

ACTIVITY REPORT 2021



European Committee of Social Rights



European
Social
Charter

Charte
sociale
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COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Activity Report 2021

**European Committee
of Social Rights**

The European Committee of Social Rights rules on the conformity of the situation in States with the European Social Charter.

The Committee adopts “conclusions” in respect of national reports submitted annually by the States Parties, and it adopts “decisions” in respect of collective complaints lodged by the organisations.

The Committee is composed of 15 independent, impartial members who are elected by the Committee of Ministers of the Council of Europe for a term of office of six years, renewable once.

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Introduction

Across Europe, the year 2021 was marked by the ongoing and protracted health crisis. The Covid-19 pandemic and the measures taken by European governments to protect public health continued to have a strong impact – some positive, many negative – on the economic, cultural and social rights of European citizens. In many countries, the surge in infections was even more dramatic than the previous year. Among other things, this led to enormous pressure on health care and social protection systems. Unfortunately, those hit hardest by the effects of the pandemic are those who already faced particularly precarious living and working conditions before the crisis. The measures taken by European governments have sometimes been blind to the specific needs of marginalised groups and people in a situation of vulnerability. Women, people with disabilities, the youngest and oldest in our society, the homeless, migrants as well as persons belonging to various minority groups continue to face particularly precarious living conditions. Without targeted action, social inequalities will continue to rise in the coming years.

Despite all these negative effects, the crisis has also shown potential and resilience in certain areas and this must be utilised in the process of recovery. Across Europe, measures have been taken to protect citizens from the dramatic impact of the pandemic on their employment, health, education, housing, social protection and welfare. In many countries, this has led, for example, to the inclusion of previously largely excluded groups (e.g. the self-employed) in the social safety net and simplified access, at least temporarily, to certain social benefits. In addition, the pandemic has led to a stronger public focus on certain social rights that had previously often been overlooked and neglected, for example the right to housing. In some European countries, the pandemic has also led to particularly innovative measures or even a change of direction in social policy towards a stronger social welfare state. Nevertheless, the situation remained precarious for many in 2021. In the coming years, the European Committee of Social Rights will closely examine the impact of the pandemic on the social rights of Europeans, not least in the course of the annual reporting cycles. As the most important European human rights treaty in the field of social rights and as the “social constitution of Europe”, the European Social Charter is of central importance when it comes to guaranteeing and ensuring a socially just recovery and preparing Europe in the best possible way for coming crises. Only a comprehensive guarantee of social rights can contribute to the continuous reduction of structural inequalities as well as to the best possible protection of marginalised groups and people in vulnerable situations, especially in times of crisis.

With Miriam Kullmann (German), Paul Rietjens (Belgian), George N. Theodosios (Greek) and Mario Vinković (Croatian), **four new members** joined the European Committee of Social Rights in January 2021. I would like to take this opportunity to warmly welcome them in the name of the Committee and thank them for the excellent work they have already done in the first year of their six-year term.

With respect to the **collective complaints** procedure, six new complaints against five States Parties – Italy (two), Belgium (one), the Netherlands (one), Norway (one) and Portugal (one) – were lodged, with a majority of four being submitted by national trade unions. During the seven sessions held in 2021, the Committee adopted five decisions on the merits and six on admissibility, with an average processing time of 9.3 months for the six admissibility decisions and 40.3 months for the five decisions on the merits. The nine decisions on the merits that were made public in 2021 concerned a broad range of topics, with three of them being related to the protection and inclusion of children in various contexts. One complaint was declared inadmissible and three further decisions were adopted but will not be published until 2022.

Within the framework of the **reporting procedure**, the Committee examined 33 national reports on the articles of the Charter relating to the thematic group “Health, social security and social protection”, covering the period from 1 January 2016 to 31 December 2019. The Committee also took into consideration the reports submitted by trade unions, national human rights institutions and NGOs, which contributed essentially to a deeper understanding of the situation on the ground. As in previous years, the Committee tried to make the reporting process more streamlined and focused, and States Parties were asked to answer a limited number of targeted questions. Among others, those questions addressed the topic of digital work and the platform economy, reflecting the many challenges that the Committee has identified in this context in terms of ensuring social rights, such as the lack of social protection for platform workers or the “right to disconnect”. Out of the Committee’s 401 conclusions, 165 were of non-conformity with the Charter and 110 conclusions of conformity. In 126 cases, the Committee was unable to assess the situation due to a lack of information. Among others, the Committee identified persisting problems related to the high (and in some countries even rising) number of accidents at work and occupational diseases, the wide differences regarding life expectancy and the low public healthcare expenditure.

States were also specifically asked about the Covid-19 pandemic. These questions were based on the statement on Covid-19 and social rights that the Committee issued in March 2021. Therein, the Committee called on the States Parties to take all necessary measures to combat the virus, to ensure social rights and to protect the most socially disadvantaged groups. In this context, the Committee also noted the lack of an effective immunisation and epidemiological monitoring programmes, the lack or insufficient progress in the area of social security and the devastating impact of the pandemic on older persons. However, as these developments occurred outside of the assessment period, they were not considered in Conclusions 2021 but will be examined in detail in the next monitoring cycle.

In addition, the Committee adopted several **statements of interpretation**. In view of the sharp increase in telework in the wake of the Covid-19 pandemic, the Committee referred, for example, to the right to safe and healthy working conditions and called on States Parties to ensure that maximum working hours and rest periods for workers be respected (“right to disconnect”). With regard to the right to social security, the Committee criticised the fact that platform workers often do

not enjoy sufficient social and labour protection and reminded States Parties that all children residing in their territory are entitled to child benefits. The Committee also emphasised the provisions regarding the right of older persons to social protection and called for combating discrimination against them, not least in the light of the Covid-19 pandemic and the inadequate treatment of older persons that has emerged or worsened during the pandemic.

In 2021, as in 2020, the procedure of **non-accepted provisions** took the form of a traditional written reporting exercise and concerned the following States Parties: Austria, Greece, Lithuania, Republic of Moldova, the Netherlands, Norway and Ukraine. In this context, I would also like to remind all States Parties that the non-acceptance of certain provisions should only be of temporary character and that the governments of Council of Europe Member States that still have unaccepted provisions should strive for the ratification of the revised European Social Charter as a whole.

The constructive and fruitful exchange with all relevant **Council of Europe Bodies** continued throughout 2021 and the Committee is grateful for their continued support in the common effort towards an effective implementation of the European Social Charter. The Council of Europe persisted in drawing attention to the importance of social rights and the outstanding challenges connected to the Covid-19. Among others, Marija Pejčinović Burić, Secretary General of the Council of Europe, referred to the existing weaknesses in provision of social rights that have been further exposed by the Covid-19 pandemic and highlighted the importance of social rights for a sustainable recovery.

The year 2021 also marked the **60th anniversary of the European Social Charter**, which was celebrated with a multitude of events all over Europe and a solemn declaration by the Committee of Ministers. In this connection, many stakeholders published statements and resolutions highlighting the importance of the European Social Charter and the rights enshrined in it. In the course of this year's anniversary, I was also very pleased to present my book "The Revised European Social Charter. An article-by-Article commentary" and to discuss it with Ambassador Panayiotis Beglitis, Permanent Representative of Greece to the Council of Europe and with Gerhard Ermischer, President of the Conference of INGOs of the Council of Europe. I would like to thank the Secretariat of the European Social Charter and all other departments that made the 60th anniversary events possible.

In view of the Council of Europe's stated objective of improving the implementation of social rights in Europe, the Committee seeks to contribute to the work on the Council of Europe reform process on **strengthening the European Social Charter treaty system**. The goal remains to improve the implementation of the Charter while at the same time reducing the reporting burden for States Parties. 2022 will show us how the reform has developed.

Indeed, strengthening the European Social Charter remains a priority in these turbulent times. The recent financial and health crises have revealed **significant weaknesses in the protection of fundamental social rights** all over Europe. I therefore call upon the States Parties to the Charter to give the highest priority to the ratification

and guarantee of all provisions enshrined in the European Social Charter. I should also recall that four Council of Europe Member States have yet to ratify the Revised Charter. The effective implementation of social rights is crucial for the fight against social inequality and discrimination and crucial for the protection of marginalised groups and persons in particularly vulnerable situations – not least in times of crisis.

Karin Lukas,
President of the European Committee of Social Rights

1. Overview and key figures

The European Committee of Social Rights (ECSR) was set up by Article 25 of the 1961 Charter and its function is to rule on the conformity of the law and practice of the States Parties under the 1996 revised European Social Charter, the 1988 Additional Protocol and the initial 1961 European Social Charter¹. It is made up of 15 independent members elected by the Committee of Ministers (see below on its composition)².

The Committee conducts its supervision through two distinct but complementary procedures: the reporting procedure, in which it examines written reports submitted by States Parties at regular intervals, and the collective complaints procedure, which allows certain national and international non-governmental organisations to lodge complaints against States Parties that have agreed to be bound by this procedure.³

The national reports and the collective complaints are examined during the Committee's sessions, seven in 2021:

- ▶ 318th Session 25-29 January 2021
- ▶ 319th Session 22-26 March 2021
- ▶ 320th Session 17-21 May 2021
- ▶ 321st Session 28 June-2 July 2021
- ▶ 322nd Session 6-10 September 2021
- ▶ 323rd Session 18-22 October 2021
- ▶ 324th Session 6-10 December 2021

The Committee examined 33 national reports presented by States Parties to the Charter describing how they implement the Charter in law and in practice as regards the provisions covered by the thematic group "Health, social security and social protection":

- the right to safe and healthy working conditions (Article 3);
- the right to protection of health (Article 11);
- the right to social security (Article 12);
- the right to social and medical assistance (Article 13);
- the right to benefit from social welfare services (Article 14);
- the right of elderly persons to social protection (Article 23/ Article 4 of the 1988 Additional Protocol);
- the right to protection against poverty and social exclusion (Article 30).

The reports covered the period from 1 January 2016 to 31 December 2019.

1. See Appendix 1: Signatures and ratifications of the European Social Charter

2. See Appendix 2: Composition of the European Committee of Social Rights at 1 January 2021

3. In response to national reports, the Committee adopts conclusions; in response to collective complaints, it adopts decisions.

Germany and Iceland submitted their reports too late and therefore the Committee did not adopt any conclusions in respect of these two countries.

The Committee published its conclusions 2021 in respect of 33 States on the articles of the Charter relating to the thematic group “Health, social security and social protection” at an online press conference on 23 March 2021.

In the framework of the reporting procedure⁴, the Committee adopted 401 conclusions, including 165 conclusions of non-conformity and 110 conclusions of conformity with the Charter. In 126 cases, the Committee was unable to assess the situation due to insufficient information (“deferrals”).

Furthermore, the Committee presented its Findings 2021⁵ in respect of eight States (Belgium, Bulgaria, Finland, France, Greece, Ireland, Italy and Portugal) bound by the collective complaints procedure⁶ concerning the follow-up given to decisions on the merits of collective complaints in which the Committee found a violation. The Committee examined a total of 46 decisions; the highest number in respect of Greece (12 decisions) followed by France (10) and the lowest number in respect of Portugal with only one decision examined. The ECSR found that the violations identified had not been fully remedied in any of the 46 decisions concerned and it was therefore unable to close the follow-up procedure in any of them.

Six new complaints were lodged in 2021 against five States Parties to the Charter: Italy (two), Belgium (one), the Netherlands (one), Norway (one) and Portugal (one); four complaints were submitted by national trade unions, including one lodged by an international organisation of workers and national trade unions, one was lodged by a employers’ organisation and one by international NGOs.

During the seven sessions held in 2021, the European Committee of Social Rights adopted five decisions on the merits and six decisions on admissibility, including three decisions on admissibility and immediate measures, among which one decision declaring the complaint inadmissible.

With regard to decisions adopted during 2021, the average processing time was 9.3 months for the six admissibility decisions and 40.3 months for the five decisions on the merits. In comparison, the average times for the whole period from 1998 to 2021 were 6 months for admissibility decisions and 17.5 months for decisions on the merits.

In addition, the Committee held several meetings and exchanges with other institutions and bodies, such as the European Court of Human Rights, the European Commissioner for Human Rights, National Human Rights Institutions and National Equality Bodies as well as with national governments.

4. Reporting procedure: <https://www.coe.int/en/web/european-social-charter/national-reports>

5. Findings of the European Committee of Social Rights 2021: <https://rm.coe.int/findings-2021-en/1680a5eed8>

6. Collective complaints procedure: <https://www.coe.int/en/web/european-social-charter/collective-complaints-procedure>

2. Composition of the European Committee of Social Rights

The composition of the Committee is governed by Article 25 of the Charter. Its fifteen members are required to be “*independent experts of the highest integrity and of recognised competence in international social questions*”. They are nominated by States Parties and elected by the Committee of Ministers for a six-year period, renewable once.

Elections take place once every two years, with a third of the seats (five) to be filled at each election.

Three new members joined the ECSR on 1 January 2021: Dr Miriam Kullmann (German), Mr Paul Rietjens (Belgian), Mr George N. Theodosios (Greek) and Mr Mario Vinković (Croatian). The mandate of these members will end on 31 December 2026.

Moreover, the Ministers’ Deputies re-elected for another term Ms Karin Møhl Larsen (Danish), expert in international social security issues and European Union Law, retired.

On 28 January 2021, during its 318th session, the European Committee of Social Rights elected its new Bureau for a period of two years. Karin Lukas was elected as President of the Committee, Eliane Chemla and Aoife Nolan were elected Vice-Presidents and Giuseppe Palmisano was elected as new General Rapporteur.

3. Collective complaints procedure

3.1. Overview

Six new complaints were lodged in 2021⁷. During the seven sessions held in 2021, the European Committee of Social Rights adopted five decisions on the merits and six on admissibility, including three decisions on admissibility and immediate measures, one of which declaring the complaint inadmissible and one decision declaring a complaint admissible and indicating immediate measures.

The six complaints registered in 2021 were lodged against five States Parties: Italy (two), Belgium (one), the Netherlands (one), Norway (one) and Portugal (one); four complaints were submitted by national trade unions, including one lodged by an international organisation of workers and national trade unions, one was lodged by an employers' organisation and one by international NGOs.

With regard to the decisions adopted during 2021, the average processing time was 9.3 months for the six admissibility decisions and 40.3 months for the five decisions on the merits. In comparison, the average times for the whole period from 1998 to 2021 were 6 months for admissibility decisions and 17.5 months for decisions on the merits.

