



European
Social
Charter

Charte
sociale
européenne



— Azerbaijan and the European Social Charter —

Signatures, ratifications and accepted provisions

Azerbaijan ratified the Revised European Social Charter on 02/09/2004 and has accepted 47 of the 98 paragraphs.

It has not signed the Additional Protocol Providing for a 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				

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 Azerbaijan](#) in 2009, 2014 and in 2020. The Committee considers that acceptance of Articles 12§1 and §3, 15, 19 seems possible.

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 Azerbaijan

Between 2007 and 2024, Azerbaijan has submitted 17 reports on the application of the Revised Charter.

The [16th report](#), which was submitted on 19/04/2023, concerns the accepted provisions relating to thematic group 4 "Children, families and migrants" (Articles 7, 8, 16, 17, 16, 19, 27 and 31).

Conclusions with respect to these provisions have been published in March 2024.

On 28 December 2023, an [ad hoc report on the cost-of-living crisis was submitted by Azerbaijan](#)³.

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 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](#).

³ In accordance with the [decision of the Ministers' Deputies](#) adopted on 27 September 2022 concerning the [new system](#) for the presentation of reports under the European Social Charter, the European Committee of Social Rights and the Governmental Committee have decided to request an *ad hoc* report on the cost-of-living crisis to all State parties.

Situations of non-conformity ⁴

Thematic Group 1 "Employment, training and equal opportunities" - Conclusions 2020

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

- It has not been established that employers are required to make reasonable accommodation for persons with disabilities;
- It has not been established that protection against discrimination in employment on grounds of sexual orientation is ensured;
- Legislation does not provide for a shift in the burden of proof in discrimination cases;
- It has not been established that appropriate and effective remedies are provided to victims of alleged discrimination in employment;
- The suspension of all inspections related to entrepreneurial activity until 1 January 2021 is a barrier to the mandate of labour inspection services in preventing forced labour and labour exploitation;
- It has not been established that the national authorities have fulfilled their obligations to prevent forced labour and labour exploitation, to protect victims, to effectively investigate the offences committed, and to punish those responsible for forced labour offences.

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

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

► *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 in the labour market is guaranteed;
- It has not been established that the right to vocational guidance is guaranteed to persons with disabilities.

► *Article 9 - Right to vocational guidance*

It has not been established that:

- the right to vocational guidance within the school system and in the labour market is guaranteed;
- the right to vocational guidance within the school system and in the labour market is guaranteed to persons with disabilities.

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

- There is no explicit statutory guarantee of equal pay for women and men for equal work or work of equal value;
- Women are not permitted to work in all professions which constitutes discrimination based on sex;
- The legislation does not provide for a shift in the burden of proof in gender pay discrimination cases;
- The obligation to make measurable progress in reducing the gender pay gap has not been fulfilled.

Thematic Group 2 "Health, social security and social protection" - Conclusions 2021

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

- The measures taken to reduce infant and maternal mortality have been insufficient;
- Public healthcare expenditure is too low;
- It has not been established that the provision of healthcare is not subject to long waiting times.

► *Article 11§3 – Right to protection of health – prevention of diseases and accidents*

- It has not been established that adequate measures were taken to overcome environmental pollution;
- Legislation does not prohibit the sale and use of asbestos;

⁴ Further information on the situations of non-conformity is available on the [HUDOC database](#).

- it has not been established that adequate measures were taken to prevent accidents.
- ▶ *Article 14§1 – Right to benefit from social services - Promotion or provision of social services*
 - Access to social services by nationals of other States Parties is subject to an excessive length of residence requirement of five years;
 - It has not been established that the quality of social services meets the requirements of the Charter as regards the qualifications and numbers of staff, the existence of an effective mechanism for the monitoring of adequacy of services and decision-making at the level closest to users.
- ▶ *Article 14§2 – Right to benefit from social services - Public participation in the establishment and maintenance of social services*
 - It has not been established that services managed by the private sector are effective;
 - It has not been established that they are accessible on an equal footing to all, without discrimination on the grounds of race, ethnic origin, religion, disability, age, sexual orientation or political opinion.

Thematic Group 3 “Labour rights” - Conclusions 2022

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

The minimum wage does not ensure a decent standard of living.
- ▶ *Article 4§3 – Right to a fair remuneration – Non-discrimination between women and men with respect to remuneration*
 - There is no explicit statutory guarantee of equal pay for women and men for work of equal value;
 - Domestic law does not provide for a shift in the burden of proof in gender pay discrimination cases;
 - It has not been established that in equal pay cases domestic law allows for pay comparisons to be made across companies.
- ▶ *Article 4§4 – Right to a fair remuneration – Reasonable notice of termination of employment*

The notice period is manifestly unreasonable in the following cases:

 - termination of employment on account of long-term illness or disability, beyond ten years of service;
 - termination of employment on grounds stipulated in the employment contract ,in case of more than three years of service;
 - dismissal during the probationary period.
- ▶ *Article 4§5 – Right to a fair remuneration – Limits to wage deductions*

The guarantees in place to prevent workers from waiving their right to limitation of deductions from wages are insufficient.
- ▶ *Article 5 – Right to organise*

The right to form and join trade unions is not ensured in practice in multinational companies.
- ▶ *Article 6§2 – Right to bargain collectively - Negotiation procedures*

The promotion of collective bargaining is not sufficient.
- ▶ *Article 6§3 - Right to bargain collectively - Conciliation and arbitration*

The circumstances in which compulsory arbitration is permitted go beyond the limits set by Article G of the Charter.
- ▶ *Article 6§4 – Right to bargain collectively - Collective action*
 - Restrictions on the right to strike for employees in essential services go beyond the limits set by Article G of the Charter;
 - The prohibition on the right to strike for public servants goes beyond the limits set by Article G of the Charter.

