



— Romania and the European Social Charter —

Signatures, ratifications and accepted provisions

Romania ratified the Revised European Social Charter on 07/05/1999 and has accepted 65 of the Revised Charter's 98 paragraphs.

Romania has not accepted the system of collective complaints.

The Charter in domestic law

Automatic standing incorporation based on the Constitution, Article 11: "1. The Romanian State pledges to fulfill as such and in good faith its obligations as deriving from the treaties it is a party to. 2. Treaties ratified by Parliament, according to the law, are part of national law. 3. If a treaty Romania is to become a party to, contains provisions contrary to the Constitution, its ratification shall only take place after the revision of the Constitution".

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 Romania](#) in 2004, in 2009 and in 2015. The Committee considers that there are no obstacles to the immediate acceptance of Articles 2§3, 10§§1-5, 19§§1-5, 27§1 and 27§3. Moreover, the acceptance of the following provisions is also possible: 19§9, 22 and 26§§1-2.

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 Romania

Between 2001 and 2019, Romania has submitted 18 reports on the application of the Revised Charter.

The [17th report](#), submitted on 10/01/2018 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 [18th report](#), which was submitted 07/11/2018, 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),
- 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 153 – Right to work – Free placement services*

It has not been established that free placement services operate in an efficient manner.

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

It has not been established that the right of persons with disabilities to vocational mainstream training is effectively guaranteed.

► *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*

- The right of persons with disabilities to mainstream education is not effectively guaranteed and
- it has not been established that the right of persons with disabilities to vocational mainstream training is effectively guaranteed.

► *Article 1552 – Right of persons with disabilities to independence, social integration and participation in the life of the community – Employment of persons with disabilities*

Persons with disabilities are not guaranteed effective access to the open labour market.

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

► *Article 352 – Right to safe and healthy working conditions – Safety and health regulations*

Domestic workers are not covered by occupational health and safety regulations.

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

Measures to reduce the excessive rate of fatal accidents are inadequate.

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

Measures taken to reduce infant and maternal mortality rates have been insufficient.

► *Article 1251 – Right to social security – Existence of social security system*

It has not been established that a significant percentage of the active population is covered by unemployment insurance.

► *Article 1253 – 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 1254 – Right to social security – Social security of persons moving between states*

- It has not been established that equal treatment with regard to social security rights is guaranteed to nationals of all other States Parties;
- Equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties;
- The retention of accrued benefits for persons moving to a State Party which is not covered by EU regulations or not bound by an agreement with Romania is not guaranteed;
- The right to maintenance of accruing rights is not guaranteed to nationals of all other States Parties.

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

Uninsured persons without resources are not entitled to adequate medical assistance.

Thematic Group 3 « Labour rights » – Conclusions 2018

► *Article 451 – Right to a fair remuneration - Decent remuneration – Conclusions 2014*

The national minimum wage is not sufficient to ensure a decent standard of living.

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

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

- The notice period for dismissal for physical or mental incapacity or for professional inadequacy or as a result of the abolition of posts is insufficient;
- The legislation makes no provision for notice periods during probationary periods and in the event of the death of the employer who is a natural person, or winding up of an employer who is a legal person.

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

After the deduction of the combined amount of all authorised deductions, the wages of workers with the lowest pay do not allow them to provide for themselves or their dependants.

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

A trade union can only take collective action if it meets representativeness criteria and if the strike is approved by at least half of the respective trade union's members.

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

- The protection against dismissal granted to trade union representatives and other elected workers' representatives does not extend beyond the end of their mandate;
- It has not been established that facilities afforded to workers' representatives are adequate.

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

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

The protection against employment of children subject to compulsory education is not effectively guaranteed.

► *Article 7§5 – Right of children and young persons to protection – Fair pay*

Young workers' wages are not fair.

