

## — Albania and the European Social Charter —

### Signatures, ratifications and accepted provisions

Albania ratified the Revised European Social Charter on 14/11/2002 and has accepted 64 of the Revised Charter's 98 paragraphs.

Albania has not yet accepted the system of collective complaints.

### The Charter in domestic law

Automatic incorporation into domestic law based on Article 122 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 Albania](#) in 2007 and in 2012. In this latest report, the Committee considered that Albania could accept the following provisions:

Article 9 – Right to vocational guidance

Article 10§§1, 2, 3, 4, 5– Right to vocational training

Article 12§§2, 3 – Right to social security

Article 13§§2, 3, 4 – Right to social assistance

Article 14§§1, 2 – Right to benefit from social welfare services

Article 17§§1, 2 – Right of children and young persons to social, legal and economic protection

Article 18§§1, 2, 3, 4 – Right to engage in a gainful occupation in the territory of other parties

Article 27§§1, 2, 3 – Right of workers with family responsibilities to equal opportunities and equal treatment

Article 31§1 – Right to housing

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 Albania

Between 2005 and 2019, Albania submitted 10 reports on the application of the Revised Charter.

Albania did not submit a report on 31/10/2013, on the accepted provisions relating to Thematic Group 3 "Labour rights" (Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29 of the Revised Charter), nor on 31/10/2014, on the accepted provisions relating to Thematic Group 4 "Children, family, migrants" (Articles 7, 8, 16, 17, 19, 27, 31 of the Revised Charter), nor on 31/10/2015, on the accepted provisions relating to Thematic Group 1 "Employment, training and equal opportunities" (Articles 1, 9, 10, 15, 18, 20, 24 and 25).

In the absence of these reports, the Committee did not adopt any conclusions as regards Albania in Conclusions 2014, 2015 and 2016.

The [9<sup>th</sup> report](#), which was submitted on 3/02/2017 concerns the accepted provisions relating to Thematic Group 2 "Health, social security and social protection" (Articles 3, 11, 12, 13, 14, 23, 30 of the Revised Charter). Conclusions with respect to these provisions were published in January 2018.

No report was submitted by 31/10/2018, concerning the accepted provisions relating to Thematic Group 3 "Labour Rights" (Articles 2, 4, 5, 6, 22, 26, 28, 29). In the absence of this report, the Committee did not adopt any conclusions as regards Albania in Conclusions 2018.

The [10<sup>th</sup> report](#), which was submitted on 28/02/2019, 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.

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<sup>1</sup> 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 2012

No report was submitted concerning the Articles in thematic group 1 in 2015; therefore the Committee was unable to adopt Conclusions in the 2016 cycle.

For the most recent Conclusions adopted concerning the relevant Articles, see Conclusions 2012.

► *Article 1§1 - Right to work - Policy of full employment*

The number of persons which have access to active labour market measures is too low.

► *Article 1§2 - Right to work - Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)*

It has not been established that the restrictions on access of foreign nationals to employment are not excessive.

► *Article 1§3 - Right to work- Free placement services*

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

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

- It has not been established that the grounds for dismissal with notice that are considered as valid by legislation or domestic case law do not go beyond what is permitted by Article 24 of the Charter;
- The maximum compensation for unlawful termination of employment is inadequate and the legislation does not provide for the possibility of reinstatement in the private sector.

► *Article 25 - Right of workers to protection of their claims in the event of the insolvency of their employer*

Workers claims are not effectively protected in case of insolvency of their employer under the privilege system alone.

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

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

- Public authorities are not involved in research relating to occupational health and safety;
- Employers' and employees' organisations are not being consulted by public authorities in practice.

► *Article 3§2 – Right to safe and healthy working conditions - Enforcement of safety and health regulations*

- The level of protection against asbestos is inadequate;
- It has not been established that the domestic workers and home workers are protected by occupational health and safety regulations;
- Employers' and employees' organisations are not being consulted by public authorities in practice.