3.2. Decisions made public in 2021

In 2021, the following 9 decisions on the merits were made public:

- ▶ **The decision on the merits in *Associazione Professionale e Sindacale (ANIEF) v. Italy*, Complaint No. 146/2017, became public on 19 January 2021.**

ANIEF alleged that, while the Italian legislation provides that private sector workers can obtain indefinite duration contracts when their fixed-term contracts are renewed beyond certain terms, this does not apply to teaching and non-teaching staff (administrative, technical and auxiliary staff) in public education (nursery, primary and secondary schools), thus discriminating them and jeopardising their situation in violation of Articles 1§1, 1§2, 4§1, 4§4, 5, 6§4, 24 and E in conjunction with each of the provisions concerned of the Charter.

In its decision on the merits, adopted on 7 July 2020, the Committee concluded:

- by 9 votes to 5, that there was no violation of Article 1§2 of the Charter in respect of public education staff registered in specific reserve lists (known as “eligibility ranking lists to be drawn upon exhaustion” - henceforth “ERE lists”) henceforth “ERE lists”) and recruited under successive contracts for an overall length of more than 36 months;

7. See Appendix 3: Collective complaints registered in 2021

- unanimously, that there was a violation of Article 1§2 of the Charter in respect of public education staff not registered in the ERE lists and recruited under successive contracts with interruptions for an overall length of more than 36 months;
 - by 10 votes to 4, that there was no violation of Article E in conjunction with Article 24 of the Charter.
 - The Committee of Ministers adopted Recommendation CM/RecChS(2021)18⁸ on 16 June 2021.
- **The decision on the merits in *Fédération de syndicats des métiers de l'ingénierie, de l'informatique, du conseil, de la formation, des bureaux et d'études (FIECI) and Syndicat National de l'Encadrement du Personnel de l'Ingénierie (SNEPI CFE-CGC) c. France, Complaint No. 142/2017, became public on 1 February 2021.***

FIECI/SNEPI CFE-CGT alleged that France, in violation of Article 5 of the Charter, infringes the right of trade unions to organise by requiring that a trade union representative in a company can only be appointed from among those candidates who have obtained at least 10% of the votes in the last workplace elections, elections, which could in some cases prevent a trade union from appointing its representative in the company.

In its decision on the merits, adopted on 9 September 2020, the Committee concluded:

- unanimously that there was no violation of Article 5 of the Charter.

The Committee of Ministers adopted Resolution CM/ ResChS(2021)1⁹ on 28 April 2021.

The decision on the merits in International Federation for Human Rights (FIDH) and Inclusion Europe v. Belgium, Complaint No. 141/2017, became public on 3 February 2021.

FIDH and Inclusion Europe alleged that by failing to make sufficient efforts to promote the inclusion of children with intellectual disabilities in mainstream primary and secondary education provided in schools attached to the French Community (Wallonia-Brussels Federation), Belgium has failed to comply with the obligations resulting from Articles 15 (the right of persons with disabilities to independence, social integration and participation in the life of the community) and 17 (the right of children and young persons to social, legal and economic protection) read alone, and Article E (non-discrimination) read in conjunction with the other provisions of the Charter mentioned.

In its decision on the merits, adopted on 9 September 2020, the Committee concluded:

- unanimously that there was a violation of Article 15§1 of the Charter on the ground that the right to inclusive education of children with intellectual disabilities was not effectively guaranteed in the French Community in Belgium;

8. [CM/RecChS\(2021\)18](#): Recommendation - Associazione Professionale e Sindacale (ANIEF) against Italy - Complaint No. 146/2017 (Adopted by the Committee of Ministers on 16 June 2021 at the 1407th meeting of the Ministers' Deputies)

9. [CM/ResChS\(2021\)1](#): Resolution - *Fédération de syndicats des métiers de l'ingénierie, de l'informatique, du conseil, de la formation, des bureaux et d'études (FIECI) and Syndicat national de l'encadrement du personnel de l'ingénierie (SNEPI CFE-CGC) v. France* - Complaint No. 142/2017 (Adopted by the Committee of Ministers on 28 April 2021 at the 1402nd meeting of the Ministers' Deputies)

- unanimously that there was no violation of Article E read in conjunction with Article 15§1 of the Charter;
- unanimously that there was a violation of Article 17§2 of the Charter on the ground that children with intellectual disabilities did not have an effective right to an inclusive education in the French Community;
- unanimously that there was no violation of Article E read in conjunction with Article 17§2 of the Charter.
- The Committee of Ministers adopted Recommendation CM/ResChS(2021)19¹⁰ on 22 September 2021.

► **The decision on the merits in *Confederazione Generale Sindacale (CGS) v. Italy*, Complaint No. 144/2017, became public on 9 February 2021.**

CGS alleged that, while the Italian legislation provides that private sector workers can obtain indefinite duration contracts when their fixed-term contracts are renewed beyond certain terms, this does not apply to public sector workers, in particular teaching and non-teaching staff (administrative, technical and auxiliary staff) in public education (nursery, primary and secondary schools), thus discriminating them and jeopardising their situation in violation of Articles 1§1, 1§2, 4§1, 4§4, 5, 6§4, 24 and E in conjunction with each of the provisions concerned of the Charter.

In its decision on the merits, adopted on 9 September 2020, the Committee concluded:

- by 13 votes to 2 that there was no violation of Article 1§2 of the Charter in respect of public sector staff, including public education staff registered in specific reserve lists ((known as “eligibility ranking lists to be drawn upon exhaustion” - henceforth “ERE lists”), recruited under successive contracts for an overall length of more than 36 months;
- unanimously that there was a violation of Article 1§2 of the Charter in respect of public education staff not registered in the ERE lists and recruited under successive contracts with interruptions for an overall length of more than 36 months.

The Committee of Ministers adopted Recommendation CM/RecChS(2021)17¹¹ on 16 June 2021.

The decision on the merits in International Commission of Jurists (ICJ) v. Czech Republic, Complaint No. 148/2017, became public on 17 March 2021.

The ICJ alleged that the situation in the Czech Republic amounted to a violation of Article 17, either alone or in light of the non-discrimination clause of the Preamble to the 1961 Charter, on the grounds that the Czech Republic failed to ensure equal legal protection for and participation of children below the age of criminal responsibility in the pre-trial stage of juvenile justice procedures, and to ensure alternatives to formal trials.

10. [CM/RecChS\(2021\)19](#): Recommendation - International Federation for Human Rights (FIDH) and Inclusion Europe v. Belgium - Complaint No. 141/2017 (Adopted by the Committee of Ministers on 22 September 2021 at the 1412th meeting of the Ministers’ Deputies)

11. [CM/RecChS\(2021\)17](#): Recommendation - *Confederazione Generale Sindacale (CGS)* against Italy - Complaint No. 144/2017 (Adopted by the Committee of Ministers on 16 June 2021 at the 1407th meeting of the Ministers’ Deputies)

In its decision on the merits, adopted on 20 October 2020, the Committee concluded:

- unanimously that there was a violation of Article 17 of the 1961 Charter due to the failure to ensure mandatory legal assistance for children below the age of criminal responsibility in the pre-trial stage of proceedings;
- unanimously that there was no violation of Article 17 of the 1961 Charter due to the failure to ensure access to the police file in the pre-trial stage of proceedings for children below the age of criminal responsibility;
- unanimously that there was no violation of Article 17 of the 1961 Charter due to the failure to ensure that children below the age of criminal responsibility are served with the final resolution of the police authority in their case and have the right to appeal against that resolution;
- unanimously that there was a violation of Article 17 of the 1961 Charter due to the failure to provide alternatives (diversion) to formal judicial proceedings for children below the age of criminal responsibility.

The Committee of Ministers adopted Recommendation CM/RecChS(2021)15¹² on 16 June 2021.

The decision on the merits in *European Organisation of Military Associations (EUROMIL) v. Ireland*, Complaint No. 164/2018, became public on 18 March 2021.

The *European Organisation of Military Associations and Trade Unions (EUROMIL)* alleged that the situation in Ireland was in violation of Articles 1§2 and 26§2 of the Charter on the basis there was no provision in Irish law enabling members of the Irish Defence Forces to discharge from the armed forces on grounds of conscientious objection.

In its decision on the merits, adopted on 21 October 2020, the Committee concluded:

- by 13 votes to one, that there was no violation of Article 1§2 of the Charter.

The Committee of Ministers adopted Resolution CM/ResChS(2021)3¹³ on 16 June 2021.

The decision on the merits in *International Federation of Associations of the Elderly (FIAPA) v. France*, Complaint No. 162/2018, became public on 12 May 2021.

FIAPA alleged that Ordinance No. 2017-192 of 16 February 2017, which sets an age limit of 71 years for candidates for an election to the board of the Order of health-care professionals, was contrary to Articles 5 and 23 and Article E read in conjunction with each of these provisions of the revised European Social Charter.

In its decision on the merits, adopted on 10 December 2020, the Committee concluded:

- unanimously that there was no violation of Article 23 of the Charter;
- unanimously that there was no violation of Article E in conjunction with Article 5 of the Charter.

12. [CM/RecChS\(2021\)15](#): Recommendation - International Commission of Jurists (ICJ) against the Czech Republic - Complaint No. 148/2017 (Adopted by the Committee of Ministers on 16 June 2021 at the 1407th meeting of the Ministers' Deputies)

13. [CM/ResChS\(2021\)3](#): Resolution - *European Organisation of Military Associations and Trade Unions (EUROMIL) v. Ireland* - Complaint No. 164/2018 (Adopted by the Committee of Ministers on 16 June 2021 at the 1407th meeting of the Ministers' Deputies)

The Committee of Ministers adopted Resolution CM/ResChS(2021)2¹⁴ on 28 April 2021.

The decision on the merits in International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, Complaint No. 173/2018, became public on 12 July 2021.

ICJ and ECRE alleged that serious systemic flaws in Greek law, policy and practice deprive unaccompanied migrant children in Greece both on the mainland and on the Greek Aegean islands of Lesbos, Kos, Samos, Chios and Leros, and accompanied migrant children on those islands of the rights to housing, health, social and medical assistance, education, and social, legal and economic protection under the Charter. The complainant organisations alleged that these shortcomings are in violation of Articles 31§§ 1 and 2 (right to housing), 17§1 (right of children and young persons to social, legal and economic protection), 16 (right of the family to social, legal and economic protection), 7§10 (right of children and young persons to protection), 11§§1 and 3 (right to protection of health), 13 (right to social and medical assistance) and 17§2 (right of children and young persons to education).

In its decision on the merits, adopted on 26 January 2021, the Committee concluded:

- unanimously that there was a violation of Article 31§1 of the Charter due to:
 - the failure to provide adequate accommodation to refugee and asylum-seeking children on the islands;
 - the lack of sufficient long-term accommodation for unaccompanied refugee and asylum-seeking children on the mainland;
- unanimously that there was a violation of Article 31§2 of the Charter due to:
 - the inappropriate accommodation of accompanied and unaccompanied migrant children on the islands;
 - the lack of provision of a shelter to unaccompanied migrant children on the mainland;
- unanimously that there was a violation of Article 17§1 of the Charter due to:
 - the inadequate accommodation situation of accompanied and unaccompanied migrant children;
 - the lack of an effective guardianship system for migrant children who were unaccompanied or who had been separated from their guardians;
 - the detention of unaccompanied migrant children under the “protective custody” scheme;
- unanimously that there was a violation of Article 7§10 of the Charter due to the failure to take the necessary measures to guarantee accompanied and unaccompanied migrant children special protection against physical and moral dangers;

14. [CM/ResChS\(2021\)2](#): Resolution - International Federation of Associations of the Elderly (FIAPA) v. France - Complaint No. 162/2018 (Adopted by the Committee of Ministers on 28 April 2021 at the 1402nd meeting of the Ministers’ Deputies)

- unanimously that there was a violation of Article 17§2 of the Charter due to the lack of access to education for accompanied and unaccompanied migrant children on the islands;
- unanimously that there was a violation of Article 11§§1 and 3 of the Charter due to:
 - the failure to provide appropriate accommodation and sufficient health care to accompanied and unaccompanied migrant children on the islands;
 - the failure to provide appropriate shelter to unaccompanied migrant children on the mainland;
- unanimously that there was no violation of Article 13§1 of the Charter with regard to the provision of food.

The Committee of Ministers adopted Recommendation CM/RecChS(2022)2¹⁵ on 20 April 2022.

- ▶ **The decision on the merits in *Confédération générale du travail (CGT) and Confédération française de l'encadrement-CGC (CFE-CGC) v. France, Complaint No. 149/2017, became public on 10 November 2021.***

CGT and CFE-CGC alleged that the provisions of Act No. 2016-1088 of 8 August 2016 on labour, modernisation of the social dialogue and professional careers security fail to comply with Articles 2§§1 and 5 and 4§2 of the Charter.

In its decision on the merits, adopted on 19 May 2021, the Committee concluded:

- unanimously that there was a violation of Article 2§1 of the Charter on the following grounds:
 - a) the entire assimilation of on-call periods to rest periods;
 - b) as regards the annual working days:
 - the absence of statutory limits to the maximum permissible weekly working hours;
 - the absence of adequate safeguards to guarantee reasonable working time;
 - the reference period of 12 months;
 - unanimously that there was a violation of Article 2§5 of the Charter because on-call periods that are assimilated to rest periods can occur on Sundays;
 - unanimously that there was a violation of Article 4§2 of the Charter because workers under the annual working days system cannot claim remuneration for overtime.

15. [CM/RecChS\(2022\)2](#): Recommendation - International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, Complaint No. 173/2018 (Adopted by the Committee of Ministers on 20 April 2022 at the 1432nd meeting of the Ministers' Deputies)

The Committee of Ministers adopted Recommendation CM/RecChS(2022)¹⁶ on 23 February 2022.

In addition, the following decisions adopted by the European Committee of Social Rights in 2021 were made public in 2022:

- ▶ The decision on the merits in *Unione Nazionale Dirigenti dello Stato* (UNADIS) v. Italy, Complaint No. 147/2017, which was adopted on 30 June 2021, became public on 4 January 2022.
- ▶ The decision on the merits in *European Youth Forum (YFJ) v. Belgium*, Complaint No. 150/2017, which was adopted on 8 September 2021, became public on 16 February 2022.
- ▶ The decision on the merits in *Unione sindacale di base Settore pubblico impiego* (USB) v. Italy, Complaint No. 153/2017, which was adopted on 8 December 2021, became public on 25 May 2022.

