

## — Croatia and the European Social Charter —

### Signatures, ratifications and accepted provisions

Croatia ratified the European Social Charter as well as the Additional Protocol to the Charter on 26/02/2003. It has accepted 40 of the Charter's 72 paragraphs, and 3 of the 4 articles of the Additional Protocol.

Croatia ratified the Amending Protocol to the Charter and the Additional Protocol providing for a system of collective complaints on 26/02/2003. It has not made a declaration enabling national NGOs to submit collective complaints.

Croatia signed the Revised European Social Charter on 6 November 2009 but has not yet ratified it.

### The Charter in domestic law

Automatic incorporation based on Article 134 of the Constitution "*International agreements concluded and ratified in accordance with the Constitution and made public shall be part of domestic legislation of the Republic of Croatia and shall prevail over national laws. Their provisions may be changed or repealed only under the conditions and in the way specified therein, or in compliance with the general rules of international law*".

### Table of Accepted Provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	3.1	3.2	3.3
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
9	10.1	10.2	10.3	10.4	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	16	17	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
AP1	AP2	AP3	AP4	AP= Additional Protocol				Grey = Accepted provisions			

## **Monitoring the implementation of the European Social Charter <sup>1</sup>**

### **I. Collective complaints procedure <sup>2</sup>**

#### **Collective complaints (under examination)**

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#### **Collective complaints (proceedings completed)**

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

###### **a. Inadmissibility**

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###### **b. No violation**

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

*Matica hrvatskih sindikata v. Croatia (Complaint No. 116/2015)*

- Violation of Article 6§2 (the right to bargain collectively – negotiation procedures).

[Decision on the merits of 21 March 2018](#)

Follow up:

- [Resolution Res \(2018\)10 on 24 October 2018 of the Committee of Ministers.](#)
- [Assessment of the European Committee of Social Rights on the follow-up \(31 January 2020\).](#)

*Centre on Housing Rights and Evictions (COHRE) v. Croatia (Complaint No. 52/2008)*

- Violation of Article 16 (the right of the family to social, legal and economic protection) read in the light of the non-discrimination clause of the Preamble

[Decision on the merits of 22 June 2010.](#)

Follow up:

- [Resolution CM/ResChS\(2011\)6 on 5 May 2011 of the Committee of Ministers.](#)
- [Assessment of the European Committee of Social Rights on the follow-up \(13 September 2017\).](#)
- [2nd assessment of the follow-up of the European Committee of Social Rights \(31 January 2020\).](#)

*International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Croatia (Complaint No. 45/2007)*

- Violation of Article 11§2 (right to health)

[Decision on the merits of 30 March 2009.](#)

Follow up:

- [Resolution Res \(2009\)7 on 21 October 2009 of the Committee of Ministers.](#)
- [Assessment of the European Committee of Social Rights on the follow-up \(13 September 2017\).](#)

##### **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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<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> Detailed information on the Collective Complaints Procedure is available on the [relevant webpage](#).

**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**

*University Women of Europe (UWE) v. Croatia (Complaint No. 126/2016)*

- Violation of Article 1 of the 1988 Additional Protocol (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\(2021\)3](#) (Adopted by the Committee of Ministers on 17 March 2021 at the 1399<sup>th</sup> meeting of the Ministers' Deputies)

- [Assessment of the European Committee of Social Rights on the follow up \(February 2023\).](#)

## II. Reporting system<sup>3</sup>

### Reports submitted by Croatia

Between 2006 and 2023, Croatia has submitted 13 reports on the application of the 1961 Charter.

The [13<sup>th</sup> report](#), submitted on 17/02/2022, 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 have been published in February 2023.

The 14<sup>th</sup> report, which was to be submitted by 31/12/2022, should concern the accepted provisions of the Social Charter relating to thematic group 4 "Health, social security and social protection", namely:

- the right of children and young persons to protection (Article 7);
- the right of employed women to protection of maternity (Article 8);
- the right of the family to social, legal and economic protection (Article 16);
- the right of children and young persons to social, legal and economic protection (Article 17);
- the right of migrant workers and their families to protection and assistance (Article 19).

Conclusions with respect to these provisions will be published in March 2024.

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<sup>3</sup> 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>4</sup>

### Thematic Group 1 “Employment, training and equal opportunities” - Conclusions XXII-1 (2020)

► *Article 152 - Right to -- Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects*

- The list of jobs which are barred to foreign nationals, in particular those from other States Parties than the members of the EU, is too broad;
- 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 154 - Right to work- Vocational guidance, training and rehabilitation*

It has not been established that the right to vocational guidance is guaranteed equally to all nationals of other States Parties.

