection and assistance – equal treatment for the self-employed*

Appropriate co-operation between the social services of the United Kingdom and emigration and immigration states is not sufficiently promoted.

▶ *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 may be expelled following the deportation of their sponsor, without proof that they are a threat to national security, or offend against public interest or morals;
- The language requirements imposed on the family members of migrant workers are likely to hinder family reunion;
- The income requirement for migrants who wish their families to join them is too high and is likely to hinder family reunion.

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

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

- ▶ Article 1§4 - Conclusions XXI-1 (2016)
- ▶ Article 10§3 - Conclusions XXI-1 (2016)
- ▶ Article 10§4 - Conclusions XXI-1 (2016)
- ▶ Article 15§1 - Conclusions XXI-1 (2016)
- ▶ Article 18§3 - Conclusions XXI-1 (2016)

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

- ▶ Article 13§1 - Conclusions XXI-2 (2017)

**Thematic Group 3 "Labour rights"**

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

- ▶ Article 19§2 - Conclusions XX-4 (2015)
- ▶ Article 19§4 - Conclusions XX-4 (2015)
- ▶ Article 19§8 - Conclusions XX-4 (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"**

- ▶ Access to a court and recognition of the right of appeal against the certifications provided for under section 79 of the Equal Treatment in Employment Act (Northern Ireland) to justify refusing employment on grounds of safeguarding national security or public order.
- ▶ Adoption of the Equality Act on 8 April 2010. This Act, inter alia, requires the Government, when making strategic decisions about the exercise of their functions, to have regard to the desirability of reducing socio-economic inequalities; reforms and harmonises equality law and restates in one text the enactments relating to discrimination and harassment linked to age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation in areas such as employment, access to services, education; enables certain employers to be required to publish information about the differences in pay between male and female employees.
- ▶ An agreement adopted on 6 June 2005 has removed inequalities between spouses with regard to matrimonial property in Northern Ireland.
- ▶ Protection against discrimination on grounds of disability was strengthened (Disability Discrimination Act 1995).

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

- ▶ The Control of Asbestos Regulations came into force on 6 April 2012, updating previous asbestos regulations to take into account of the European Commission's view that the UK had not fully implemented the EU Directive 2009/148/EC on exposure to asbestos. According to Article 2 of these Regulations, the control limit of the concentration of asbestos on the atmosphere is 0.1 f/cm<sup>3</sup> of air averaged over a continuous period of 4 hours.

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

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

- ▶ A comprehensive review of Gypsy and Traveller accommodation policy has been undertaken. An informed and strategic approach is taken to accommodation needs, and the planning system identifies land to meet these needs. Government funding for socially rented sites is available, and the security of tenure of those residing on such sites has been strengthened.
- ▶ Corporal punishment has been abolished in both State schools and grant-maintained schools in the United Kingdom (Education Act 1986 (No. 2)).
- ▶ The protection of children from sexual exploitation and trafficking for economic exploitation strengthened (Sexual Offences Act 2003 Asylum and Immigration Act 2004).
- ▶ An appeal may be brought before the Immigration Appeals Tribunal against deportation orders made by the Home Secretary on grounds of national security or for political reasons (1997 Act governing the Special Immigration Appeals Commission).
- ▶ Nationals of States Parties to the Charter are no longer prevented from having access to public funds even if they happen to be subject to immigration control. They may claim means tested social assistance benefits on an

equal footing with United Kingdom nationals (Social Security (immigration and Asylum) Consequential Amendments regulations 2000).

► Eligibility for housing benefit (in the United Kingdom, the Isle of Man, Scotland and Northern Ireland), long tenancies for local authority housing and the right to occupy housing (in Scotland and in Northern Ireland) has been extended to foreign nationals who are citizens of States that are Contracting Parties to the Charter provided that they are habitually resident (orders of 1997, 1998 and 1999 on housing and the homeless).

► The Children and Families Act 2014 received Royal Assent on 13 March 2014. Part 3 of the Act applies to England only and sets out a new framework for children and young people who have special educational needs and disabilities.