3.3. Complaints declared inadmissible

▶ **Greek Bar Associations v. Greece, Complaint No. 196/2020**

The GBAs alleged that the acts and omissions of the Greek authorities concerning social support given to lawyers during the Covid-19 pandemic have deprived them of their right to protection against poverty and social exclusion (Article 30), to the protection of their health (Article 11), to social security, to social assistance and to benefit from social welfare services (Article 13), to social, legal, and economic protection for their families (Article 16), to social, legal, and economic protection for their children (Article 17), and their right to housing (Article 31). The GBAs consider that this difference in treatment amounts to discrimination and is therefore not in conformity with Article E of the Charter.

The Committee considered that the fact that the GBAs have initiated certain activities with a view to protecting the interests of their members does not as such suffice to justify a conclusion that the GBAs are trade unions in the meaning of the Charter generally and in the meaning of the Protocol more particularly. The Committee declared the complaint inadmissible on 23 March 2021 and decided that it was not necessary to rule on the request for immediate measures.

3.4. Further decisions adopted in 2021

In addition, the following decisions adopted by the European Committee of Social Rights in 2021 were made public in 2022¹⁷:

- ▶ The decision on the merits in *Unione Nazionale Dirigenti dello Stato* (UNADIS) v. Italy, Complaint No. 147/2017 was adopted on 30 June 2021. The decision became public on 4 January 2022.

16. CM/RecChS(2022)2: Recommendation - *Confédération générale du travail* (CGT) and *Confédération française de l'encadrement-CGC* (CFE-CGC) v. France, Complaint No. 149/2017 (Adopted by the Committee of Ministers on 23 February 2022 at the 1426th meeting of the Ministers' Deputies)

17. See Appendix 4 and 5: Decisions adopted by the European Committee of Social Rights per year and per country

- ▶ The decision on the merits in European Youth Forum (YFJ v. Belgium, Complaint No. 150/2017) was adopted on 8 September 2021. The decision became public on 16 February 2022.
- ▶ The decision on the merits in *Unione sindacale di base Settore pubblico impiego (USB) v. Italy*, Complaint No. 153/2017 was adopted on 8 December 2021. The decision became public on 25 May 2022.

3.5. Follow-up to decisions of the European Committee of Social Rights by the Committee of Ministers

In the event that the ECSR's decisions identifies violations of the Charter, the Committee of Ministers of the Council of Europe examines the follow-up to be given to the decisions and the respondent States are invited to provide information on the measures taken or planned to bring the situation into conformity. Under Article 9 of the Protocol providing for a system of collective complaints, the Committee of Ministers shall adopt a recommendation to the respondent State by a two-thirds majority of those voting or a resolution, by a majority of those voting, notably when the respondent States announce that specific steps have already been taken or will be taken in order to bring the situation into conformity. In cases where the ECSR finds no violation of the Charter, the Committee of Ministers adopts a resolution closing the procedure.

The Committee of Ministers' decisions on follow-up are based on social and economic policy considerations. The Committee of Ministers cannot reverse the legal assessment made by the European Committee of Social Rights.

In 2021, the Committee of Ministers adopted 19 recommendations concerning 19 complaints:

▶ **CM/RecChS(2021)19**

Recommendation – International Federation for Human Rights (FIDH) and Inclusion Europe v. Belgium – Complaint No. 141/2017 (Adopted by the Committee of Ministers on 22 September 2021 at the 1412th meeting of the Ministers' Deputies)

▶ **CM/RecChS(2021)18**

Recommendation - Associazione Professionale e Sindacale (ANIEF) against Italy - Complaint No. 146/2017 (Adopted by the Committee of Ministers on 16 June 2021 at the 1407th meeting of the Ministers' Deputies)

▶ **CM/RecChS(2021)17**

Recommendation – *Confederazione Generale Sindacale (CGS)* against Italy – Complaint No. 144/2017 (Adopted by the Committee of Ministers on 16 June 2021 at the 1407th meeting of the Ministers' Deputies)

▶ **CM/RecChS(2021)16**

Recommendation - European Roma Rights Centre (ERRC) and Mental Disability Advocacy Centre (MDAC) against the Czech Republic - Complaint No. 157/2017 (Adopted by the Committee of Ministers on 16 June 2021 at the 1407th meeting of the Ministers' Deputies)

▶ **CM/RecChS(2021)15**

Recommendation – International Commission of Jurists (ICJ) against the Czech Republic – Complaint No. 148/2017 (Adopted by the Committee of Ministers on 16 June 2021 at the 1407th meeting of the Ministers’ Deputies)

▶ **CM/RecChS(2021)14**

Recommendation - University Women of Europe (UWE) against Slovenia - Complaint No. 137/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers’ Deputies)

▶ **CM/RecChS(2021)13**

Recommendation – University Women of Europe (UWE) against Portugal – Complaint No. 136/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers’ Deputies)

▶ **CM/RecChS(2021)12**

Recommendation - University Women of Europe (UWE) against Norway - Complaint No. 135/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers’ Deputies)

▶ **CM/RecChS(2021)11**

Recommendation – University Women of Europe (UWE) against Netherlands – Complaint No. 134/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers’ Deputies)

▶ **CM/RecChS(2021)10**

Recommendation - University Women of Europe (UWE) against Italy - Complaint No. 133/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers’ Deputies)

▶ **CM/RecChS(2021)9**

Recommendation – University Women of Europe (UWE) against Ireland – Complaint No. 132/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers’ Deputies)

▶ **CM/RecChS(2021)8**

Recommendation - University Women of Europe (UWE) against Greece - Complaint No. 131/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers’ Deputies)

▶ **CM/RecChS(2021)7**

Recommendation - University Women of Europe (UWE) against France - Complaint No. 130/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers’ Deputies)

▶ **CM/RecChS(2021)6**

Recommendation – University Women of Europe (UWE) against Finland – Complaint No. 129/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers’ Deputies)

► **CM/RecChS(2021)5**

Recommendation - University Women of Europe (UWE) against Czech Republic - Complaint No. 128/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers' Deputies)

► **CM/RecChS(2021)4**

Recommendation – University Women of Europe (UWE) against Cyprus – Complaint No. 127/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers' Deputies)

► **CM/RecChS(2021)3**

Recommendation - University Women of Europe (UWE) against Croatia - Complaint No. 126/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers' Deputies)

► **CM/RecChS(2021)2**

Recommendation – University Women of Europe (UWE) against Bulgaria – Complaint No. 125/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers' Deputies)

► **CM/RecChS(2021)1**

Recommendation - University Women of Europe (UWE) against Belgium - Complaint No. 124/2016 (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers' Deputies)

In 2021, the Committee of Ministers adopted also 4 resolutions concerning 4 complaints:

► **CM/ResChS(2021)4**

Resolution - Unione Nazionale Dirigenti dello Stato (UNADIS) v. Italy - Complaint No. 147/2017 (Adopted by the Committee of Ministers on 10 November 2021 at the 1417th meeting of the Ministers' Deputies)

► **CM/ResChS(2021)3**

Resolution - European Organisation of Military Associations and Trade Unions (EUROMIL) v. Ireland - Complaint No. 164/2018 (Adopted by the Committee of Ministers on 16 June 2021 at the 1407th meeting of the Ministers' Deputies)

► **CM/ResChS(2021)2**

Resolution - International Federation of Associations of the Elderly (FIAPA) v. France - Complaint No. 162/2018 (Adopted by the Committee of Ministers on 28 April 2021 at the 1402nd meeting of the Ministers' Deputies)

► **CM/ResChS(2021)1**

Resolution - Fédération de syndicats des métiers de l'ingénierie, de l'informatique, du conseil, de la formation, des bureaux et d'études (FIECI) and Syndicat national de l'encadrement du personnel de l'ingénierie (SNEPI CFE-CGC) v. France - Complaint No. 142/2017 (Adopted by the Committee of Ministers on 28 April 2021 at the 1402nd meeting of the Ministers' Deputies)

3.6. European Committee of Social Rights findings on the follow-up to decisions in the collective complaints procedure

In the framework of the reporting procedure, States Parties bound by the collective complaints procedure submit every other year so-called “simplified reports” (instead of the ordinary thematic reports on accepted provisions) dealing exclusively with the follow-up given to decisions on the merits of collective complaints in which the Committee found a violation.¹⁸

In 2021, the Committee examined, as in 2020, the simplified reports submitted by Belgium, Bulgaria, Greece, Finland, France, Ireland, Italy and Portugal.¹⁹

Considering the short period since its previous follow-up assessment (Findings 2020), the Committee noted that although progress had been made, the situations had not been brought into conformity with the Charter, with the exception of the follow-up to the decision on the merits of the following complaint:

► **European Confederation of Police (EuroCOP) v. Ireland, Complaint No. 83/2012, Decision on admissibility and the merits of 2 December 2013**

As regards the violation of Article 5 of the Charter concerning the prohibition against police representative associations from joining national employees’ organisations, having the factual effect of depriving them to negotiate on pay, pensions and service conditions represented by national organisations:

The Committee noted that, although implementation of the legislation is still an ongoing process, it allows *An Garda Síochána* to participate in national public service pay negotiations. The Committee therefore found that the situation had been brought into conformity with Article 5 of the Charter.

As regards the violation of Article 6§2 of the Charter on the ground that the police representative associations were not provided with a means to effectively represent their members in all matters concerning their material and moral interests:

In the light of the implementation of the legislation and the fact that *Garda* Associations can take part in national public service pay negotiations and also access the Workplace Relations Commission and the Labour Court, the Committee found that the situation had been brought into conformity with Article 6§2 of the Charter.

18. For details of this type of reporting, see the Social Charter website: <https://www.coe.int/en/web/european-social-charter/reporting-system>

19. Findings 2021 of the European Committee of Social Rights: <https://rm.coe.int/findings-2021-en/1680a5eed8>

4. Reporting procedure

4.1. Overview

In 2021, in the framework of the reporting procedure, the European Committee of Social Rights (ECSR) examined national reports²⁰ submitted by 33 States Parties on the articles of the Charter relating to the thematic group “Health, social security and social protection”:

- ▶ the right to safe and healthy working conditions (Article 3);
- ▶ the right to protection of health (Article 11);
- ▶ the right to social security (Article 12);
- ▶ the right to social and medical assistance (Article 13);
- ▶ the right to benefit from social welfare services (Article 14);
- ▶ the right of elderly persons to social protection (Article 23/ Article 4 of the 1988 Additional Protocol);
- ▶ the right to protection against poverty and social exclusion (Article 30).

The national reports cover the period from 1 January 2016 until 31 December 2019.

The following 33 countries were examined:

Albania, Andorra, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Georgia, Germany, Hungary, Iceland, Latvia, Lithuania, Luxembourg, Malta, Montenegro, the Netherlands, the Netherlands in respect of Curacao, the Netherlands in respect of Sint Maarten, North Macedonia, Poland, Romania, the Russian Federation²¹, Serbia, the Slovak Republic, Slovenia, Spain, Sweden, Türkiye, Ukraine and the United Kingdom²².

For its examination of the state reports, the Committee also had at its disposal comments on the reports submitted by different trade unions, national human rights institutions and non-governmental organisations. These comments were often crucial in gaining a proper understanding of the national situations concerned.

The efforts of the European Committee of Social Rights to render the reporting procedure lighter and more targeted, focusing on topics of strategic importance were translated into concrete action. For a third consecutive year, the Committee

20. National reports submitted by State parties: [Reporting system of the European Social Charter \(coe.int\)](https://www.coe.int/t/e/sr/Reporting_system_of_the_European_Social_Charter.aspx)

21. These conclusions were adopted while the Russian Federation was a Contracting Party to the European Social Charter. The information set out herein reflects that fact. However, subsequently, by decision of 16 March 2022 of the Committee of Ministers of the Council of Europe, on that day the Russian Federation ceased to be a member of the Council of Europe.

22. Germany and Iceland also submitted reports, however they arrived too late to be examined by the Committee.

asked States Parties to the European Social Charter - whether the 1961 or the Revised Charter - to respond in their reports to certain targeted questions²³ with a strategic dimension and to address only part of the provisions within the group “health, social security and social protection”, without prejudice to responding to issues still pending from previous reporting cycles.

In January 2022, the European Committee of Social Rights adopted 401 conclusions in respect of the 33 States, including 165 conclusions of non-conformity to the Charter and 110 conclusions of conformity. In 126 cases, the Committee was unable to assess the situation due to lack of information (“deferrals”).

In its targeted questions to States Parties, the Committee included several questions relating to the health and safety regulations in evolving new situations such as in the digital and platform economy, the social protection coverage of platform workers or the regulation of excessive working hours and the right to disconnect.

With regard to health and safety for workers in the digital or platform economy, the Committee found that in some countries self-employed and domestic workers were not covered by occupational health and safety regulations.

In many countries, the number of accidents at work (including fatal accidents) and occupational diseases is still high or increasing and, according to the Committee, the measures taken to improve the situation are not always sufficient. In some cases, the national labour inspectorates are not efficient enough due to staff shortages, low number of inspection visits or repetitive absence of different types of information.

With regard to the right to health, the information on life expectancy provided by States and other sources revealed that wide differences exist between men and women, regions, urban and rural areas, income and level of education.

Furthermore, the Committee found that many States have failed to take adequate steps to address the persistently high levels of infant and maternal mortality which, when examined together with other basic health indicators, pointed to weaknesses in the health system. Public healthcare expenditure remains too low in certain countries and the right to access health care is not guaranteed sufficiently. The level of awareness and education with respect to sexual orientation and gender identity and to gender-based violence is not sufficient in several countries.

With respect to the obligation by States to prevent as far as possible epidemic, endemic and other diseases, the Committee noted the absence of efficient immunisation and epidemiological monitoring programmes, the lack of legislation prohibiting the sale and use of asbestos or insufficient measures to ensure access to safe drinking water in rural areas.

The Committee once again found little or no progress in many States Parties as regards social security. Inadequate minimum level of income-replacement benefits is still the main ground of non-conformity. The Committee noted that, in some States Parties,

23. Targeted questions of the European Committee of Social Rights relating to conclusions 2021 on health, social security and social protection: [Revised Charter](#) and [1961 Charter](#)

minimum levels of unemployment, sickness and disability benefits have increased at a higher rate than the median income. However, these benefits remain low and sometimes fall below 50% or even below 40% of median income.

Regrading social security coverage for persons employed or whose work is managed through digital platforms, many States Parties were unable to provide information and the Committee had to defer its conclusion.

In many States Parties to the Charter, the level of social assistance paid to a single person without resources remains below the poverty threshold. In addition, excessive length of residence requirements often prevents lawfully resident foreigners from accessing social and medical assistance.