► *Article 3§3 – Right to safe and healthy working conditions - Consultation with employers' and workers' organisations on safety and health issues*

- It has not been established that accidents at work and occupational diseases are monitored efficiently;
- It has not been established that the activities of the labour inspectorate are efficient in practice.

► *Article 3§4 – Right to safe and healthy working conditions - Occupational health services*

There is no strategy to develop occupational health services for all workers.

► *Article 11§1 – Right to protection of health - Removal of the causes of ill-health*

- The measures taken to reduce infant and maternal mortality have been insufficient;
- Public healthcare expenditure is too low;
- The provision of health care is subject to unnecessary delays.

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

- It has not been established that public information and awareness raising are public health priorities;

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

- It has not been established that counselling and screening for pregnant women and children are frequent enough or that the proportion of mothers and children covered throughout the country is sufficient.

► *Article 11§3 - Right to protection of health - Prevention of diseases and accidents*

Efficient immunisation and epidemiological monitoring programmes are not in place.

### **Thematic Group 3 « Labour rights » – Conclusions 2010**

No reports were submitted in 2013 and 2017 concerning the Articles in thematic group 3; therefore the Committee was unable to adopt Conclusions in the 2014 and in the 2018 cycles.

For the most recent Conclusions adopted concerning the relevant Articles, see Conclusions 2010.

► *Article 2§1 - Right to just conditions of work - Reasonable working time*

Regulations permit weekly working time of more than 60 hours in various sectors of activity.

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

Work performed on a public holiday is not compensated at a sufficiently high level.

► *Article 2§3 - Right to just conditions of work - Annual holiday with pay*

Employees may relinquish annual leave in return for increased remuneration.

► *Article 2§4 - Right to just conditions of work - Elimination of risks in dangerous or unhealthy occupations*

- There is no prevention policy for the risks in inherently dangerous or unhealthy occupations;
- Workers exposed to residual risks to health and safety cannot benefit from reduced working hours or additional paid holidays, or other sufficient compensation.

► *Article 2§5 - Right to just conditions of work – Weekly rest period*

This provision does not apply to the great majority of the workers concerned.

► *Article 4§1 - Right to a fair remuneration - Decent remuneration*

The minimum net wage is manifestly unfair.

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

- Five days' notice is insufficient for workers with less than three months' service, even in the probationary period;
- In the case of written agreement or a collective agreement, one month is not a sufficient period of notice for workers with five or more years' service;

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

It has not been established that deductions from wages will not deprive workers and their dependents of their very means of subsistence.

► *Article 5 - Right to organise*

- Police personnel do not enjoy the right to form trade unions;
- It has not been established that the prohibition from enjoying the right to form a trade union was not applied to an excessively high proportion of senior civil servants.

► *Article 6§1 - Right to bargain collectively - Joint consultation*

- It has not been established that refusals of the representative status to trade unions are subject to judicial review;
- It has not been established that consultation also takes place in the public sector.

► *Article 6§2 - Right to bargain collectively - Negotiation procedures*

It has not been established that civil servants are entitled to participate in the processes that result in the determination of the regulations applicable to them.

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

The circumstances in which recourse to compulsory arbitration is authorised go beyond the limits set out in Article G of the Revised Charter.

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

- Civil servants are denied the right to strike;
- Employees in electricity and water supply services are denied the right to strike.

▶ *Article 22- Right of workers to take part in the determination and improvement of working conditions and working environment*

Employees were not granted an effective right to participate in the decision-making process within the undertaking concerning the matters referred to in this Article.

▶ *Article 26§2- Right to dignity in the workplace - Moral harassment*

It has not been established that effective protection of employees against any form of moral harassment is in place.

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

Union representatives are protected against dismissal during the performance of their functions only until their mandate expires.

**« Thematic Group 4 "Children, families, migrants» - Conclusions 2011**

No report was submitted concerning the Articles in thematic group 4; therefore the Committee was unable to adopt Conclusions in the 2015 cycle.