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

- Employees are not granted an effective right to participate in the decision-making process within the undertaking with regard to working conditions, work organisation and working environment, and
- Legal remedies are not available to workers in the event of infringements of their right to take part in the determination and improvement of working conditions and the working environment.

► *Article 26§1 – Right to dignity in the workplace - Sexual harassment*

- It has not been established that there is adequate prevention of sexual harassment in relation to work;
- The existing framework in respect of employers' liability does not provide sufficient and effective remedies in cases of sexual harassment in relation to work when third parties are involved;
- It has not been established that, in relation to employees' protection, there are sufficient and effective remedies against sexual harassment in relation to work;
- The Labour Code does not provide for a shift in the burden of proof in cases of sexual harassment;
- It has not been established that there is appropriate and effective redress (compensation and reinstatement) in cases of sexual harassment in relation to work.

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

- It has not been established that there is adequate prevention of moral (psychological) in relation to work;
- The existing framework in respect of employers' liability does not provide sufficient and effective remedies in cases of moral (psychological) harassment in relation to work when third parties are involved;
- It has not been established that, in relation to employees' protection, there are sufficient and effective remedies against moral (psychological) harassment in the workplace or in relation to work;
- The Labour Code does not provide for a shift in the burden of proof in cases of moral (psychological) harassment;
- Appropriate and effective redress (compensation and reinstatement) is not guaranteed in cases of moral (psychological) harassment in relation to work.

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

- Protection against dismissal granted to workers' representatives is not extended for a reasonable period after the end of their mandate;
- Protection to workers' representatives against prejudicial acts short of dismissal is not afforded outside the period of collective bargaining activity.

► *Article 29 - Right to information and consultation in procedures of collective redundancy*

Measures and sanctions do not exist to ensure that redundancies do not take effect before employers' obligation to inform the workers' representatives has been fulfilled.

Thematic Group 4 "Children, families, migrants" - Conclusions 2023

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

- Work done at home by children under the age of 15 is not monitored in practice;
- The prohibition of employment of children under the age of 15 is not effectively enforced in practice, in particular in the informal economy and agriculture.

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

The prohibition of the employment of children still subject to compulsory education is not guaranteed in practice.

► *Article 7§4 - Right of children and young persons to protection – Working time*
Supervision and monitoring of working time of young workers is not effective.

► *Article 7§5 – Right of children and young persons to protection – Fair pay*
The young workers' wages are not fair.

► *Article 7§6- Right of children and young persons to protection - Inclusion of time spent on vocational training in the normal working time*
The inclusion of time spent by young workers on vocational training in the normal working time is not effectively monitored in practice.

► *Article 7§7 – Right of children and young persons to protection - Paid annual holidays*
Young workers under 18 years of age have the option of waiving their right to paid annual holidays in return for financial compensation.

► *Article 7§9 – Right of children and young persons to protection - Regular medical examination*
The effective implementation of the law is not guaranteed in practice.

► *Article 7§10 – Right of children and young persons to protection – Special protection against physical and moral dangers*
Not all forms of corporal punishment are prohibited in all settings.

► *Article 8§5 – Right of employed women to protection of maternity - Prohibition of dangerous, unhealthy or arduous work*
During the reference period women assigned to lighter duties due to pregnancy or breastfeeding had no right to return to their previous post at the end of the protected period.

► *Article 16 – Right of the family to social, legal and economic protection*
- Equal treatment of nationals of other States Parties regarding the payment of family benefits is not ensured due to the excessive length of residence requirement;
- Family benefits do not constitute a sufficient income supplement for a significant number of families.

► *Article 27§1 – Right of workers with family responsibilities to equal opportunity and treatment - Participation in working life*
The legislation currently in force concerning employment conditions does not facilitate the reconciliation of working and private life for workers with family responsibilities, whether women or men, on an equal footing.

► *Article 27§2 – Right of workers with family responsibilities to equal opportunity and treatment - Parental leave*
- The right to parental leave is not established as an individual right of each parent, a part of which is non-transferable and
- The remuneration during the parental leave is not adequate on the ground that it does not replace the income lost due to absence from work to take care of a child.

The Committee also considered that the failure to provide requested information on Articles 7§1, 7§5, 7§10, 8§1, 8§2, 8§4, 8§5, 16 and 27§3 amounts to a breach by Azerbaijan of its reporting obligations under Article C of the Charter.

The Committee has been unable to assess compliance with the following provisions:

Thematic Group 1 "Employment, training and equal opportunities"

▶ Article 1§1 - Conclusions 2020

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

▶ Article 11§2 - Conclusions 2021

Thematic Group 3 "Labour rights"

-

Thematic Group 4 "Children, families, migrants"

II. Examples of progress achieved in the implementation of rights under the Charter ***(non-exhaustive list)***

Thematic Group 1 "Employment, training and equal opportunities"

-

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

► An agreement was signed in February 2010 by the Government, the Azerbaijan Trade Union Confederation (ATUC) and the Azerbaijan Confederation of Entrepreneurs (ACE) for the period 2010-2011. This agreement states that the population's income levels should gradually be brought to levels compatible with the requirements of the Revised Charter and a gradual approach should also be taken for calculating the minimum wage, basic pension and for the criteria of "need" used to decide on social assistance.

Thematic Group 3 "Labour rights"

-

Thematic Group 4 "Children, families, migrants"

-