With regard to the rights of older persons, the Committee found that in many States Parties older persons lack adequate resources enabling them to lead a decent life and play an active role in the community. Legislation prohibiting discrimination outside employment is still lacking in certain States.

The Committee noted the devastating effects of Covid-19 on older persons and emphasised the importance of moving away from institutionalisation towards community-based care and independent living for older persons.

Finally, the Committee concluded that in many countries the poverty level is high, and the measures taken to remedy this fundamental problem have been insufficient. Often, the situation was exacerbated by the covid-19 pandemic.

Nevertheless, the Committee noted with satisfaction the adoption in some countries of various measures to strengthen health and safety at work, access to healthcare for the homeless, health and sexuality education at schools, and positive measures regarding the rights of LGBTI persons.

In addition, in 2021 the Committee adopted the following statements of interpretation:

Statement of interpretation on Article 3§2 The right to safety and healthy working conditions - Digital disconnect and electronic monitoring of workers

The Covid-19 pandemic has changed the way many people work, and many workers now telework or work remotely. Lockdown and movement restrictions also expanded or intensified considerably the phenomenon of remote working, including outside of normal work hours. The Committee's Statement on Covid-19 and social rights notes that teleworking or remote working in the Covid-19 pandemic may be associated with specific health and safety risks, including unsuitable workplace ergonomics and psychosocial stress factors such as isolation, electronic surveillance and "hyperconnected" working methods (Statement on Covid-19 and social rights, March 2021). Teleworking or remote working may also lead to excessive working hours.

The Committee considers that, consistent with States Parties' obligations in terms of Article 3§2, in order to protect the physical and mental health of persons teleworking or working remotely and to ensure the right of every worker to a safe and healthy working environment, it is necessary to enable fully the

right of workers to refuse to perform work outside their normal working hours (other than work considered to be overtime and fully recognised accordingly) or while on holiday or on other forms of leave (sometimes referred to as the ‘right to disconnect’). The Committee recalls that one of the primary aims of Article 2 of the Charter - which guarantees the right of all workers to just working conditions, including reasonable daily and weekly working hours (Article 2§1), annual holiday with pay (Article 2§3), and weekly rest periods (Article 2§5) - is to protect a worker’s safety and health.

States Parties should ensure there is a legal right not to be penalised or discriminated against for refusing to undertake work outside normal working hours. States must also ensure that there is a legal right to protection from victimisation for complaining when an employer expressly or implicitly requires work to be carried out outside working hours. The expectation from the employers that workers will be available outside their working hours, if implemented in practice, is hazardous to the workers’ health. States Parties must ensure that employers have a duty to put in place arrangements to limit or discourage unaccounted for out-of-hours work, especially for categories of workers who may feel pressed to overperform (e.g. those during probationary periods or for those on temporary or precarious contracts).

In some cases, arrangements may be necessary to ensure the digital disconnect in order to guarantee the enjoyment of rest periods. This may have a positive effect on workers’ health, since it is likely to reduce burn-outs and overload.

Being connected outside normal working hours also increases the risk of electronic monitoring of workers during such periods, which is facilitated by technical devices and software. This can further blur the boundaries between work and private life.

The Committee recalls that it has already stated that under Article 1§2 of the Charter individuals must be protected from interference in their private or personal lives associated with or arising from their employment situation, in particular through modern electronic communication and data collection techniques.²⁴

The Committee notes that in addition to interfering with the right to privacy the electronic monitoring of workers may have implications for the health of workers, including their physical and mental health. Therefore, the Committee considers that States Parties must take measures to limit and regulate the electronic monitoring of workers.

Statement of interpretation on Article 12§3 The right to social security - Social coverage for digital platform workers

The Committee recalls that it put a question to all States Parties under Article 12§3 of the Charter on social security coverage for persons employed or whose work is managed through digital platforms. There may be (or there are) cases where platform

24. [Conclusions 2006, Statement of Interpretation on Article 1§2](#); [Conclusions 2012, Statement of Interpretation on Article 1§2](#)

work (also referred to as “gig work”) is a legitimate response to the nature of the tasks and the needs of employer and worker. However, developments in the platform economy have led in particular to a practice of fragmenting work that has resulted in contracting for services for (micro) tasks. This fragmentation bears the danger of disguising that workers perform a job and have an employment relationship by being misclassified as self-employed workers.

The use of algorithmic management by digital platforms (or employing entities) often leads to a weakening of the position of workers. In particular, platform work may have an adverse impact on access to and enjoyment of a range of rights guaranteed under the Charter for the workers concerned. This includes not least the right to social security under Article 12 of the Charter.

In order to counteract these negative effects, States Parties must take all necessary steps to ensure that all workers in new forms of employment such as platform work have a legal status (employee, self-employed or other category) and that this status is in line with the actual situation thus avoiding abuse (such as the use of “bogus” or “false” self-employed status to circumvent the applicable social security regulations) and conferring adequate social security rights as guaranteed by Article 12 of the Charter on the platform workers concerned.

Statement of interpretation on Article 12§4

The right to social security - Child benefits

As regards equal treatment in respect of family benefits, the Committee recalls that the purpose of child benefits is to compensate the costs of maintenance, care and education of children. Such costs primarily occur in the State where the child actually resides.

The Committee further recalls that child benefits are covered by different provisions of the Charter, and in particular by Article 12§1 and Article 16 of the Charter. Under Article 12§1 States Parties have an obligation to establish and maintain a social security system including a family benefits branch. Under Article 16 States Parties are required to ensure the economic protection of the family by appropriate means. The primary means should be child benefits provided as part of social security, available either universally or subject to a means-test. States Parties have a unilateral obligation to pay child benefits in respect of all children resident in their territory on an equal footing, whether they are nationals or have moved from another State Party.

The Committee is aware that States Parties that are also EU Member States, on the basis of the EU legislation on coordination of the social security system are obliged to apply coordination rules which to a large extent prescribe exportability of child benefits and family allowances. When the situation is covered by the Charter, and the EU legislation does not apply, the Committee has regard to its interpretation according to which the payment of child benefits to all residing children, as a starting point, is a unilateral obligation for all States Parties. The Committee decides no longer to examine the issue of exportability of child benefits under Article 12§4a.

Under Article 12§4a of the Charter the Committee will only examine whether child benefits are paid to children, having moved from another State Party, on an equal footing with nationals, thus ensuring equal treatment of all resident children. Under Article 16 the Committee will examine equal treatment of families as regards access to family benefits and whether the legislation imposes length of residence requirement on families for entitlement to child benefit.

Statement of interpretation on Article 23

The right of elderly persons to social protection – Ageism

The Committee recalls that Article 23 of the Charter requires State Parties to undertake to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular to enable older persons to remain full members of society for as long as possible. The expression “full members of society” used in Article 23 requires that older persons must suffer no ostracism on account of their age. The right to take part in society’s various fields of activity should be ensured to everyone active or retired, living in an institution or not.

The Committee takes due account of contemporaneous definitions of ageism which refer to the stereotypes, prejudices and discrimination directed towards other or oneself based on age (see for example WHO report on Ageism, 2021, p. XIX) As the World Health Organisation has noted, “... ageism has serious and far-reaching consequences for people’s health, well-being and human rights” (WHO report on Ageism, 2021, p. XVI).

The Covid-19 crisis has exposed and exacerbated a lack of equal treatment of older persons. This has included in the healthcare context, where there have been instances of rationing of scarce resources (e.g. ventilators) based on stereotyped perceptions of quality of life, vulnerability and decline in old age.

Equal treatment calls for an approach based on the equal recognition of the value of older persons’ lives in all the areas addressed by the Charter.

Article 23 of the Charter requires the existence of an adequate legal framework for combating age discrimination in a range of areas beyond employment, namely in access to goods, facilities and services, such as insurance and banking products, allocation of resources and facilities. Discrimination against older persons in terms of social rights enjoyment, is also contrary to Article E.

The overall emphasis in the Charter on using social rights to underpin personal autonomy and respect the dignity of older persons and their right to flourish in the community requires a commitment to identifying and eliminating ageist attitudes and those laws, policies and other measures which reflect or reinforce ageism. The Committee considers that States Parties, in addition to adopting comprehensive legislation prohibiting discrimination on grounds of age, must take a wide range of measures to combat ageism in society. Such measures should include reviewing (and as necessary amending) legislation and policy for discrimination on grounds of age, adopting action plans to ensure the equality of older persons, promoting positive attitudes towards ageing through activities such as society-wide awareness campaigns, and promoting inter-generational solidarity.

Statement on Covid-19 and Social Rights

The Committee adopted a Statement on Covid-19 and social rights (March 2021). More information on this statement is available in Chapter 10.²⁵

	2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010
Examined situations	401	349	896	580	486	576	824	724	568	608	950	569
	110	152	453	276	228	277	452	337	277	277	459	271
Conformity	28%	44%	51%	48%	47%	48%	55%	46%	49%	45%	48%	48%
	165	97	289	206	175	204	278	252	181	156	256	184
Non-conformity	41%	28%	32%	35%	36%	35%	34%	35%	32%	26%	27%	32%
	126	100	154	98	83	95	94	135	110	175	235	114
Deferral	31%	28%	17%	17%	17%	16%	11%	19%	19%	29%	25%	20%

Legend: Committee's assessments of conclusions 2010-2021

4.2. Provisions concerned

An overview of the Committee's main findings in 2021 is presented Article by Article below. A complete table of the Committee's conclusions for 2021 per country and per Article can be found in Appendix 6²⁶.

Article 3 - The right to safe and healthy working conditions

By accepting **Article 351** of the Charter, States Parties undertake, in consultation with employers' and workers' organisations, to formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment. The primary aim of this policy shall be to improve occupational safety and health and to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, particularly by minimising the causes of hazards inherent in the working environment.

The ECSR had addressed a targeted question to States Parties about policy formulation processes and practical arrangements made to identify new or emerging

25. European Committee of Social Rights Statement on Covid-19 and Social Rights, March 2021: <https://rm.coe.int/statement-of-the-ecsr-on-covid-19-and-social-rights/1680a230ca>

26. See Appendix 6: Summary of the Committee's Conclusions 2021

situations, that represent a challenge to the right to safe and healthy working conditions, and the results of such processes and of intended future developments.

The ECSR had also addressed a targeted question to States Parties on Covid-19. States were asked about the protection of frontline workers, including instructions and training, quantity and adequacy of the personal protective equipment provided to workers, and the effectiveness of those measures within the framework of the Covid-19 pandemic.

Of the 21 conclusions under Article 3§1 of the Charter, the ECSR considered that the situation was in conformity with the requirements of this provision in eleven cases (Austria, Estonia, Hungary, Lithuania, Malta, Montenegro, the Netherlands, Romania, Slovenia, Sweden, and Türkiye), out of which four were “pending receipt of the information requested” (Montenegro, Romania, Slovenia, and Sweden).

The ECSR deferred its conclusion for four countries (Andorra, Latvia, the Republic of Moldova, the Russian Federation).

In four cases (Albania, Armenia, Cyprus and Ukraine), the ECSR found that the situation was not in conformity with this provision of the Charter. The grounds of non-conformity were the following:

- ▶ employers’ and workers’ organisations are not consulted by the public authorities in practice (Albania),
- ▶ there is no clearly defined policy on occupational health and safety, and public authorities are not involved in research relating to occupational health and safety, training of qualified professionals, definition of training programmes or certification of processes (Armenia),
- ▶ it has not been established that safety representatives and safety committees are consulted in the implementation of national policies and strategies at company level (Cyprus),
- ▶ there are no funds provided to implement the National Programme on the Improvement of Occupational Safety and Health and the Working Environment 2014–2018 (National Programme); it has not been established that initiatives in the injury-prone sectors other than coal mining have helped to create a culture of prevention in respect of occupational health and safety in practice; it has not been established that Ukraine has carried out activities in terms of research, knowledge and communication relating to psychosocial risks; it has not been established that there have been resources allocated or materials developed for the improvement of occupational safety and health aimed at undertakings in the private sector; it has not been established that consultation with the competent occupational health and safety bodies within enterprises, in particular enterprises where there are no workers’ representatives is being carried out (Ukraine).

Article 3§2 (Article 3§1 of the 1961 Charter) requires States to adopt safety and health regulations.

During the monitoring cycle 2021, the ECSR examined 28 situations and adopted conclusions as follows: five conclusions of conformity, ten conclusions of non-conformity and thirteen conclusions were deferred.

The ECSR examined the information provided by States in response to the targeted question, as well as, where applicable, previous conclusions of non-conformity or deferrals.

In a targeted question for this provision, the ECSR asked for information on regulations adopted to improve health and safety in evolving new situations such as in the digital and platform economy by, for example, strictly limiting and regulating electronic monitoring of workers, by recognising a right to disconnect, the right to be unavailable outside agreed working and standby time and mandatory digital disconnection from the work environment during rest periods. The ECSR also requested information on regulations adopted in response to emerging occupational risks.

The main issues resulting in non-conformity were related to the fact that self-employed and domestic workers were not covered by the occupational health and safety regulations (the United Kingdom, Hungary, Andorra – only self-employed) or it had not been established that self-employed workers (the Republic of Moldova, the Slovak Republic, Ukraine), domestic workers (Romania, Serbia, the Slovak Republic, Ukraine) or temporary, interim workers and workers on fixed-term contracts (Serbia, Ukraine) were covered by these regulations.

Also, for some States the reasons for non-conformity were that the health and safety regulations did not cover a majority of the risks (Andorra, Ukraine) or it had not been established that there were such regulations (Albania, the Republic of Moldova). Also, it had not been established that levels of prevention and protection required by the legislation and regulations in relation to the establishment, alteration and upkeep of workplaces were in line with the level set by international standards (the Republic of Moldova, Montenegro, Ukraine).

Some non-conformities resulted from the fact that consultation with employers' and workers' organisations was not ensured (Albania) or it had not been established that such consultation was ensured (Serbia, the Slovak Republic, Ukraine).

The ECSR also found that in some states the level of protection against asbestos (Albania), asbestos and ionising radiation was insufficient (Andorra). In other cases (Ukraine), it was not established that the level of protection against ionising radiation was adequate.

Under **Article 3§3 (Article 3§2 of the 1961 Charter)** the States undertake to provide for the enforcement of safety and health regulations by measures of supervision with a view to ensuring the effective exercise of the right to safe and healthy working conditions.

During the monitoring cycle 2021, the ECSR examined the situation regarding 21 counties with respect of Article 3§3 of the Charter and six countries with respect to Article 3§2 of the 1961 Charter. The ECSR examined the situation with regard to the accidents at work and occupational diseases with a focus on measures taken to reduce the number of accidents and occupational diseases. The situation was also examined as regards the efficiency of the activities of the labour inspectorate, with regard in particular to the organisation of the labour inspectorate and its human and financial resources.

