

— Belgium and the European Social Charter —

Signatures, ratifications and accepted provisions

Belgium ratified the European Social Charter on 16/10/1990 and the Revised European Social Charter on 02/03/2004, accepting 87 of the Revised Charter's 98 paragraphs.

In June 2015 Belgium accepted to be bound by 4 additional provisions (Articles 26§2, 27§1, 27§2 and 28 of the Revised Charter), bringing the total of accepted provisions to 91 of the 98 paragraphs.

It accepted the Additional Protocol of 1995 providing for a system of collective complaints on 23/06/2003, but has not yet made a declaration enabling national NGOs to submit collective complaints.

The Charter in domestic law

Automatic incorporation into domestic law based on case-law (Le Ski judgment, Court of Cassation, 27 May 1971).

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 Belgium](#) in 2009, 2014 and in 2019.

The Committee is of the opinion that there are no obstacles in law and in practice to acceptance by Belgium of Articles 23, 27§3 and 31.

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. Collective complaints procedure ²

Collective complaints (under examination)

Federation of National Organizations Working with the Homeless (FEANTSA) v. Belgium (Complaint No. 203/2021)

The Committee [declared](#) the complaint admissible on 6 July 2022.

European Roma Rights Centre (ERRC) v. Belgium (Complaint No. 195/2020)

The Committee [declared](#) the complaint admissible on 29 June 2021 and decided that it was not necessary to indicate immediate measures.

Collective complaints (proceedings completed)

1. Complaints inadmissible or where the Committee has found no violation

a. Inadmissibility

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b. No violation

Centrale générale des services publics (CGSP) v. Belgium (Complaint No. 25/2004)

- Non-violation of Article 6§§1 and 2 (right to collective bargaining)

[Decision on the merits of 9 May 2005.](#)

Follow up:

- [Resolution ResChS\(2005\)13 of 7 July 2005](#) of the Committee of Ministers.

2. Complaints where the Committee has found a violation which has been remedied

International Federation of Human Rights Leagues (FIDH) v. Belgium (Complaint No. 75/2011)

- Violation of Article E (non-discrimination) in conjunction with Articles 14§1 (right to benefit from social welfare services) and 16 (right of the family to social, legal and economic protection)

[Decision on the merits of 18 March 2013.](#)

Follow up:

- [Resolution CM/ResChS\(2013\)16 of 16 October 2013](#) of the Committee of Ministers.

- [Assessment of the European Committee of Social Rights on the follow-up \(4 December 2015\)](#)

Defence for Children International (DCI) v. Belgium (Complaint No. 69/2011)

- Violation of Article 7§10 (right of children and young persons to protection)
- Violation of Article 17§1 (right to children and young persons to social, legal and economic protection)
- Violation of Articles 11§§ 1 and 3 (right to protection of health)

[Decision on the merits of 23 October 2012.](#)

Follow up:

- [Resolution CM/ResChS\(2013\)11 of 11 June 2013](#) of the Committee of Ministers.

- [Assessment of the European Committee of Social Rights on the follow-up \(4 December 2015\)](#)

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 Collective Complaints Procedure is available on the [relevant webpage](#).

- [2nd Assessment of the European Committee of Social Rights on the follow-up](#) (6 December 2018)

European Trade Union Confederation (ETUC) / Centrale Générale des Syndicats Libéraux de Belgique (CGSLB) / Confédération des Syndicats chrétiens de Belgique (CSC) / Fédération Générale du Travail de Belgique (FGTB) v. Belgium (No. 59/2009)

- Violation of Article 6§4 (right to bargain collectively)

[Decision on the merits of 13 September 2011.](#)

Follow up:

- [Resolution CM/ResChS\(2012\)3](#) of 4 April 2012 of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow-up](#) (4 December 2015)
- [2nd Assessment of the European Committee of Social Rights on the follow-up](#) (6 December 2018)

3. Complaints where the Committee has found a violation and where progress has been made but not yet examined by the Committee

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4. Complaints where the Committee has found a violation and where progress has been made but which has not yet been remedied

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5. Complaints where the Committee has found a violation which has not yet been remedied

European Roma Rights Centre (ERRC) v. Belgium (Complaint No. 185/2019)

- Violation of Article E (non-discrimination) in conjunction with Article 16 (right of the family to social, legal and economic protection)

[Decision on the merits of the Complaint No. 185/2019.](#)

European Youth Forum (YFJ) v. Belgium (Complaint No. 150/2017)

- Violation of Article 4§1 (the right to a fair remuneration)
- Violation of Article E (non-discrimination) read in conjunction with Article 4§1 (the right to a fair remuneration)

The Committee [adopted](#) its decision on the merits on 8 September 2021.

