

## — Montenegro and the European Social Charter —

### Signatures, ratifications and accepted provisions

Montenegro ratified the Revised European Social Charter on 3 March 2010, accepting 66 of its 98 paragraphs.

It has not accepted the system of collective complaints.

### The Charter in domestic law

Automatic incorporation into domestic law.

### 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					

\* only subparagraph (a) of Article 27.1 was 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 Montenegro](#) in 2015. The Committee considered that there were no legal obstacles to the acceptance of Article 2 §§ 4, 5 and 7; Article 7§10, Article 10 § 5; Article 18 §§ 1, 2, 3 and 4; Article 19§§1, 2, 3, 5, 7, 9 and 10; Article 21, Article 22 and Article 26§2 of the Charter.

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 Montenegro

Between 2010 and 2019, Montenegro has submitted 7 reports on the application of the Revised Charter.

The [7<sup>th</sup> report](#), submitted on 26/12/2017 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 8<sup>th</sup> 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.

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

Nationals of the other States Parties do not have access to certain jobs, which constitutes a discrimination on grounds of nationality.

► *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 and the labour market is guaranteed;
- It has not been established that vocational training and retraining is guaranteed for adult workers;
- It has not been established that the right of persons with disabilities to mainstream education and 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 and the labour market is guaranteed.

► *Article 10§1 – Right to vocational training - Technical and vocational training; access to higher technical and university education*

The right to vocational education is not effectively guaranteed in practice.

► *Article 10§2 – Right to vocational training – Apprenticeship*

It has not been established that there is a functioning system of apprenticeships.

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

It has not been established that vocational training and retraining is guaranteed for adult workers.

► *Article 10§4 – Right to vocational training - Long term unemployed persons*

Special measures for the retraining and reintegration of the long-term unemployed have not 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 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 make reasonable adjustments is effectively respected;
- It has not been established that equal access to employment is effectively guaranteed to persons with disabilities.

► *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 persons with disabilities were effectively protected against discrimination in relation to housing during the reference period.

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

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

Legislation prohibits women from performing certain occupations, which constitutes a discrimination based on sex.

► *Article 24 – Right to protection in case of dismissal*

It has not been established that the legislation prohibits dismissal of an employee at the initiative of the employer on the ground that he/she has reached the pensionable age.

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

► *Article 352 – 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;
- It has not been established that levels of protection against asbestos and ionising radiation are adequate;
- Domestic workers are not protected by occupational health and safety regulations.

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

It has not been established that accidents at work and occupational diseases are monitored efficiently.

► *Article 1151 – Right to protection of health – Removal of the causes of ill-health*

Adequate measures have not been taken to effectively guarantee the right of access to health care.

► *Article 1153 – Right to protection of health – Prevention of diseases and accidents*

The measures taken to ensure smoke-free environments in public places have been insufficient.

► *Article 1251 – 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 level of sickness benefits is inadequate;
- The level of unemployment benefits is inadequate;
- The duration of payment of unemployment benefits to persons with an insurance period of less than ten years is too short;
- The minimum level of disability pensions is inadequate.

► *Article 1253 – Right to social security – Development of the social security system*

During the reference period, no steps were taken to raise the social security system to a higher level.

► *Article 1351 – Right to social and medical assistance – Adequate assistance for every person in need*

- The right to social assistance is not guaranteed as a subjective right of any single person without resources;
- The level of social assistance is manifestly inadequate.

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

- The level of old-age pensions is manifestly inadequate;
- Accommodation facilities for the elderly are neither subject to any accreditation or licensing procedure nor inspected by an independent body.

**Thematic Group 3 « Labour rights » – Conclusions 2018**

► *Article 654 - Right to bargain collectively - Collective action*

The sectors in which the right to strike may be restricted are overly extensive and it has not been established that the restrictions do not go beyond the limits permitted by Article G of the Charter.

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

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

Family benefits do not cover a significant number of families.

► *Article 17§1 – Right of children and young persons to social, legal and economic protection – Assistance, education and training*  
Corporal punishment of children is not prohibited in the home and in institutions.

**The Committee has been unable to assess compliance with the following provisions and has invited the Government of Montenegro 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 11§2 - Conclusions 2017
- ▶ Article 12§2 - Conclusions 2017
- ▶ Article 12§4 - Conclusions 2017
- ▶ Article 13§4 - Conclusions 2017

**Thematic Group 3 « Labour rights »**

- ▶ Article 2§1 - Conclusions 2018
- ▶ Article 2§6 - Conclusions 2018
- ▶ Article 4§3 - Conclusions 2018
- ▶ Article 4§5 - Conclusions 2018
- ▶ Article 26§1 - Conclusions 2018
- ▶ Article 28 - Conclusions 2018
- ▶ Article 29 - Conclusions 2018

**Thematic Group 4 « Children, families, migrants »**

- ▶ Article 7§4 - Conclusions 2015
- ▶ Article 7§5 - Conclusions 2015
- ▶ Article 7§9 - Conclusions 2015
- ▶ Article 19§12 - Conclusions 2015
- ▶ Article 27§1 - Conclusions 2015
- ▶ Article 27§3 - 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 »**

- ▶ The Law on Professional Rehabilitation and Employment of Persons with Disabilities (Official Gazette of Montenegro, no. 49/08, 73/10 and 39/11), as amended in 2011, sets out the arrangements and procedures for applying the right to vocational rehabilitation of persons with disabilities. The amendments made to the Law change the system of employment quotas for persons with disabilities.
- ▶ Exercise of the right to medical and technical aids is governed by the "Regulation on exercising the right to medical and technical aids" (Official Gazette of Montenegro, no. 24/2013 and 26/2014).
- ▶ The Law on Spatial Planning and Construction as amended in 2014 (Official Gazette of Montenegro, no. 51/08, 40/10, 34/11, 35/13, 33/14) provides that public buildings must be accessible.

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

- ▶ On 25 July 2014, the Parliament of Montenegro adopted the Law on Safety and Health at Work (Official Gazette No. 34/14), which replaces the former Law on Safety and Health at Work (Official Gazette No. 79/04 and 26/10). According to the new law, the employer is obliged to provide measures of safety and health at work to all employees, by preventing, eliminating and controlling risks at work, informing and training employees, and with proper organisation and the necessary means. In addition, the employer is obliged to provide special safety and health at work to women during pregnancy, persons under 18 years of age, and persons with disabilities.
- ▶ During the reference period, Montenegro concluded bilateral social security agreements with Romania and the Slovak Republic.

### **Thematic Group 3 « Labour rights »**

- ▶ In 2014, the Government and the social partners signed a general collective agreement (OG No. 14/14 of 22 March 2014), valid for two years. The contracting parties are responsible for overseeing its application. In 2016, an agreement was signed to extend it for two years (OG No. 39/16 of 29 June 2016). According to this new general collective agreement, employees' wages must be increased by at least 40% per hour of overtime worked.

### **Thematic Group 4 « Children, families, migrants »**

- ▶ New Law on Safety and Health Protection at Work was adopted in 2014.