► *Article 9 - Right to vocational guidance*

It has not been established that the right to vocational guidance is guaranteed equally to all nationals of other States Parties.

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

- The obligation to ensure access to effective remedies in cases of gender pay discrimination has not been fulfilled;
- The obligation to ensure pay transparency has not been satisfied; and
- 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 XXII-2 (2021)

► *Article 13§1 – Right to social and medical assistance - Adequate assistance for every person in need*

- Means of subsistence are not guaranteed to persons in need whose social assistance is withdrawn as penalty for having refused a job offer;
- It has not been established that the right to medical assistance is effectively guaranteed to any person in need;
- The level of social assistance is manifestly inadequate;
- Nationals of other States Parties are subject to an excessive length of residence requirement to be eligible for social assistance.
- Foreign nationals unlawfully present in the territory do not have a right to emergency social assistance.

► *Article 13§4 – Right to social and medical assistance - Specific emergency assistance for non-residents*

Not all non-resident foreign nationals in need who are lawfully present in the territory are entitled to emergency social assistance.

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

It has not been established that there is an effective and equal access to social services.

### Thematic Group 3 “Labour rights” – Conclusions XXI-3 (2018)

According to the applicable rules, Conclusions XXII-3 (2022) only refer to the information submitted by the Croatian 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 XXI-3 (2018).

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

The working hours in a 24-hour period may be up to 16 hours.

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

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

The right to call a strike is reserved to trade unions, and the time frame for registering a trade union, which may take up to thirty days, infringes the right to strike.

**Thematic Group 4 “Children, families, migrants” - Conclusions XIX-4 (2011)**

According to the applicable rules, Conclusions XXI-4 (2019) only refer to the information submitted by the Croatian 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 XIX-4 (2011).

► *Article 7§4 – Right of children and young persons to protection – Working time for young persons under 16*

Working hours for persons between the age of fifteen and sixteen are excessive.

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

Apprentices do not enjoy a right to appropriate allowances.

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

Time spent by young workers in vocational training is not considered as working time.

► *Article 8§3 - Right of employed women to protection - Time off for nursing mothers*

Breastfeeding breaks are not paid as normal working hours and that the amount of the benefits paid in lieu may result in loss of salary.

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

Equal treatment of nationals of other States party in the payment of family benefits is not ensured because of excessive residence requirement

► *Article 17 – Right of mothers and children to social and economic protection*

Young imprisoned offenders are not in all circumstances separated from adults.

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

**Thematic Group 1 "Employment, training and equal opportunities"**

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

- ▶ Article 11§1 - Conclusions XXII-2 (2021)
- ▶ Article 11§3 - Conclusions XXII-2 (2021)
- ▶ Article 14§2 - Conclusions XXII-2 (2021)

**Thematic Group 3 "Labour rights"**

- ▶ Article 3 of the 1988  
Additional Protocol - Conclusions XXI-3 (2018)

**Thematic Group 4 "Children, families, migrants"**

- ▶ Article 7§3 - Conclusions XIX-4 (2011)
- ▶ Article 7§10 - Conclusions XIX-4 (2011)
- ▶ Article 8§2 - Conclusions XIX-4 (2011)

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

#### **Thematic Group 1 “Employment, training and equal opportunities”**

- ▶ New labour legislation which repeals the prohibition on women performing night work with certain exceptions relating to maternity entered into force on 1 January 2010.

#### **Thematic Group 2 “Health, social security and social protection”**

- ▶ Government decision to withdraw a biology textbook, which had been found to contain discriminatory statements, from the national curriculum relating to sexual and reproductive health education.
- ▶ Government decision to withdraw a biology textbook, which had been found to contain discriminatory statements, from the national curriculum relating to sexual and reproductive health education.
- ▶ The Act on Amendments to the Social Welfare Act (Official Gazette, no. 79/07) provides that in addition to social welfare rights, beneficiaries are also entitled to other forms of assistance free of charge, including counselling and help to overcome special difficulties.

#### **Thematic Group 3 “Labour rights”**

- ▶ In 2014 entered in to force the Labour Act 93/2014 that regulates employment relationships in Croatia. The Labour Act 93/2014 contains provisions on the right to information and consultation and enables participation of workers in decision-making through three legal mechanisms: 1. works council, 2. workers’ assemblies and 3. employers’ bodies.

#### **Thematic Group 4 “Children, families, migrants”**

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