[Recommendation CM/RecChS\(2022\)20](#) (Adopted by the Committee of Ministers on 14 September 2022 at the 1442nd meeting of the Ministers' Deputies)

International federation for Human Rights (FIDH) and Inclusion Europe v. Belgium (Complaint No.141/2017)

- Violation of Article 15§1 (the right of persons with disabilities to education)
- Violation of Article 17§2 (the right of children and young persons to social, legal and economic protection)

The Committee [adopted](#) its decision on the merits on 9 September 2020

[Recommendation CM/RecChS\(2021\)19](#) (Adopted by the Committee of Ministers on 22 September 2021 at the 1412th meeting of the Ministers' Deputies)

University Women of Europe (UWE) v. Belgium (Complaint No. 124/2016)

- Violation of Article 4§3 (Right to a fair remuneration - non-discrimination between women and men with respect to remuneration)
- Violation of Article 20 (Right to equal opportunities and treatment in employment and occupation without sex discrimination)

[Decision on the merits of 6 December 2019.](#)

Follow up:

[Recommendation CM/RecChS\(2021\)1](#) (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers' Deputies)

Mental Disability Advocacy Center (MDAC) v. Belgium (Complaint No. 109/2014)

- Violation of Article 15§1 (the right of persons with disabilities to education)

[Decision on admissibility and merits of 16 October 2017](#)

Follow up:

- Resolution CM/ResChS(2018)3 of 4 July 2018 of the Committee of Ministers.
- Assessment of the European Committee of Social Rights on the follow-up (January 2021).
- 2nd Assessment of the European Committee of Social Rights on the follow-up (28 January 2022).

Association for the Protection of All Children (APPROACH) Ltd v. Belgium (Complaint No. 98/2013)

- Violation of Article 17 (the right of children and young persons to social, legal and economic protection)
- Decision on merits of 20 January 2015.

Follow up:

- Resolution CM/ResChS(2015)12 of 17 June 2015 of the Committee of Ministers.
- Assessment of the European Committee of Social Rights on the follow-up (6 December 2018)
- 2nd Assessment of the European Committee of Social Rights on the follow-up (January 2021).
- 3rd Assessment of the European Committee of Social Rights on the follow-up (28 January 2022).

International Federation of Human Rights Leagues (FIDH) v. Belgium (Complaint No. 75/2011)

- Violation of Article 14§1 (right to benefit from social welfare services)
- Violation of 16 (right of the family to social, legal and economic protection)
- Violation of 30 (right to protection against poverty and social exclusion)

Decision on the merits of 18 March 2013.

Follow up:

- Resolution CM/ResChS(2013)16 of 16 October 2013 of the Committee of Ministers.
- Assessment of the European Committee of Social Rights on the follow-up (4 December 2015)
- 2nd Assessment of the European Committee of Social Rights on the follow-up (6 December 2018)
- 3rd Assessment of the European Committee of Social Rights on the follow-up (January 2021).
- 4th Assessment of the European Committee of Social Rights on the follow-up (28 January 2022).

International Federation of Human Rights Leagues (FIDH) v. Belgium (Complaint No. 62/2010)

- Violation of Article E (non-discrimination) read in conjunction with Article 16 (right to the family to social, legal and economic protection)
- Violation of Article E (non-discrimination) read in conjunction with Article 30 (right to protection against poverty and social exclusion)

Decision on the merits of 21 March 2012.