For the most recent Conclusions adopted concerning the relevant Articles, see Conclusions 2011.

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

- The definition of light work authorised by legislation is not sufficiently precise as there is no definition of the types of work which may be considered light or a list of those which are not;
- The prohibition of employment under the age of 15 is not guaranteed in practice.

▶ *Article 7§2 - Right of children and young persons to protection - Prohibition of employment under the age of 18 for dangerous or unhealthy activities*

The prohibition of employment under the age of 18 for dangerous or unhealthy activities is not guaranteed in practice.

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

The effective protection against work which would deprive children subject to compulsory schooling of the full benefit of their education is not guaranteed in practice.

▶ *Article 7§6- Right of children and young persons to protection - Inclusion of time spent on vocational training in the normal working time*

It has not been established that the right to have time spent on vocational training considered to be working time and remunerated as such is guaranteed in practice.

▶ *Article 7§7 – Right of children and young persons to protection - Paid annual holidays*

It has not been established that young workers do not relinquish annual leave in return for increased remuneration.

▶ *Article 7§10 – Right of children and young persons to protection - Special protection against physical and moral dangers*

- Simple possession of child pornography is not a criminal offence;
- Measures taken to combat trafficking in children are not sufficient;
- Measures taken to assist and protect street children are not sufficient.

▶ *Article 8§1 – Right of employed women to protection of maternity - Maternity leave*

The required period of twelve months of contribution to the social security scheme prior to pregnancy to be entitled to maternity benefits is too long.

► *Article 8§2 - Right of employed women to protection of maternity - Illegality of dismissal*  
Reinstatement is not the rule in case of unlawful dismissal based on pregnancy.

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

**Thematic Group 1 « Employment, training and equal opportunities »**

- ▶ Article 20 - Conclusions 2012

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

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**Thematic Group 3 « Labour rights »**

- ▶ Article 2§7 - Conclusions 2010
- ▶ Article 21 - Conclusions 2010

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

- ▶ Article 7§9 - Conclusions 2011
- ▶ Article 8§5 - Conclusions 2011
- ▶ Article 19§3 - Conclusions 2011
- ▶ Article 19§4 - Conclusions 2011
- ▶ Article 19§6 - Conclusions 2011
- ▶ Article 19§8 - Conclusions 2011
- ▶ Article 19§10 - Conclusions 2011
- ▶ Article 19§12 - Conclusions 2011

## **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. 9570 of 3 July 2006 amending the Employment Act defined the aim of employment policies, introduced the concept of access to public employment services and contain a clearer definition of concepts such as "jobseeker" and "employment services".

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

▶ The Decision of the Council of Ministers no. 742 of November 2003 obliges all enterprises employing more than 15 persons to have an occupational doctor.

▶ Law no. 9774 of 12 July 2007 on the evaluation and administration of noise in the environment was approved.

▶ Law no. 9518 of 18 April 2006 on the protection of minors from alcohol use included measures to raise awareness among young people about alcohol-related problems.

▶ Law of 28 January 2008 created a National Food Authority.

▶ Law no. 9928 of 9 June 2008 established free dental care for children up to the age of 18.

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

▶ Article 151§2 of the Labour Code sets an obligation of three-month notice for termination of fixed-term contracts between three and five years.

▶ Article 181 of the Labour Code provides for the protection of the trade union representatives and Article 202 provides for sanctions in case of violation of the rights provided for in Article 181.

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

▶ Law no. 9034 of 20 March 2003 on the Emigration of the Albanian Citizens for Employment Purposes punishes the spreading of false and unlawful information made for profitable purposes in the field of emigration.

▶ Article 108 of the Labour Code and the Decision of the Council of Ministers no. 397 of 20 May 1996 provide that pregnant women and breastfeeding mothers may not be obliged to start work before 5.00 am (in summer, 6.00 in winter) or work after 8.00 pm.