The ECSR examined the information provided by States in response to the targeted questions, as well as, where applicable, previous conclusions of non-conformity or deferrals.

Under Article 3§3 of the Charter, among the 21 countries examined by the ECSR, only one was found to be in conformity, whereas 12 countries received non-conformity conclusions and eight countries deferrals. Under Article 3§2 of the 1961 Charter (six countries were examined), there were five deferrals and one non-conformity (Spain).

The non-conformity conclusions were based on:

- ▶ high and increasing numbers concerning fatal and non-fatal accidents at work and occupational diseases (or the repetitive absence of information in this regard) and the inefficiency of measures taken to reduce those numbers (Albania, Hungary, Latvia, Lithuania, Malta, the Republic of Moldova, Montenegro, Romania, the Russian Federation, Türkiye, Spain),
- ▶ lack of measures taken against underreporting practices of accidents at work and occupational diseases (Estonia, the Republic of Moldova),
- ▶ inefficiency of the activities of the labour inspectorate, because of, for instance, understaffing (the Russian Federation, Türkiye), low number of inspected entities compared to the total number of entities (Lithuania, the Republic of Moldova, Montenegro), repetitive absence of information on the proportion of workers who are covered by inspection (Malta) and absence of information on the trends in resources allocated to labour inspection services, including human resources (Malta, Montenegro, Ukraine).

In the context of Albania, having noted from ILO 2019 Labour Force Survey that informal employment in the country is 56.7% of the total number of employees, the Committee asked specifically information on regulatory measures, in particular to reduce this phenomenon and to ensure that the figures they provide on work accidents also include those that occur in the informal employment sector.

Article 11 - The right to protection of health

Article 11§1 enshrines the right to the highest possible standard of health and the right of access to health care.

During the monitoring cycle 2021, the ECSR examined 32 situations and adopted conclusions as follows: seven conclusions of conformity, eleven conclusions of non-conformity and fourteen conclusions were deferred.

The ECSR examined the information provided by States in response to the targeted questions, as well as, where applicable, previous conclusions of non-conformity or deferrals.

In a targeted question, the ECSR asked for overall and disaggregated statistical data on life expectancy across the country and different population groups and on the prevalence of particular diseases among relevant groups (e.g. cancer) or blood borne infectious diseases (e.g. new cases of HIV or Hepatitis C among people suffering from substance use disorders or who are held in prison).

With regard to life expectancy, the information provided by States and other sources reveals that wide gaps or differences exist between men and women, regions, urban and rural areas, income and level of education (the Czech Republic, Estonia, Hungary, Latvia, Lithuania, the Republic of Moldova, the Netherlands, Poland, Romania, the Russian Federation, Serbia, Slovak Republic, Türkiye, Ukraine, the United Kingdom).

The ECSR also asked for information about sexual and reproductive health-care services for women and girls (including access to abortion) and statistical information about early (underage or minor) motherhood, as well as child and maternal mortality.

A recurring problem of non-conformity under this provision was the high infant and maternal mortality rates in several countries which, when examined together with other basic health indicators, pointed to weaknesses in the health system. The ECSR found that the situation was not in conformity with Article 11§1 of the Charter on the ground that the measures taken to reduce infant and maternal mortality had been insufficient (e.g. Azerbaijan, Georgia, Hungary (only for maternal mortality), Latvia (only maternal mortality), the Republic of Moldova, Romania, Türkiye, Ukraine).

Other grounds of non-conformity concerned the public healthcare expenditure which was too low (e.g. Albania, Azerbaijan) or the long waiting times in the provisions of healthcare (Albania, Azerbaijan (not established), Georgia (not established), Türkiye (not established)). The ECSR asked updated information on the public health expenditure as a share of GDP to all States.

The ECSR also found that insufficient measures had been taken to effectively guarantee the right of access to health care in several countries (Latvia, Lithuania, Ukraine, the Republic of Moldova (not established)); and that insufficient measures had been taken to reduce the number of premature deaths in one country (the Slovak Republic). In another country, the ECSR found that the situation was not in conformity with Article 11§1 on the ground that transgender people had to undergo sterilisation in order to receive legal recognition (Romania).

In the context of the Covid-19 crisis, the ECSR asked States Parties to evaluate the adequacy of measures taken to limit the spread of the virus in the population, as well as the measures taken to treat the sick.

There are two obligations under **Article 11§2**: (1) education and awareness raising, and (2) doctor's consultations and screening.

Under the first obligation, States Parties must demonstrate that they implement a public health education policy in favour of the general population and population groups affected by specific problems.

In this connection, the ECSR found that the situation in three out of the 32 States Parties examined (Albania, Malta and the Russian Federation) was not in conformity with the Charter. In respect of Albania, the ECSR found that it had not been established that health education is incorporated into the school curriculum. In respect of the Russian Federation, the ECSR found that it has not been established that sexual and reproductive education is provided in schools. The conclusion for non-conformity

formulated with regard to Malta was motivated by the lack of information on this provision in the report (it has not been established that public information and awareness raising are public health priorities and that health education is incorporated into the school curriculum).

As regards the second obligation (counselling and screening), under Article 11§2, States should provide free and regular consultation and screening for pregnant women and children throughout the territory. Moreover, free medical checks for children must be carried out throughout the period of schooling.

In this context, six out of 32 States Parties (Albania, Bosnia and Herzegovina, Georgia, the Republic of Moldova, Serbia and Ukraine) were considered to be in violation of Article 11§2, but several of these conclusions were due to a repeated lack of information. However, the following conclusions deserve mention:

- ▶ In Bosnia and Herzegovina and Ukraine, screening policies were not systematically in place.
- ▶ In Georgia, measures for counselling and screening of pregnant women and children were not adequate.

In 2021, under Article 11§2, the Committee also examined information about awareness and education with respect to sexual orientation and gender identity (SOGI) and to gender-based violence. One of the common points for deferrals (11 out of 32 cases: Azerbaijan, Cyprus, the Czech Republic, Hungary, Latvia, the Netherlands, Poland, Romania, the Slovak Republic, Sweden and Türkiye) was the lack of information in the reports concerning the sexual orientation and gender identity aspect.

Furthermore, the Committee found that the situation in 13 States Parties out of 32 (Andorra, Austria, Croatia, Denmark, Estonia, Lithuania, Luxembourg, North Macedonia, Montenegro, Norway, Slovenia, Spain and the United Kingdom) was in conformity with Article 11§2.

Article 11§3 refers to the obligation to take measures to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.

Of the 32 situations examined during the 2021 monitoring cycle, the ECSR adopted four conclusions of conformity, 11 conclusions of non-conformity and 17 conclusions of deferral.

The ECSR had asked several targeted questions under this paragraph.

First, the ECSR asked for a general overview of health care services in places of detention, in particular prisons.

Second, the ECSR asked for information regarding the availability and extent of community-based mental health services and on the transition to community-based mental health from former large-scale institutions.

Third, the ECSR asked for information about drug-related deaths and transmission of infectious diseases among people who use or inject psychoactive substances both in the community and in custodial settings. The ECSR also asked for an overview of the national policy designed to respond to substance use and related disorders.

Fourth, the ECSR asked for information on the measures taken to prevent exposure to air, water or other forms of environmental pollution, as well as on the measures taken to address the health problems of the populations affected, and to inform the public, including pupils and students, about general and local environmental problems.

The main grounds of non-conformity related to the lack of efficient immunisation and epidemiological monitoring programmes (Albania, Bosnia and Herzegovina, and Romania), the lack of legislation prohibiting the sale and use of asbestos (Azerbaijan and the Republic of Moldova), the lack of necessary measures to prevent smoking and/or alcohol consumption (Bosnia and Herzegovina, the Republic of Moldova), or the lack of sufficient measures to ensure access to safe drinking water in rural areas (Georgia).

A range of conclusions of non-conformity resulted from the States' failure to provide sufficient information on the existence of efficient immunisation and epidemiological monitoring programmes (Malta, Serbia and the Slovak Republic), on the measures taken to overcome environmental pollution (Albania, Azerbaijan, Georgia, the Republic of Moldova, Malta, the Russian Federation, Serbia and the Slovak Republic), to prevent smoking and/or alcohol consumption (Albania, Malta and Serbia) or to prevent accidents (Albania, Azerbaijan, Cyprus, Georgia and Malta).

In the context of the Covid-19 crisis and insofar as relevant for the purposes of Article 11§3, the ECSR asked States Parties to evaluate the adequacy of measures taken to limit the spread of the Covid-19 virus in the population (testing and tracing, physical distancing and self-isolation, provision of surgical masks, disinfectant, etc.).

Article 12 - The right to social security

Article 12§1 of the Charter guarantees the right to social security for all workers and their dependents. In this cycle the ECSR again found that the situation in many States Parties had not changed and that very little or no progress had been made in bringing the situation into conformity. Inadequate minimum levels of income-replacement benefits continued to be the main ground of non-conformity. The Committee noted that in some States Parties, minimum levels of unemployment, sickness and disability benefits have increased at a higher rate than median income. However, these benefits remained low and sometimes fall below 50% or even below 40% of median income.

Twenty-five national situations were examined in 2021 of which 21 were found not to be in conformity. The ECSR deferred a conclusion in respect of four situations.

As regards the material and personal coverage of the social security system, the situation is in conformity in the majority of States given that around 90% of active population is covered. There has been little progress in two national situations (Armenia and Georgia), where the right to social security is still not guaranteed for all workers and their dependents since the social security does not cover adequate number of risks as it does not provide unemployment benefit, employment injury benefit and family benefit.

The ECSR held that the situation was in conformity with **Article 12§2** in 17 States out of a total of 22. In other words, these States were found to maintain their social security systems at a satisfactory level, i.e. at least equal to the level required for the ratification of the European Code of Social Security.

With regard to **Article 12§3**, the ECSR considered that, in one case, the situation was not in conformity on the ground that efforts made to progressively raise the system of social security to a higher level were inadequate (Romania) and, in three cases, it had not been established that steps had been taken to raise the social security systems to a higher level during the reference period (Armenia, the Republic of Moldova and Serbia).

With regard to this provision, the ECSR had submitted a targeted question to all States on social security coverage for persons employed or whose work is managed through digital platforms. For a majority of States (13 out of a total of 25), the ECSR was unable to assess the situation due to a complete absence of information or lack of sufficient information, which suggests that States are lagging behind in developing their social security systems in response to changes in the labour market (emergence of new types of employment).

As regards the export of social security benefits under **Article 12§4** as well as the accumulation of accruing periods, some new bilateral agreements have been signed during the reference period to ensure the maintenance and export of old age, sickness and disability benefits. However, there are still only few agreements signed on social security between EU and non-EU States, sometimes due to lack of cooperation because of insufficient exchange of labour force.

The situation was examined in 22 countries in 2021, of which 13 were found not to be in conformity, two in conformity and seven deferred.

Article 13 - The right to social and medical assistance

Under **Article 13**, the system for social and medical assistance must be universal in the sense that benefits must be payable to any person on the sole ground that he/she is in need. The text of **Article 13§1** clearly establishes that this right takes the form of an individual right of access to social and medical assistance in circumstances where the basic condition of eligibility is satisfied, which occurs when no other means of reaching a minimum income level consistent with human dignity are available to the person concerned.

Twenty-five countries were assessed by the ECSR in 2021. Only one State was found to be in conformity (the Netherlands). Violations were found in 22 countries: Croatia, Czech Republic, Denmark, Spain, the United Kingdom, Andorra, Armenia, Austria, Bosnia and Herzegovina, Estonia, Hungary, Latvia, Lithuania, Malta, the Republic of Moldova, Montenegro, North Macedonia, Norway, Romania, Serbia, the Slovak Republic, Türkiye.

The assessment under Article 13§1 and the conclusions of non-conformity concerned inter alia the following grounds:

- ▶ the level of social assistance paid to a single person without resources is not adequate (below the poverty threshold): Armenia, Bosnia and Herzegovina,

Croatia, Czech Republic, Denmark, Estonia, Hungary, Latvia, Lithuania, Malta, the Republic of Moldova, Montenegro, North Macedonia, Norway, Romania, Serbia, the Slovak Republic, Spain, Türkiye, the United Kingdom,

- ▶ the right to social and/or medical assistance is not guaranteed to any person in need (the Republic of Moldova, Montenegro, Romania, Spain, the United Kingdom),
- ▶ excessive conditions of residence to access social and medical assistance for lawfully resident foreigners (Andorra, Austria, Croatia, Latvia, Lithuania, North Macedonia, Romania and Serbia),
- ▶ social assistance is withdrawn as penalty for having refused a job offer and the person remains with no other means (Malta, Serbia).

For **Article 13§2**, there was one conclusion of non-conformity on the ground that it was not established that there is no discrimination in the effective exercise of social and political rights (the Republic of Moldova).

Article 13§3 concerns free services offering advice and personal assistance specifically for persons without adequate resources or at risk of falling into that situation. The social services covered by this Article must play a preventive, supportive and remedial role.

As there were no targeted questions put to States under this provision in the present supervision cycle, only deferrals and non-conformities from the previous cycle were examined.

All deferrals were due to the lack of information as to whether there were mechanisms to ensure that those in need may receive help and personal advice services free of charge and whether such services and institutions are adequately distributed on a geographical basis. The Republic of Moldova, Poland and Malta failed to provide the requested information and it could not be established that the situation is in conformity with the Charter.

Bosnia and Herzegovina was found not to be in conformity, as it could not be established that there are mechanisms in place to ensure that persons in need can benefit from free counselling and personal advice services or that the competent services and institutions are adequately distributed on a geographical basis.

Under **Article 13§4**, two State Parties were found to be in violation of the Charter on the ground that not all non-resident foreign nationals in need who are lawfully present in the territory are entitled to emergency social assistance (Croatia and Montenegro).

Article 14 - The right to benefit from social welfare services

Article 14§1 guarantees the right to general social welfare services. This right requires States Parties to set up a network of social services to help people to reach or maintain well-being and to overcome any problems of social adjustment.

In the 2021 monitoring cycle, States were asked to reply to a targeted question, namely how and to what extent the operation of social services was maintained during the Covid-19 crisis and whether specific measures were taken in view of possible similar crises arising in the future.

The situation in Türkiye was found not to be in conformity with the Charter on the ground that it has not been established that there is an adequate number of staff providing social services.

Access to social services for nationals of other States Parties remained problematic in Azerbaijan, Czech Republic, Hungary, Latvia, Poland, Serbia and Türkiye.