Follow up:

- Resolution CM/ResChS(2013)8 of 30 April 2013 of the Committee of Ministers.
- Assessment of the European Committee of Social Rights on the follow-up (4 December 2015)
- 2nd Assessment of the European Committee of Social Rights on the follow-up (6 December 2018)
- 3rd Assessment of the European Committee of Social Rights on the follow-up (January 2021).
- 4th Assessment of the European Committee of Social Rights on the follow-up (28 January 2022).

World Organisation against Torture (OMCT) v. Belgium (No. 21/2003)

- Violation of Article 17 (right of children to social, economic and legal protection)

Decision on the merits of 7 December 2004.

Follow up:

- Resolution ResChS(2005)10 of 8 June 2005 of the Committee of Ministers.

II. Reporting system³

Reports submitted by Belgium

Between 1992 and 2023, Belgium submitted 12 reports on the application of the 1961 Charter and 17 reports on the application of the Revised Charter.

The [16th report](#), which was submitted on 23/12/2021, concerns the accepted provisions relating to thematic group 3 "Labour Rights" (Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29).

Conclusions with respect to these provisions have been published in March 2023.

The [17th report](#), submitted on 22/12/2022, concerns the follow-up given to the relevant decisions of the Committee in the framework of the collective complaints' procedure.

The assessments of the Committee on the follow up to decisions in complaints will be published in January 2024.

³ 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 ⁴

Thematic Group 1 "Employment, training and equal opportunities" - Conclusions 2016

According to the applicable rules, Conclusions 2020 only refer to the information submitted by the Belgium Government on the follow-up given to the relevant decisions of the European Committee of Social Rights in the framework of the collective complaints procedure (see above).

For the most recent Conclusions adopted concerning the relevant Articles, see Conclusions 2016.

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

The restrictions on the access of foreign nationals, other than EEA, to civil service posts are excessive which constitutes a discrimination on grounds of nationality.

► *Article 10§5 – Right to vocational training – Full use of facilities available*

The non-EEA nationals are subject to a length of residence requirement of two years to be eligible for financial aid for education.

► *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*

The right of persons with disabilities to mainstream education is not effectively guaranteed.

► *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*

The Brussels-Capital Region does not have legislation prohibiting discrimination in all the areas covered by Article 15§3 of the Charter.

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

Early termination of the employment relationship of a foreign national results in the automatic withdrawal of that person's residence permit with no possibility of seeking new employment.

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

The average time to satisfy workers' claims in case of insolvency of their employer is excessive.

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

According to the applicable rules, Conclusions 2021 only refer to the information submitted by the Government on the follow-up given to the relevant decisions of the European Committee of Social Rights in the framework of the collective complaints procedure (see above).

For the most recent Conclusions adopted concerning the relevant Articles, see Conclusions 2017.

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

The labour inspection system does not have sufficient human resources to adequately monitor compliance with occupational health and safety legislation.

► *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 retention of accrued benefits is not guaranteed to nationals of all other States Parties.

► *Article 14§1 - Right to benefit from social welfare services - Promotion or provision of social services*

- There are significant obstacles to equal and effective access for highly dependent adults with disabilities to social welfare services appropriate to their needs;
- There is a lack of institutions giving advice, information and personal help to highly dependent adults with disabilities in the Brussels- Capital Region.

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

► *Article 30 - Right to protection against poverty and social exclusion*

There is no is no adequate overall and coordinated approach to combating poverty and social exclusion.

Thematic Group 3 "Labour rights" - Conclusions 2022

► *Article 253 – Right to just conditions of work - Annual holiday with pay*

Workers who suffer from illness or injury while on holiday are not entitled to take the days lost at another time.

► *Article 453 - Right to a fair remuneration - Non-discrimination between women and men with respect to remuneration*

The obligation to recognise and respect the principle of transparency of remuneration in practice is not complied with.

► *Article 454 - Right to a fair remuneration - Reasonable notice of termination of employment*

There is no notice period for statutory employees in the public sector.

Thematic Group 4 "Children, families, migrants" - Conclusions 2019

► *Article 755 – Right to special working conditions between the ages of 15 and 18 – Fair pay*

The allowances paid to apprentices are not appropriate.

