

– The Republic of Moldova and the European Social Charter –

Signatures, ratifications and accepted provisions

The Republic of Moldova ratified the Revised European Social Charter on 08/11/2001, accepting 63 of the 98 paragraphs of the Charter.

It has not accepted the Additional Protocol of 1995 providing for a system of collective complaints.

The Charter in domestic law

Article 4 of the Constitution: "1. Constitutional provisions concerning human rights and freedoms shall be understood and implemented in accordance with the Universal Declaration of Human Rights, and with other conventions and treaties to which the Republic of Moldova is party. 2. Wherever disagreements appear between conventions and treaties signed by the Republic of Moldova and her own national laws, priority shall be given to international regulations."

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 Republic of Moldova](#) in 2006, in 2012 and in 2018. The Committee considers that the legislation and practice of the Republic of Moldova could allow the acceptance of the following provisions: 7§5, 10§5, 13§4, 15§3, 18§1, 18§2, 19§2, 19§6, 19§10, 19§11.

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 the Republic of Moldova

Between 2004 and 2019, the Republic of Moldova has submitted 15 reports on the application of the Revised Charter.

The [14th report](#), submitted on 31/07/2018 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 [15th report](#), which was submitted on 12/02/2019, 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),
- 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 15§1 - Right to work - Policy of full employment*

Employment policy efforts have not been adequate in combatting unemployment and promoting job creation.

► *Article 15§2 – Right to work – Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)*

Restrictions to the employment of nationals of other States Parties in the civil service are excessive which constitutes a discrimination on grounds of nationality.

► *Article 15§4 – Right to work - Vocational guidance, training and rehabilitation*

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

► *Article 9 – Right to vocational guidance*

It has not been established that the right to vocational guidance within the education system and labour market is 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 persons with disabilities are guaranteed effective equal access to employment.

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

Termination of the employment contracts of foreign workers leads to cancellation of their temporary residence permits, thus obliging them to leave the country as soon as possible.

► *Article 20 - Right to equal opportunities and equal treatment in employment and occupation without sex discrimination*

Not all professions are open to women, which constitutes discrimination based on sex.

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

► *Article 35§2 – Right to safe and healthy working conditions – Safety and health regulations*

- It has not been established that levels of prevention and protection required by the legislation and regulations in relation to the establishment, alteration and upkeep of workplaces are in line with the level set by international reference standards;
- Self-employed workers are not covered by occupational health and safety legislation.

► *Article 35§3 – Right to safe and healthy working conditions – Enforcement of safety and health regulations*

The labour inspection system is inefficient.

► *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.

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

- It has not been established that screening for diseases responsible for high levels of mortality is available to the population as a whole.
- It has not been established that there is free medical supervision during schooling.

³ 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*
 - Adequate measures protecting the population from the risks of asbestos are not in force;
 - The measures taken to ensure smoke-free environments in public places are insufficient.

- ▶ *Article 12§1 – Right to social security – Existence of a social security system*
 - It has not been established that the existing social security schemes cover a significant percentage of the population;
 - The minimum unemployment benefit is inadequate;
 - The minimum old-age pension is inadequate;
 - The minimum sickness benefit is inadequate.

- ▶ *Article 12§2 – Right to social security – Maintenance of a social security system at a satisfactory level at least equal to that required for the ratification of the European Code of Social Security*

It has not been established that the Republic of Moldova maintains a social security system at a level at least equal to that necessary for the ratification of the European Code of Social Security.

- ▶ *Article 12§3 – Right to social security – Development of the social security system*

Efforts made to progressively raise the system of social security to a higher level are inadequate.

- ▶ *Article 12§4 - Right to social security - Social security of persons moving between States*
 - Equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties;
 - The right to retain accrued benefits is not guaranteed to nationals of all other States Parties;
 - The right to maintenance of accruing rights 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, including elderly persons is not adequate.
 - The right to medical assistance is not guaranteed to all persons without resources.

Thematic Group 3 « Labour rights » - Conclusions 2018

- ▶ *Article 2§2 - Right to just conditions of work – Public holidays with pay*

Employees working on a public holiday are not entitled to both additional remuneration and compensatory time off.

- ▶ *Article 2§3 - Right to just conditions of work – Annual holidays with pay*

In certain circumstances, the law allowed all annual leave to be carried over to the following year, without guaranteeing the workers' right to take at least two weeks' uninterrupted holiday during the year the holidays are due.

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

The legislation makes no provision for a medical examination before being assigned to night work.

- ▶ *Article 4§3 - Right to a fair remuneration - Non-discrimination between women and men with respect to remuneration*
 - The judicial enforcement of the principle of fair remuneration is not guaranteed in practice;
 - There are no pay comparisons across companies in the private sector.

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

Notice periods are not reasonable in the following cases

 - for employees with more than 6 months of service notice periods or severance pay in lieu,
 - in the event of dismissal on grounds of health,
 - in the event of a court ordered reinstatement of a previous employee.

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

- After all authorised deductions, the wages of workers with the lowest pay do not allow them to provide for themselves and their dependants;
- It has not been demonstrated that there are sufficient measures preventing workers from waiving their right to limited deductions from wages.

► *Article 5 - Right to organise*

It has not been established that:

- protection against acts of anti-union discrimination and interference is effectively ensured;
- the right of the police to organise is guaranteed.

► *Article 6§3 - Right to bargain collectively – Conciliation and arbitration*

Compulsory arbitration is permitted in circumstances which go beyond the limits set by Article G of the Charter.

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

- The restrictions on the right to strike for public officials and employees in sectors including the public administration, state security sectors and national defence go beyond those permitted by Article G of the Charter;
- The right to strike is denied to all employees in electricity and water supply services, telecommunication and air traffic control;
- The restrictions on the right to strike of the employees of the customs authorities go beyond those permitted by Article G of the Charter;
- The obligation imposed on workers on strike to protect enterprise installations and equipment go beyond those permitted by Article G.