Article 14§2 requires States Parties to provide support for voluntary associations seeking to establish social welfare services. The ECSR examines all forms of support and care mentioned under Article 14§1, as well as financial assistance or tax incentives. States Parties must ensure that private services are accessible on an equal footing to all and are effective.

A targeted question was put to the State Parties concerning the user involvement in social services and, in particular on how such involvement is ensured and promoted in legislation, in budget allocations and decision-making at all levels, as well as in the design and delivery of services in practice.

The ECSR concluded that it had not been established that public participation in creating and maintaining social services is effectively guaranteed in law and in practice (Armenia), monitored (Bosnia and Herzegovina) or accessible to all on an equal footing (Azerbaijan and Serbia).

Article 23 - The right of elderly persons to social protection

Article 23 covers a wide variety of aspects related to the protection of rights of older persons.

In 2021, 15 countries were examined. The ECSR considered that the situation was not in conformity with the requirements of this provision in 12 cases (Bosnia and Herzegovina, the Czech Republic, Denmark, Malta, Montenegro, the Netherlands, Norway, Serbia, the Slovak Republic, Spain, Türkiye and Ukraine). The main reasons for the findings of non-conformity were:

- ▶ lack of legislation prohibiting discrimination on grounds of age outside employment: Denmark, Malta, the Netherlands and Norway,
- ▶ inadequate resources (pension levels, social assistance for those not in receipt of a pension): Bosnia and Herzegovina, the Czech Republic, Montenegro, Serbia, the Slovak Republic, Spain, Türkiye and Ukraine.

The ECSR also examined the situation in the States Parties as regards measures taken:

- ▶ to prevent abuse of older persons,
- ▶ to provide housing suited to the needs and state of health of older persons or of adequate support for adapting their housing,
- ▶ to provide older persons with adequate health care and related services,
- ▶ to guarantee older persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in their institution.

The ECSR noted the devastating effects of Covid-19 on the rights of older persons in particular on their right to protection of health, with consequences in many cases

for their rights to autonomy and to make their own decisions and life-choices, their right to continue to live in the community with adequate and resilient supports to enable them to do so, as well as their right to equal treatment in terms of Article E of the Charter when it comes to the allocation of health care services including life-saving treatments (e.g. triage and ventilators).

It also emphasised the importance of moving away from institutionalisation towards community-based care and independent living and adopting assisted decision-making procedures.

Article 30 - The right to be protected against poverty and social exclusion

Living in a situation of poverty and social exclusion violates the dignity of human beings. With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, **Article 30** requires States parties to adopt an overall and coordinated approach, which shall consist of an analytical framework, a set of priorities and corresponding measures to prevent and remove obstacles to fundamental social rights. There should also exist monitoring mechanisms involving all relevant actors, including civil society and persons affected by poverty and exclusion.

The overall and coordinated approach must link and integrate policies in a consistent way, moving beyond a purely sectoral or target group approach. Normally, some sort of coordinating mechanisms, including at the level of delivery of assistance and services to those living in or at risk of poverty, should be provided. At the very least, States Parties should demonstrate that poverty and social exclusion reduction is an embedded aspect of all the relevant strands of public policy.

In 2021, the ECSR examined the application of Article 30 by 11 States Parties (for the time being, many States have refrained from submitting to monitoring in respect of their obligation to ensure protection against poverty and social exclusion under Article 30).

In respect of five states (the Netherlands, Norway, Slovak Republic, Slovenia and Sweden), the ECSR found that the situation was in conformity with Article 30.

In respect of five other States (Estonia, Latvia, Serbia, Türkiye and Ukraine), the ECSR found that the situation was not in conformity with Article 30 on the ground that there is no adequate overall and coordinated approach in place to combat poverty and social exclusion. While the specifics of the situation in these five states varied greatly, notably as regards the prevailing poverty rates, the ECSR took into account that poverty rates were generally high, in a few States extremely high, and/or not decreasing, that the measures taken were not properly coordinated and targeted, and that the resources allocated were not adequate in view of the extent of the poverty problem.

4.3. Examples of progress in the application of the European Social Charter

When preparing Conclusions 2021, the European Committee of Social Rights noted a number of positive developments in the application of the Charter, either through the adoption of new legislation or changes to practice in the States Parties or, in some

cases, on the basis of new information clarifying the situation as regards issues raised in previous examinations (thereby reducing the number of conclusions deferred for lack of information).

The Committee welcomed these developments which contribute to a better implementation of the Charter at national level and invited the States Parties to continue their efforts with a view to ensuring the concrete and effective implementation of all the rights of the Charter.

This chapter contains a non-exhaustive list of examples of progress by country and provision regarding countries bound by the 1961 Charter and countries bound by the Revised Charter of 1996.

Article 352

Denmark

In 2019 the executive order on carcinogens and mutagens was amended to implement Directive (EU) 2017/2398 of the European Parliament and of the Council of 12 December 2017 amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work. A national provision regarding prohibition of recirculation on building sites of local exhaust air from work processes was amended to allow for recirculation as long as the air is effectively cleaned.

Poland

Between 2016 and 2019 the National Labour Inspection developed a programme “Prevention of harmful effects of stress and other psychosocial risks in the workplace”. The Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation was transposed into Polish law on 13 June 2019.

Spain

The Law on Data Protection and Guarantee of Digital Rights (No. 3/2018) acknowledged the right to disconnect.

Estonia

On 1 January 2019 amendments to the Occupational Health and Safety (OHS) Act came into force. One of the amendments to the Act is related to psychosocial hazards. The term “psychological hazards” was replaced with the term “psychosocial hazards”. The definition of the term is specified in greater detail in the Act, as are the measures to be applied for preventing damage to health caused by psychosocial hazards.

Hungary

The amendment to the Labour Safety Act, that came into force on 1 January 2008, introduced the employer’s obligation of dealing with psychosocial risk factors.

The Recommendations of the International Commission on Radiological Protection (ICRP Publication No. 103, 2007) have been integrated into Council Directive 2013/59/

Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, which Hungary transposed into national law.

Lithuania

In order to assist the process of identifying psychosocial risk factors in the context of changing working conditions and to simplify the provisions for assisting small and medium-sized enterprises to investigate these risks, the regulations on the identification of psychosocial risks at work have been amended by the Ordinance No. V-153/A1-77 of the Minister of Health and the Minister of Social Security and Labour of 5 February 2019. Also, on 1 May 2019 the Minister of Health adopted the order No. V-590 which relates to improving competencies of workers' mental health and which is directed towards reducing the impact of stress at work to the workers' health.

Montenegro

Domestic workers are now protected by occupational safety and health regulations.

Article 3§3

Estonia

The Labour Inspectorate has been developing a new information system, which increases the efficiency of inspections, allows for automated supervision and saves time. The new system, operational since the first quarter of 2020, allows the Labour Inspectorate to cover more companies and workers with the inspections and helps the Inspectorate to communicate with companies faster and more effectively.

Sweden

The Government has allocated increasing resources to the work environment area. A total of 100 million SEK (9.7 million €) per year was invested in 2015-2018. During the same period the Government increased the Swedish Work Environment Authority's (SWEA) allocation with approximately 110 million SEK (10.7 million €) including to employ more inspectors. Following the increase in appropriations, the SWEA recruited more than 150 new inspectors. The number of inspections has increased as a result.

Türkiye

The "Occupational Exposure Data Package" software, prepared in 2017, aims at ensuring early detection of occupational exposures and increase occupational disease awareness.

Article 11§1

Montenegro

A real-time e-Referral and e-Prescription system was implemented, reducing significantly waiting times.

Norway

In July 2016, a Gender Recognition Act was adopted which allows a person to change legal gender (male/female) without prior sterilisation as previously required.

Poland

Waiting times for a number of medical services decreased significantly compared to the previous reference period.

Article 11§2

Czech Republic

Since 2019, the Ministry of Health has been implementing the project “Expanding Access and Creating Healthcare Opportunities for the Homeless” (also known as “Doctor’s Office for the 19 Homeless”) aimed at people living on the streets who are at risk of losing their refuge or living in socially excluded communities. Its main purpose is to provide medical assistance to target groups who do not seek medical and social care and who do not participate in preventive check-ups and programmes.

Lithuania

Schools implement a general Programme for Health and Sexuality Education and Preparation for Family Life (PHSEPF), approved by Order No. V-941 of the Minister of Education and Science of 25 October 2016. The objective is to develop, *inter alia*, healthy lifestyle skills and activities of health promotion and prevention of harmful habits. The Programme covers a wide range of topics, such as self-awareness, gender identity, bullying, the social-emotional state of a child, sexual development (SOGI, responsible sexual behaviour, sexual diversity, discrimination, exclusion), etc.

Austria

Two legal instruments concerning diverse sexualities and gender identities in the classroom were adopted: the “Reflexive Gender Pedagogy and Equality Act” of 2018 (Circular No. 21/2018) and “Sexuality Education Act” of 2015 (Circular No. 13/2015). The latter establishes the basis and content for sexuality education, highlighting a positive approach to human sexuality. It also addresses homophobia and transphobia and encourages schools to adopt a universal pedagogical stance that should be geared towards the principle of gender equality and the diversity of lifestyles. The former addresses, among other things, the issue of gender-based violence in all its facets (e.g. sexual harassment, homophobia, gender-related innuendos, gender-related stereotypes, honour-based violence).

Luxembourg

The first National Action Plan for the promotion of LGBTI rights was adopted on 13 July 2018. This multi-year plan sets out a comprehensive approach in the field. It includes eight thematic chapters covering different spheres of life, including education, employment and work, health, family, reception and integration, discrimination, hate crimes and hate speech, transgender equality and intersex equality. The plan consists of numerous awareness-raising and training activities on the issues of sexual orientation, gender identity and gender variations. These measures are aimed at the general public and specific groups (e.g. children, young people and health professionals).

Article 11§3

Montenegro

In 2019, Montenegro adopted a Law on the restriction of the use of tobacco products which, among other measures, bans smoking at work and in public places, with fines for non-compliance ranging from €500 to €20,000.

Article 12§3

Lithuania

A reform was initiated at the beginning of 2017 to modernise the social security system. The reform aims, among other goals, to integrate self-employed persons into the state social security system and include the different groups of platform workers (such as persons working in the bicycle delivery service sector) in the “self-employed persons” category in order to expand their social security coverage and improve their social insurance benefits.

Montenegro

The Law on mediation for job placement and rights during unemployment came into force on 30 April 2019. It reduced the length of insurance contributions required to be entitled to unemployment benefits. In addition, the amount of unemployment benefits was increased and the duration of benefit payments was extended for some categories of jobseekers.

The adjustment of retirement and disability pensions, which had been suspended throughout the previous reference period (2012-2015) due to poor economic conditions, resumed in 2016.

Poland

The minimum retirement pension was increased in 2016 and 2018, and the adjustment mechanism was modified. As a result of these changes, the minimum retirement pension has increased by 25% since 2016.

Implementation of the Retirement Pension+ programme began in 2019. This programme provides for the payment of a one-off supplementary benefit to any person in receipt of a retirement or other pension, regardless of its amount. In 2019, 9.74 million people received this benefit (including 6.7 million retired persons, 2.62 million pensioners and 282,000 persons in receipt of social assistance pensions).

Ukraine

Ukraine accepted Article 12§3 of the Charter in 2017.

Article 13§3

North Macedonia

Services such as information and guidance, professional help and other social protection services, provided in the centres for social work have been made free

of charge for the beneficiaries. There are 30 centres for social work functioning in the social protection system, which cover and are responsible for all municipalities in North Macedonia. In order to provide citizens easier access to information and exercise of the social protection rights, 50 regional offices were opened in the municipalities, whereby part of the rural areas have also been covered.

Romania

According to Article 113 of the Social Assistance Law, all local public administration authorities are required to set up specialised structures called public social assistance services (PSAS) in urban and in rural areas.

Article 23

The Czech Republic

Legislation prohibiting discrimination on grounds of age outside of employment was adopted since the last examination on the situation by the ECSR.

The Slovak Republic

Priority has been given to developing community-based care as an alternative to institutional care.

Sweden

Legislation prohibiting discrimination on grounds of age outside of employment was adopted since the last examination on the situation by the ECSR.

Article 30

The Netherlands

Two specific measures were launched during the reference period: the Comprehensive Approach to Tackling Debt (*Brede Schuldenaanpak*) and Child Poverty Ambitions (*Ambities Kinderarmoede*).

As regards the former initiative, since 2018, the government, in cooperation with municipalities, implementing organisations and civil society organisations, have been working on the implementation of an Action Plan that includes more than 40 measures to tackle debt problems.

As regards the latter initiative, in 2019, four objectives were set to further reduce child poverty: (1) every child growing up in a low-income family is eligible for social assistance; (2) the number of low-income households with children is to be reduced over the next few years; (3) there will be regular reviews of social exclusion among children; and (4) good practices and initiatives are to be identified by municipalities and other local and national organisations, in order to prevent child poverty and its adverse effects on children.

Norway

As regards children and young people in low-income families, the 2015-2017 Government's strategy "Children Living in Poverty" was followed by a new one "Equal

Opportunities for Children” for the 2020-2023 period. The new strategy emphasises the importance of increasing the participation of children and young people from low-income families with other children and young people allowing them to develop on an equal footing, with a view to stimulating social mobility and breaking the generational cycle of poverty and low income.

Slovak Republic

The National Framework Strategy for the Promotion of Social Inclusion and the Fight against Poverty is the main strategic document in this area. It systematises approaches to tackling poverty and social exclusion. The first National Framework Strategy was prepared and approved by the government in 2015. In 2017, the Strategy was updated to include some additional key areas for the implementation of social inclusion and anti-poverty measures, such as supporting the integration of the long-term unemployed, promoting youth employment, supporting increased targeting in the social benefit system, supporting the integration of marginalised Roma communities, etc.

Slovenia

As of 1 January 2019, all family-related austerity measures were abolished (after six years): the paternity and parental allowance are back to 100% of the person’s average salary for the last 12 months (previously it was 90%); the large family allowance is once again a universal entitlement and can be granted to all large families regardless of their income (previously it was limited to a certain income threshold); the maternity allowance is not limited and the parental allowance is 2.5 times the average salary (previously it was twice the average wage). As of 1 July 2019, child benefits, state scholarships, childcare allowance, large family allowance, birth allowance and parental allowance were increased.

Sweden

The Swedish Government made significant investments in health care and education. Since 2017, the Government has strengthened basic protection and reduced income tax for pensioners, increased the level of unemployment insurance benefits and increased housing, maintenance and children’s allowances.