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

- An excessive length of residence (5 years) is required for nationals of non-EEA member states to be entitled to family benefits;
- Traveller families are not afforded adequate protection with respect to housing, including in terms of eviction conditions.

► *Article 1751 – Right of mothers and children to social and economic protection – Assistance, education and training*

- Not all forms of corporal punishment are prohibited in all settings;
- The maximum length of pre-trial detention is excessive;
- Children may be detained with adults.

► *Article 1951 - Right of migrant workers and their families to protection and assistance - Assistance and information on migration*

It has not been established that sufficient and effective anti-propaganda measures, in particular addressing racial profiling by the police, have been adopted.

► *Article 1956 – Right of migrant workers and their families to protection and assistance - Family reunion*

Family members of a migrant worker are not granted an independent right to remain after exercising their right to family reunion.

► *Article 19510 – Right of migrant workers and their families to protection and assistance - Equal treatment for the self-employed*

The grounds of non-conformity under Articles 1951 and 1956 apply also to self-employed migrants.

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

Thematic Group 1 "Employment, training and equal opportunities"

- ▶ Article 10§4 - Conclusions 2016

According to the applicable rules, Conclusions 2020 only refer to the information submitted by the Belgium Government on the follow-up given to the relevant decisions of the European Committee of Social Rights in the framework of the collective complaints procedure (see above).

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

- ▶ Article 13§1 - Conclusions 2017
- ▶ Article 13§4 - Conclusions 2017

According to the applicable rules, Conclusions 2021 only refer to the information submitted by the Government on the follow-up given to the relevant decisions of the European Committee of Social Rights in the framework of the collective complaints procedure (see above).

For the most recent Conclusions adopted concerning the relevant Articles, see Conclusions 2017.

Thematic Group 3 "Labour rights"

- ▶Article 2§1 - Conclusions 2022
- ▶Article 4§1 - Conclusions 2022
- ▶Article 4§2 - Conclusions 2022
- ▶Article 5 - Conclusions 2022
- ▶Article 6§2 - Conclusions 2022
- ▶Article 26§1 - Conclusions 2022
- ▶Article 26§2 - Conclusions 2022
- ▶Article 28 - Conclusions 2022

Thematic Group 4 "Children, families, migrants"

- ▶Article 7§10 - Conclusions 2019
- ▶Article 17§2 - Conclusions 2019
- ▶Article 19§4 - Conclusions 2019

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

Thematic Group 1 "Employment, training and equal opportunities"

- ▶Strengthening of safeguards against discrimination by the Act of 25 February 2003 (extension of the concept, possibility of reinstatement and proportionate compensation for victims, etc.) and by the Act of 10 May 2007.
- ▶Abolition of compulsory work for prisoners (Act of 12 January 2005).
- ▶Introduction of financial measures to encourage people over 50 to return to work (such as employment and back-to-work bonuses).
- ▶On 19 March 2012, the German-speaking Community adopted a decree on the fight against certain forms of discrimination, which prohibits direct and indirect discrimination based on "nationality, alleged race, colour, descent or national or ethnic origin; age, sexual orientation, religious or philosophical belief or disability; sex and related criteria such as pregnancy, childbirth and maternity or transsexualism; civil status, birth, wealth, political ideas, trade union affiliation, language, current or future state of health, physical or genetic characteristics or social background". It applies to all persons, both in the public and in the private sector, including in public bodies, with regard to labour and employment relations.
- ▶At federal level, the law on combating the gender pay gap was adopted on 22 April 2012 and requires measures to combat the wage gap to be negotiated at inter-occupational, sectoral and company level.