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

- It has not been established that workers' representatives other than trade union representatives are not afforded protection against dismissal and other prejudicial acts when exercising their functions outside the scope of collective bargaining;
- Facilities identical to those afforded to trade union representatives are not made available to other workers' representatives.

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

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

The definition of light work is not sufficiently precise

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

- The daily and weekly working time for children subject to compulsory education is excessive and therefore it cannot be qualified as light work (Conclusions 2015);
- It has not been established that children who are still subject to compulsory education are guaranteed at least two consecutive weeks of rest during summer holiday (Conclusions 2017 and 2015).

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

- It has not been established that there is an appropriate protection for women victims of domestic violence;
- Equal treatment with regard to access to family allowances is not guaranteed with respect to nationals of all the other States Parties (Conclusions 2017).

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

Children can be taken into residential care due to material circumstances of the family.

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

- The net enrolment rate in compulsory education remains too low;
- Measures taken to ensure that Roma children complete compulsory education are not sufficient.

► *Article 19§8 – Right of migrant workers and their families to protection and assistance - Guarantees concerning deportation*

The legislation permits the expulsion of migrant workers in situations where they do not pose a threat to national security, or offend against public interest or morality.

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

Thematic Group 1 « Employment, training and equal opportunities »

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

- ▶ Article 3§1 - Conclusions 2017
- ▶ Article 13§2 - Conclusions 2017
- ▶ Article 13§3 - Conclusions 2017

Thematic Group 3 « Labour rights »

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

Thematic Group 4 « Children, families, migrants »

- ▶ Article 7§10 - Conclusions 2015
- ▶ Article 8§2 - Conclusions 2015
- ▶ Article 8§3 - Conclusions 2015
- ▶ Article 8§4 - Conclusions 2015
- ▶ Article 8§5 - Conclusions 2015
- ▶ Article 27§2 - 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 »

- ▶ Law No. 156-XVI on the organisation of (alternative) civil service brought the length of non-military national service into line with that of military service (12 months).
- ▶ Adoption in 2003 of a national plan to promote equality of the sexes in society.
- ▶ Legislation to ensure equality was enacted on 25 May 2012 and came into force on 1 January 2013. It prohibits all forms of discrimination, including discrimination based on disability, and applies to all individuals and legal persons in the public and private domains.

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

- ▶ Adoption of the Occupational Health and Safety Act adopted on 10 July 2008 and which has entered into force on 1 January 2009.
- ▶ By Decision No. 886 of 6 August 2007, the Government approved a national health policy who sets out the priorities for the following fifteen years.
- ▶ During the reference period, the Republic of Moldova concluded social security agreements with Belgium, Poland, Hungary and Lithuania

Thematic Group 3 « Labour rights »

- ▶ Legislative amendments of 2016 (Law No. 71 of 14 April 2016) (...) have introduced the obligation for the employer to inform the employees that all acts of discrimination and sexual harassment are prohibited at work. Such an obligation is henceforth provided in the Law on equal opportunities (Law No. 5 of 9 February 2006, Article 10§2d) and the Labour Code: pursuant to Articles 10§2 and 199§1 of the Labour Code, as amended in 2016, the internal regulations of each employment unit shall provide for the respect of "the principle of non-discrimination, the elimination of sexual harassment and any form of denial of work". Under Article 48§2 of the same Code, employees shall be provided, for informational purposes, with a set of documents that are applicable to them, including the internal regulations of the unit. (...). In addition, the State Labour Inspectorate shall monitor the observance of the legal provisions regarding the prevention and elimination of cases of discrimination and cases of sexual harassment at the work place (Article 1§113.k of Law No. 140 of 10 May 2001, as amended in 2016). (...) the Law on equal opportunities (Article 19§32), as amended in 2016, provides henceforth that gender coordinating groups shall examine cases of discrimination based on sex, and cases of sexual harassment, at the branch level and in the decentralized structures; the law also provides that the materials accumulated in such cases be forwarded to the law enforcement bodies.

Thematic Group 4 « Children, families, migrants »

- ▶ Adoption on 17 July 2014 of the Housing Act.
- ▶ Adoption of an "education for all" strategy in 2003, with the aim of increasing enrolment rates in pre-school establishments to 75% and in primary schools to 100% by 2007, and of reducing disparities between rural and urban areas and between disadvantaged sectors of the population and those on average incomes.
- ▶ List of dangerous activities prohibited to young workers under 18, established by the Government Decision No. 541 of 7 July 2014.

- ▶ The Criminal Code, the Code of Criminal Procedure and the Family Code have been amended in 2012.
 - Article 206 (1) of the Criminal Code criminalises the recruitment, transportation, transfer, harbouring, or receipt of a child, as well as giving or receiving payments or benefits to obtain the consent of the person who exerts control over the child for the purpose of commercial or non-commercial sexual exploitation in prostitution or a pornographic industry;
 - Article 208 (2) of the Criminal Code criminalises taking advantage, against any material benefits, of sexual services provided by a person who is known with certainty not to have reached the age;
 - Article 2081 of the Criminal Code defines and criminalises child pornography as production, distribution, broadcasting, import, export, offering, sale, exchange, use, or holding of pictures or of other images of one or more children involved in explicit, real, or simulated sexual activities;
 - Article 175 of the Criminal Code criminalises the proposal, including through information and communication technologies, to a meeting with a child for the purpose of committing an offence against him of a sexual nature.

- ▶ Section 54 of Law No. 200/2010 on Foreigners provides for an appeal against decisions to return a migrant to their own country.