4.4. Follow-up of the conclusions by the Governmental Committee of the European Social Charter and the European Code of Social Security

In 2021, the Governmental Committee examined follow-up measures taken by national governments with respect to conclusions of non-conformity issued by the European Committee of Social Rights on articles of the European Social Charter relating to the thematic group “Employment, training and equal opportunities” (Conclusions 2020).

The Governmental Committee held two meetings in 2021 (142nd Meeting on 10-12 May 2021, 143rd Meeting on 13-17 December 2021) with Mr Joseph FABER (Luxembourg) in the Chair. At its autumn meeting, the Governmental Committee elected for a two-year term (until 31 December 2023) its new Bureau: Mr. Joseph FABER (Luxembourg), Chair; Mr. Aongus HORGAN (Ireland), Vice Chair; and Bureau

members Ms. Julie GOMIS (France), Mr. Edward BUTTIGIEG (Malta), Ms. Yvette KALDEN (Netherlands), and Ms Velga LAZDINA-ZAKA (Latvia).

The conclusions selected by the European Committee of Social Rights for the Governmental Committee examination in 2021 were:

- ▶ the right to work (Articles 1§1 and 1§2),
- ▶ the right of persons with disabilities to independence, social integration and participation in the life of the community (Articles 15§1, 15§2, 15§3),
- ▶ the right to engage in a gainful occupation in the territory of other Parties (Articles 18§2, 18§3, 18§4),
- ▶ the right of men and women to equal opportunities (Article 20)/Article 1 of the additional Protocol of 1988,
- ▶ the right to protection in case of dismissal (Article 24),
- ▶ the right of workers to protection of their claims in the event of the insolvency of their employer (Article 25).

Article	States concerned
RESC 1§1	Albania
RESC 1§1	Armenia
RESC 1§1	Bosnia and Herzegovina
RESC 1§1	Montenegro
RESC 1§1	North Macedonia
1961 ESC 1§1	Spain
RESC 1§1	Ukraine
RESC 1§2	Armenia
RESC 1§2	Azerbaijan
RESC 1§2	Cyprus
RESC 1§2	Russian Federation
RESC 1§2	Serbia
RESC 1§2	Türkiye
RESC 1§2	Ukraine

Article	States concerned
1961 ESC 15§1	Poland
RESC 15§1	Romania
RESC 15§1	Ukraine
RESC 15§2	Romania
RESC 15§3	Hungary
RESC 15§3	Serbia
RESC 15§3	Türkiye
1961 ESC 18§2	Iceland
RESC 18§2	Ukraine
RESC 18§3	Ukraine
RESC 18§4	Russian Federation
RESC 18§4	Ukraine

Article	States concerned
20 RESC 1. ground	Albania
20 RESC 1. ground	Armenia
20 RESC 1. ground	Azerbaijan
20 RESC 1. ground	Bosnia and Herzegovina
20 RESC 1. ground	Cyprus
20 RESC 1. ground	Georgia
20 RESC 1. ground	Hungary
20 RESC 1. ground	Montenegro
20 RESC 1. ground	The Netherlands
20 RESC 1. ground	Russian Federation
20 RESC 1. ground	Serbia
20 RESC 1. ground	Slovak Republic
20 RESC 1. ground	Slovenia
20 RESC 1. ground	Türkiye
20 RESC 1. ground	Ukraine
ESC 1 of the 1988 Additional Protocol 1. ground	Croatia
ESC 1 of the 1988 Additional Protocol 1. ground	The Netherlands in respect of Curaçao

Article	States concerned
20 RESC 2. ground	Andorra
20 RESC 2. ground	Armenia
20 RESC 2. ground	Austria
20 RESC 2. ground	Azerbaijan
20 RESC 2. ground	Bosnia and Herzegovina
20 RESC 2. ground	Estonia
20 RESC 2. ground	Georgia
20 RESC 2. ground	Latvia
20 RESC 2. ground	Lithuania
20 RESC 2. ground	Malta
20 RESC 2. ground	The Netherlands
20 RESC 2. ground	North Macedonia
20 RESC 2. ground	Russian Federation
20 RESC 2. ground	Slovak Republic
20 RESC 2. ground	Slovenia
20 RESC 2. ground	Türkiye
20 RESC 2. ground	Ukraine
ESC 1 of the 1988 Additional Protocol 2. ground	Croatia
ESC 1 of the 1988 Additional Protocol 2. ground	Czech Republic
ESC 1 of the 1988 Additional Protocol 2. ground	Denmark
ESC 1 of the 1988 Additional Protocol 2. ground	The Netherlands in respect of Saint Martin

Article	States concerned
RESC 24	Cyprus
RESC 24	Malta
RESC 24	The Netherlands
RESC 24	Türkiye
RESC 25	Albania
RESC 25	Türkiye

In the 2021 supervisory cycle, the Governmental Committee proposed 19 recommendations to the Committee of Ministers. They concerned equal pay and equal opportunities for women and men in employment – a transversal topic which had recently been the object of a declaration of the Committee of Ministers (see Decl(17/03/2021)1)²⁷, as well as of 14 individual Committee of Ministers recommendations following decisions in collective complaints adopted by the European Committee of Social Rights, made public on 29 June 2020 (UWE v. Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, France, Greece, Ireland, Italy, Norway, Portugal, Slovenia and the Netherlands²⁸). Sixteen of the Governmental Committee proposed recommendations related to Article 20 of the Revised Charter (with respect to Albania, Andorra, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Estonia, Georgia, Hungary, Latvia, Lithuania, Malta, North Macedonia, Russian Federation, Türkiye and Ukraine) and three to Article 1§2 of the 1988 additional Protocol to the 1961 Charter (with respect to Denmark, Netherlands with respect to Curaçao and Netherlands with respect to Saint Martin).

As regards conclusions examined orally, the Governmental Committee voted a number of warnings:

- ▶ Article 1§2 in respect of Armenia, Azerbaijan, Türkiye,
- ▶ Article 15§1 in respect of Romania,
- ▶ Article 20 in respect of Slovak Republic,
- ▶ Article 24 in respect of Cyprus.

During its examination, the Governmental Committee took note of important positive developments in several States Parties.

The Governmental Committee asked Governments to continue their efforts with a view to ensuring compliance with the European Social Charter and urged them to take into consideration any previous recommendations adopted by the Committee of Ministers.

The Governmental Committee also closely followed the work of the Committee of Ministers Working Party (GT-CHARTE) tasked to reflect on strengthening the effectiveness of the Charter.

27. Decl(17/03/2021)1: Déclaration du Comité des Ministres sur l'égalité de rémunération et l'égalité des chances entre les femmes et les hommes en matière d'emploi : https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a1cb99

28. Gender pay gap is still persistent in Europe - News (coe.int)

5. Procedure on non-accepted provisions

5.1. Introduction

Article A of the European Social Charter (Article 20 of the 1961 Charter) authorises states to ratify the treaty without accepting all of its substantive provisions. The same Article also allows states, at any time subsequent to ratification of the treaty, to notify the Secretary General of their acceptance of additional articles or paragraphs.²⁹

This gradual acceptance principle is described in Article 22 of the 1961 Charter. According to it, the Contracting Parties shall send to the Secretary General, at appropriate intervals as requested by the Committee of Ministers, reports relating to the provisions of Part II of the Charter which they did not accept at the time of their ratification or approval or in a subsequent notification. The Committee of Ministers shall determine from time to time in respect of which provisions such reports shall be requested and the form of the reports to be provided.

For the first years of the Charter's existence, this procedure took the form of a traditional reporting exercise, with states submitting reports describing the implementation, in both law and practice, of the provisions concerned. The Committee of Ministers launched these "exercises" on eight occasions between 1981 and 2002.

In December 2002, the Committee of Ministers decided that "States having ratified the Revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification" and "invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the States concerned" (Committee of Ministers Decision of 11 December 2002). Following this decision, it was agreed that the European Committee of Social Rights would examine – either in meetings or as part of a written procedure – the legal and practical situation in the states concerned from the standpoint of the situation's compatibility with the non-accepted provisions. The first examination would take place five years after ratification of the revised Social Charter and thereafter every five years, so that the situation could be assessed on a continuing basis and states would be encouraged to accept new provisions. In practice, experience has shown that states have tended to lose sight of the fact that the selective acceptance of Charter provisions must only be a temporary phenomenon.

A detailed table of the accepted provisions of the European Social Charter (revised) can be found in Appendix 8.³⁰

29. See Appendix 7: Number of accepted provisions by year since 1962

30. See Appendix 8: Table of accepted provisions of the Revised European Social Charter (1996) and provisions of the 1961 European Social Charter and of the Additional Protocol of 1988

5.2. Overview of the States Parties concerned in 2021

In 2021 the procedure on non-accepted provisions concerned seven states: Austria, Greece, Lithuania, Republic of Moldova, the Netherlands, Norway and Ukraine.

Due to the Covid-19 pandemic and travel restrictions the Committee decided to invite the states concerned to submit written reports.

The Committee adopted reports concerning non-accepted provisions for the following countries: Estonia, Georgia, Ireland, Malta (procedure 2020) and Austria, Greece, Lithuania, Republic of Moldova, the Netherlands, Norway and Ukraine.

Estonia

Estonia ratified the Charter on 11 September 2000, accepting 87 of its 98 paragraphs. The following provisions are not yet accepted: Articles 2§4, 3§4, 4§1, 7§5, 7§6, 10§5, 18§3, 23 and 31§§1-3.

The procedure provided for by Article 22 of the 1961 Charter was applied for the first and second time in the context of a meeting between members of the European Committee of Social Rights and representatives of various Estonian authorities in Riga on 5 April 2005 and on 20 September 2010.

With a view to carrying out the procedure for the third time in 2015 and for the fourth time in 2020, the Estonian authorities were invited to provide written information on the non-accepted provisions of the Charter.

After examining the written information provided by the Government of Estonia in 2020, the European Committee of Social Rights considered that there were no major obstacles to the acceptance by Estonia of Articles 2§4, 3§4, 7§6, 10§5, 18§3, 23, 31§2 and 31§3 of the Charter.

The situation did not appear to be fully in conformity with the following provisions of the Charter: Articles 4§1, 7§5 and 31§1. The Committee encouraged the Estonian authorities to remove obstacles to the acceptance of these provisions.

The Committee invited Estonia to consider accepting additional provisions of the Charter as soon as possible so as to consolidate the paramount role of the Charter in guaranteeing and promoting social rights.

The next examination of the provisions not yet accepted by Estonia will take place in 2025.

The Committee's report can be consulted at: [Estonia and the European Social Charter \(coe.int\)](https://www.coe.int)

Georgia

Georgia ratified the Charter on 22 August 2005, accepting 63 of its 98 paragraphs. The following provisions are not yet accepted: Articles 2§§3, 4 and 6, 3§§1-4, 4§§1 and 5, 8§§1 and 2, 9, 10§§1, 3 and 5, 12§§2 and 4, 13§§1-4, 15§§1 and 2, 16, 17§2, 21, 22, 23, 24, 25, 28, 30 and 31§§1-3.

The procedure provided for by Article 22 of the 1961 Charter was applied for the first time in the context of a meeting between members of the European Committee of

Social Rights and representatives of the Government of Georgia in Tbilisi on 9 July 2010. With a view to carrying out the procedure for the second time, the European Committee of Social Rights held a meeting with the Georgian authorities in Tbilisi on 3 September 2015. The Committee considered that there were no legal obstacles to the acceptance by Georgia of the following provisions of the Charter: Articles 2§3, 3§§1, 2 and 4, 4§5, 8§§1 and 2, 9, 10§1 and 3, 15§1, 17§2, 21 and 22.

In order to apply the procedure for the third time in 2020, the Georgian authorities were invited to provide written information on the non-accepted provisions of the Charter.

Having examined the written information received from the Government of Georgia on 31 May 2021, the European Committee of Social Rights considered that there were no major obstacles to the acceptance by Georgia of Articles 2§3, 2§4, 2§6, 3§1, 3§2, 10§1, 10§3, 10§5, 15§1, 21, 22 and 24.

The Committee was of the opinion that Georgia was in a position to meet in the near future the conditions enabling it to comply with the requirements of Article 3§3, 8§1 and 9 of the Charter. It encouraged the authorities to pursue their policy in this direction.

The Committee considered that the current legal situation and practice in Georgia must be improved to meet the requirements of Articles 12§2, 13§2, 13§3, 16, 23, 28, 31§§1-3 of the Charter.

The Committee would need more detailed information to reach a firm opinion on the level of conformity of the situation with the requirements of the Charter as regards Articles 3§4, 4§1, 4§5, 12§4, 13§1, 13§4, 15§2, 17§2, 25 and 30.

The Committee invited Georgia to consider accepting additional provisions of the Charter as soon as possible so as to consolidate the paramount role of the Charter in guaranteeing and promoting social rights.

It recalled that, at the meeting held in Tbilisi on 3 September 2015, the Georgian authorities declared themselves ready to accept the following provisions of the Charter: Articles 2§3, 3§§ 1, 2 and 4, 4§5, 9, 10§§1 and 3, 15§1, 17§2, 21 and 22. These provisions have not yet been accepted by Georgia.

The next examination of the provisions not accepted by Georgia will take place in 2025.

The Committee's report can be consulted at: [Georgia and the European Social Charter \(coe.int\)](https://www.coe.int)

Ireland

Ireland ratified the Charter on 4 November 2000, accepting 92 of the 98 provisions of the Revised Charter. It has not yet accepted Articles 8§3, 21, 27§1c, and 31§§ 1, 2 and 3. Ireland ratified the Additional Protocol providing for a system of collective complaints procedure on 04/11/2000. It has not yet made a declaration enabling national NGOs to submit collective complaints.

The procedure provided by Article 22 of the 1961 Charter was applied for the first time in the context of a meeting between the European Committee of Social Rights and representatives of various Irish ministries in Dublin on 4 and 5 October 2005.

Following this meeting, the European Committee of Social Rights delegation at the time concluded that acceptance seemed possible in respect of 2 provisions (Article 8§3 – Time off for nursing mothers, and Article 27§1c - Child care facilities for workers with family responsibilities). In respect of a further 2 provisions (Article 21 – Right to information and consultation, and Article 31 – Right to housing) it found that they could not be accepted immediately but should be kept under review.

In 2020, with a view to conducting the procedure for the fourth time, the European Committee of Social Rights invited the Irish authorities to provide written information on the situation related to the non-accepted provisions of the Charter.

After examining the written information provided by the Government of Ireland in 2020, the European Committee of Social Rights considered that there were no major obstacles to the acceptance by Ireland of the following provisions of the Charter: Articles 8§3, 27§1c and 31.