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

- ▶New legislation on the prevention of psychosocial risks at work was enacted during the reference period and entered into force on 1 September 2014, namely the Act of 28 February 2014 supplementing the Act of 4 August 1996, the Act of 28 March 2014 amending the Judicial Code and the Act of 4 August 1996, and the Royal Decree of 10 April 2014 on the prevention of psychosocial risks at work.
- ▶The Social Criminal Code contains offences relating to the prevention of psychological and social problems caused by work. It is based on the provisions of the Act of 4 August 1996 as amended by the Act of 28 February 2014, on the prevention of psychosocial risks at work including stress, violence and moral or sexual harassment at work. The Royal Decree of 10 April 2014 on the prevention of psychosocial risks at work supplements these new provisions. Under the Act of 26 February 2016 (outside the reference period), the criminal provisions of the Social Criminal Code have been adapted to these new requirements.
- ▶The Royal Decree of 10 October 2012 (Belgian Official Gazette of 5 November 2012) stipulates the basic requirements to be met by workplaces, including notably the general rules on layout, lighting, ventilation, temperature, communal facilities including sanitary installations and chairs for working and resting.
- ▶Under the Royal Decree of 10 July 2013 implementing Chapter 5 entitled "Regulation of certain aspects of the electronic exchange of information between those involved in combating illegal labour and social security fraud" of Title 5 of Book 1 of the Social Criminal Code, as amended by the Royal Decree of 26 December 2013, social inspectors from the Directorate General of Employee Well-being of Belgium's Federal Public Service for Employment, Labour and Social Dialogue are allowed to issue infringement reports electronically.
- ▶Measures have been taken in the field of health to moderate the price of medicines and offer better protection to persons with chronic conditions, particularly by making it compulsory to include these persons in the direct payment system.
- ▶In the Flemish region, the Decree of 21 March 2003 on Combating Poverty was modified on 20 December 2013 allowing the Flemish Authorities to subsidise local governments with a view to developing and supporting local initiatives to combat specifically child poverty.

►In the Walloon region, a number of measures have been taken since 2012 to adopt an overall and coordinated approach with a view to promoting access to social rights such as employment, housing, culture and medical assistance. In 2015, a first cross-cutting plan to combat poverty was adopted in order to provide concrete and effective answers to precise difficulties encountered by people living at risk of poverty.

►The Government of the German-speaking community prepared in 2013 an analysis of poverty and the social vulnerability of its community which led in 2014-2015 to action divided up into three phases: (1) identification of the characteristics of the population targeted by social action and the way in which assistance is deployed on the territory, following a comparison with the other Communities of the Federal State of Belgium; (2) collection of data using a sample of real life stories; (3) analytical phase, allowing the German-speaking community to set up a network of social action.

Thematic Group 3 "Labour rights"

►Setting of an upper limit on weekly working hours as part of the "Extensive flexibility working time scheme" (Act of 4 December 1998).

►Extension of periods of notice for workers (collective agreement of 20 December 1999).

►Introduction of a rule under which dockworkers at Antwerp must only be recruited on the basis of their technical knowledge, not their trade union membership (Royal Decree of 19 December 2000).

►Prohibition of discrimination based on trade union membership, so any workers who rely on this ground will be able to claim compensation proportional to the real damage (sections 107 and 108 of the Act of 30 December 2009, amending the Anti-Discrimination Act of 10 May 2007).

Thematic Group 4 "Children, families, migrants"

►Repeal, for minors at risk, of section 53 of the Young Persons Protection Act of 8 April 1965, which authorised juvenile judges to order that minors be held provisionally in remand prisons (for up to fifteen days) (Decree of 4 March 1991).

►Establishment of a system to combat and criminalise child pornography (Act of 13 April 1995, as amended by the Act of 28 November 2000; Article 383bis of the Criminal Code).

►Introduction of the right for children to be heard in adoption proceedings, in principle from the age of 12 onwards (Article 931 of the Judicial Code, as amended in 2003).

►Adoption of the collective labour agreement No. 80 bis, which brings the period during which the worker is entitled to take the nursing break, from seven to nine months (Article 6 of the collective agreement).

►Suppression of the five years residence requirement for granting "guaranteed family benefits" to non-EU and non-EEA nationals (Framework Act 24 December 2002).

►Introduction of the right to paid breastfeeding breaks (collective labour agreement No. 80/ 2001).

►The Federal State and the federated entities signed in 2014 a Cooperation Agreement on Homelessness and the Lack of Housing aiming at pursuing, coordinating and harmonising their policies to prevent and fight against homelessness and lack of accommodation