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

- The right to adequate housing is not guaranteed for Roma families ;
- Notice period before eviction is too short (Conclusions 2017);
- Occupiers can be evicted during winter (Conclusions 2017);
- It has not been established that affordable and good quality childcare is ensured for families (Conclusions 2017).

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

Thematic Group 1 « Employment, training and equal opportunities »

- ▶ Article 1§2 - Conclusions 2016
- ▶ Article 25 - Conclusions 2016

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

- ▶ Article 11§3 - Conclusions 2017
- ▶ Article 13§3 - Conclusions 2017

Thematic Group 3 « Labour rights »

- ▶ Article 2§2 - Conclusions 2018
- ▶ Article 4§3 - Conclusions 2018
- ▶ Article 6§2 - Conclusions 2018

Thematic Group 4 « Children, families, migrants »

- ▶ Article 7§1 - Conclusions 2017
- ▶ Article 7§6 - Conclusions 2017
- ▶ Article 7§7 - Conclusions 2017
- ▶ Article 7§10 - Conclusions 2015
- ▶ Article 8§1 - Conclusions 2015
- ▶ Article 19§8 - 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 »

- ▶ Prohibition of all forms of discrimination on grounds of sex in access to social security benefits (Act No. 76/2002).
- ▶ Prohibition of all forms of discrimination on grounds of sex in all aspects of working life and right to equal pay for a work of equal value (Act No. 202/2002).
- ▶ In April 2014 the Department for Equality of Opportunities between Women and Men (DEOWM) was established to monitor the enforcement of the Gender Equality Law.
- ▶ Prohibition of all forms of discrimination in employment (Ordinance No. 137/2000 as modified by Act No. 48/2002).
- ▶ The requirement of the Romanian nationality for the representation within the Economic and Social Council was removed (Article 94 of Law No. 62/2011 on Social Dialogue).
- ▶ Exemption of all persons with disabilities working on individual employment contracts from tax on their wages (Governmental Emergency Ordinance No. 102/1999 approved by Act No. 519/2002).
- ▶ Prohibition of discrimination in employment on the grounds of disability (Decree No. 77/2003 and Labour Code as revised).
- ▶ Adoption of an antidiscriminatory legislation to promote an equal and free access to any form of education for people with disabilities (Act No. 448/2006 on the protection and promotion of the rights of people with disabilities).
- ▶ Phasing out of compulsory military service (Act No. 395/2005).

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

- ▶ Adoption of the Law on Safety and Health at Work No. 319/2006 which entered into force on 1 October 2006.
- ▶ Adoption of the Law no 95/2006 on the reform in the field of health care.
- ▶ Adoption of the Law no. 47 of 16 June 2005 on the national system of social assistance.
- ▶ Restrictions on tobacco advertising and sale (Act No. 148/2000).
- ▶ Measures preventing and combating the effects of the tobacco products (Act No. 90/2004).

Thematic Group 3 « Labour rights »

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Thematic Group 4 « Children, families, migrants »

- ▶ Right of female employees to a compulsory 42 days postnatal leave (Article 16 of Government Emergency Ordinance No 96/2003).

- ▶ Adoption of a comprehensive framework on the protection and promotion of the rights of the child and setting up of the National Authority for the Protection of the Rights of the Child (Act No. 272/2004 on the Protection of the Rights of the Child).
- ▶ National action plan to eliminate child labour approved by Government decision No. 1769/2004.
- ▶ Prohibition of trafficking of children for any kind of exploitation, including sexual (Act No. 678/2001 on the Prevention and Combat of Trafficking in Human Beings).
- ▶ Adoption of measures to prevent and protect children and young persons against domestic violence (Act No. 217/2003).
- ▶ Section 28 of Act No. 272/2004 on the Protection and Promotion of the Rights of the Child, promulgated through Decree No. 481/2004 (in force in 2005), provides that a child has the right to be shown respect for his or her personality and individuality and may not be made subject to physical punishment or to other humiliating or degrading treatment.