Regarding Article 21, the information provided was not detailed enough to assess the current situation. However, as the Irish authorities consider that the situation is in line with the requirements of this provision, the Committee invites Ireland to accept Article 21 of the Charter.

Since Ireland is bound by the collective complaints procedure, the Committee also wished to invite the Irish authorities to consider making the declaration provided for in Article 2 of the 1995 Additional Protocol in order to allow national non-governmental organisations to submit such complaints.

The next examination of the provisions not accepted by Ireland will take place in 2025.

The Committee's report can be consulted at: [Ireland and the European Social Charter \(coe.int\)](https://www.coe.int)

Malta

Malta ratified the European Social Charter on 4 October 1988 and the Amending Protocol to the Charter on 16 February 1994. It ratified the Revised European Social Charter on 27 July 2005, accepting 72 of the Revised Charter's 98 paragraphs. Malta has neither signed nor ratified the Additional Protocol providing for a system of collective complaints.

Malta is not bound by 26 numbered paragraphs of the Revised Charter, namely Articles 2§§4,7, 8§3, 12§2, 18§§1–3, 19§§1–12, 21, 22, 27§1(c), 30 and 31§§1–3.

The third examination of non-accepted provisions of the Revised Charter in 2020 was based on a written procedure.

Having examined the information provided in the report, the Committee welcomed the readiness indicated by the Maltese authorities to accept several provisions of the Revised Charter, namely Articles 2§7, 12§2, 19§§ 1, 2 and 3, 5, 9, 21, 22 and 30. Beyond these provisions, the Committee also reiterated its earlier findings that from the point of view of the situation in law and in practice there were no obstacles to the immediate acceptance of Articles 18§2, 19§11, 27§1(c) and 31§2.

Further updated information on the situation in law and in practice would be needed for a proper assessment of Articles 18§§1 and 3, 19§§ 7,8 and 12 and 31§§ 1 and 3.

As regards Articles 2§4, 8§3 and 19§§ 4, 6 and 10, the current situation did not seem to be in conformity with the requirements of the Revised Charter. The Government was encouraged to take efforts towards ensuring the respective rights in law and in practice in the future.

The European Committee of Social Rights remains at the disposal of the authorities of Malta and encourages them to take the necessary steps towards acceptance of the indicated provisions of the Revised Charter as well as the collective complaints procedure.

The next examination of the provisions not yet accepted by Malta will take place in 2025.

The Committee's report can be consulted at: [Malta and the European Social Charter \(coe.int\)](#)

Austria

Austria ratified the 1961 Charter on 29 October 1969 and the Revised European Social Charter on 20 May 2011. It accepted 76 of its 98 paragraphs. The following provisions are not yet accepted: Articles 2§1, 4§4, 6§4, 7§6, 8§2, 15§2, 18§3, 19§4, 19§8, 19§10, 19§11, 21, 22, 23, 24, 26§2, 27§3, 29, 30 and 31§§ 1, 2 and 3 (22 provisions).

Austria has not accepted the system of collective complaints.

The procedure provided for by Article 22 of the 1961 Charter was applied for the first time in the context of a meeting between the members of the European Committee of Social Rights and representatives of various institutions of Austria in Vienna, on 28 April 2016.

In order to apply the procedure for the second time in 2021, the Austrian authorities were invited to provide written information on the non-accepted provisions of the Charter.

Having examined the written information received from the Government of Austria on 20 May 2021, the European Committee of Social Rights considered that there were no major obstacles to the acceptance of Articles 6§4, 7§6, 8§2, 19§4 a and b, 19§11, 23, 26§2, 27§3, 29, 30, and 31§2. Further clarification of the situation in law and practice would be required with respect to Articles 19§10, 21 and 22. The Committee considered that the current legal situation and practice in Austria should be improved to meet the requirements of Articles 2§1, 4§4, 15§2, 18§3, 19§4c, 19§8, 24, 31§1 and 31§3 of the Charter.

The Committee invited Austria to consider accepting additional provisions of the Charter as soon as possible so as to consolidate the paramount role of the Charter in guaranteeing and promoting social rights.

The next examination of the provisions not yet accepted by Austria will take place in 2026.

The Committee's report can be consulted at: [Austria and the European Social Charter \(coe.int\)](#)

Greece

Greece ratified the Charter on 18 March 2016, accepting 96 of the 98 paragraphs. The following provisions are not yet accepted: Articles 3§4 (the right to safe and healthy working conditions: occupational health services) and 19§12 (the right of migrant workers and their families to protection and assistance: to promote and facilitate, as far as practicable, the teaching of the migrant worker's mother tongue to the children of the migrant worker).

Greece accepted the Additional Protocol providing for a system of collective complaints on 18 June 1998 but had not yet made a declaration enabling national NGOs to submit collective complaints.

With a view to carrying out the procedure for the first time in 2021, the Greek authorities were invited to provide written information on the two non-accepted provisions of the Charter.

Having examined the written information provided by the Government of Greece on 3 June 2021, the European Committee of Social Rights noted that it had received no information, or insufficient information, to assess the situation in Greece with regard to Articles 3§4 and 19§12 of the Charter. Consequently, it reserved its opinion on the subject.

The next examination of the provisions not accepted by Greece will take place in 2026.

The Committee's report can be consulted at: [Greece and the European Social Charter \(coe.int\)](https://www.coe.int)

Lithuania

Lithuania ratified the Charter on 29 June 2001, accepting 86 out of 98 paragraphs. The following provisions have not yet been accepted: Articles 12§2, 13§4, 18§§2 and 3, 19§§2, 4, 6, 8 and 12, 23, 30 and 31§3.

Lithuania has not accepted the system of collective complaints.

The procedure provided for by Article 22 of the 1961 Charter was applied for the first, second and third time in the context meetings in Vilnius between the members of the European Committee of Social Rights and representatives of the Government of Lithuania (27 October 2007, 21 June 2011 and 6 April 2016 respectively).

In order to apply the procedure for the fourth time in 2021, the Lithuanian authorities were invited to provide written information on the non-accepted provisions of the Charter.

Having examined the written information received from the Government of Lithuania on 12 July 2021, the European Committee of Social Rights considered that there were no major obstacles to the acceptance of Articles 19§4, 19§8, 19§12, 23 and 30. Further clarification of the situation in law and practice would be required with respect to Articles 12§2, 13§4, 18§3, 19§§2 and 6 and 31§3. The Committee considered that the current legal situation and practice in Lithuania must be improved to meet the requirements of Article 18§2 of the Charter.

The Committee invited Lithuania to consider accepting additional provisions of the Charter as soon as possible so as to consolidate the paramount role of the Charter in guaranteeing and promoting social rights.

It also encouraged Lithuania to consider ratifying the Additional Protocol providing for a system of collective complaints. In this respect, the Committee referred to the Declaration of the Committee of Ministers on the 50th anniversary of the European Social Charter.

The next examination of the provisions not yet accepted by Lithuania will take place in 2026.

The Committee's report can be consulted at: [Lithuania and the European Social Charter \(coe.int\)](https://www.coe.int)

Republic of Moldova

The Republic of Moldova ratified the Revised European Social Charter on 8 November 2001, accepting 63 of the 98 paragraphs. The following 35 provisions have not yet been accepted: Articles 3§4, 4§1, 4§2, 7§5, 7§6, 10§§1-5, 13§4, 14§§1 and 2, 15§3, 18§§1 and 2, 19§§1-6, 19§§9-12, 22, 23, 25, 27§§1 and 3, 30, 31§§1-3.

The Republic of Moldova has not accepted the system of collective complaints.

In order to apply the procedure for the fourth time in 2021, the Moldovan authorities were invited to provide written information on the not yet accepted provisions of the Charter.

Having examined the written information received from the Government of the Republic of Moldova on 7 June 2021, the European Committee of Social Rights considered that there were no major obstacles to the acceptance of Articles 3§4, 4§2, 7§6, 10§1, 10§2, 10§3, 10§4, 10§5, 14§1, 14§2, 18§1, 19§1, 19§2, 19§3, 19§4a and b, 19§5, 19§6, 19§9, 22, 27§1 and 27§3.

In addition, the Committee considered that the Republic of Moldova could envisage accepting Article 19§10.

The Moldovan authorities declared that they were ready to accept Article 10 of the Charter as regards vocational training for jobseekers, the unemployed and persons in need of additional support in the labour market.

The Committee required further clarification of the situation in law and practice with respect to Articles 7§5, 13§4, 15§3, 18§2 and 19§11.

The Committee considered that the current legal situation and practice in the Republic of Moldova should be improved to meet the requirements of Articles 4§1, 19§4c, 19§12, 23, 27, 30, 31§1, 31§2 and 31§3.

The Moldovan authorities stated that they could accept Article 30 as regards the employment of persons at risk of social exclusion, while the other requirements of this provision were still subject to consultations between the relevant institutions.

The Committee invited the Republic of Moldova to consider accepting additional provisions of the Charter as soon as possible so as to consolidate the paramount role of the Charter in guaranteeing and promoting social rights.

The next examination of the provisions not yet accepted by the Republic of Moldova will take place in 2026.

The Committee's report can be consulted at: [The Republic of Moldova and the European Social Charter \(coe.int\)](#)

The Netherlands

The Netherlands ratified the Charter on 3 May 2006, the procedure provided for by Article 22 of the 1961 Charter was applied for the first time in 2011 and for the second time in 2016. In both cases, the European Committee of Social Rights decided to apply the written procedure to examine the situation concerning the only provision of the Charter not accepted by the Netherlands - Article 19§12 (teaching mother tongue of migrant).

In order to carry out the procedure for the third time in 2021, the authorities of the Netherlands were invited to provide written information on the non-accepted provision, including any progress achieved towards accepting Article 19§12 of the Charter and, if appropriate, the reasons for the delay in accepting this provision.

In their reply, received by the European Committee of Social Rights on 29 June 2021, the Dutch authorities confirmed that, in order to promote social cohesion, the government's priority was to teach migrants the Dutch language. Since 2004, the government was no longer involved in providing education to children in their parents' mother tongue. However, through private initiative it was still possible to provide education in foreign languages outside the formal education system. In addition, Article 9, paragraph 13, of the Primary Education Act and Article 6a of the Secondary Education Act create the possibility to temporarily provide education in a different language than the Dutch language if this was beneficial for the development of the pupil.

The Dutch government stresses that the policy with regard to language education was maintained and therefore confirmed that the Netherlands still did not intend to accept Article 19§12 of the Charter, and that the rationale for this position had not changed since 2011.

As the Netherlands was already bound by the European Convention on the Legal Status of Migrant Workers (ETS No. 93), Article 15 of which covered the same issues, the Committee considered that the conditions were met to ensure conformity with Article 19§12 of the Charter. It therefore reiterated its position and again encouraged the Dutch authorities to accept this provision.

The Committee invited the Netherlands to make a declaration enabling national NGOs to submit collective complaints.

The next examination of the provision not accepted by the Netherlands will take place in 2026.

The Committee's report can be consulted at: [The Netherlands and the European Social Charter \(coe.int\)](#)

Norway

Norway ratified the Revised European Social Charter on 7 May 2001, accepting 80 of the 98 paragraphs. The following provisions have not yet been accepted: Articles

2§7, 3§1, 3§4, 7§4, 7§9, 8§2, 8§4, 8§5, 18§§1-4, 19§8, 26§§1 and 2, 27§1 (a and b), 27§3 and 29 (18 provisions).

The procedure provided for by Article 22 of the 1961 Charter was applied for the first time in the context of a meeting between the delegation of the European Committee of Social Rights and representatives of various Norwegian ministries in Oslo on 28 March 2006.

Following this meeting, the European Committee of Social Rights at the time concluded that, from the point of view of the situation in law and in practice, there were no obstacles to the immediate acceptance of Articles 2§7, 3§1, 18§1, 18§4, 27§1 (a and b) and 27§3.

With a view to carrying out the procedure for the second time in 2011 and for the third time in 2016, the Norwegian authorities were invited to provide written information on the situation in law and practice in the areas covered by the non-accepted provisions of the Charter.

Having considered the letter sent by the Norwegian authorities on 31 January 2017 in the context of the third assessment, the Committee noted with interest the Government's statement that it was actively working towards the acceptance of Articles 2§7, 3§1, 18§1, 18§4, 27§1 and 27§3. The Committee welcomed that, compared to the statement made in 2011, two additional provisions were under consideration (Articles 18§§1 and 4).

The written procedure was also applied to review the situation for the fourth time in 2021. The Norwegian authorities were invited, by letter of 4 November 2020 and e-mail of 8 September 2021, to provide written information on the not yet accepted provisions of the Charter.

By letter dated 3 November 2021, the Norwegian authorities informed the Committee that Norway was currently in the process of working towards the acceptance of Articles 3§1 and 27§3 of the Charter. The Committee took note of this information.

The Committee remains at the disposal of the Norwegian authorities and encourages them to take concrete steps towards the acceptance of the provisions identified in 2006 and confirmed in 2011 and 2017 as posing no problems for acceptance.

Furthermore, the Committee invited Norway to consider recognising the right of national NGOs to lodge complaints before the Committee in the framework of the collective complaints procedure, as foreseen by Article 2 of the Additional Protocol providing for a system of collective complaints.

The next examination of the provisions not accepted by Norway will take place in 2026.

The Committee's report can be consulted at: [Norway and the European Social Charter \(coe.int\)](https://www.coe.int)

Ukraine

Ukraine ratified the Charter on 21 December 2006. It accepted 76 of its 98 paragraphs. The following provisions are not yet accepted: Articles 2§3, 4§1, 12§§1 and 2, 13§§1-4, 19§§1-12, 25 and 31§3.

Ukraine has not accepted the system of collective complaints.

The procedure provided for by Article 22 of the 1961 Charter was applied for the first and second time in the context of a meeting between the members of the European Committee of Social Rights and representatives of the Government of Ukraine in Kyiv on 29 - 30 September 2011 and on 23 March 2016 respectively. The Committee considered that there were no significant obstacles in law and in practice to the acceptance by Ukraine of the following provisions of the Charter: Articles 2§3, 12§§2 and 3, 13§§2 and 3, 19§§1-3, 19§§5-10 and 19§12.

Following the second meeting, Ukraine accepted two additional provisions: Article 12§§3 and 4.

In order to apply the procedure for the third time in 2021, the Ukrainian authorities were invited to provide written information on the non-accepted provisions of the Charter.

Having examined the written information received from the Government of Ukraine on 19 May 2021, the European Committee of Social Rights considered that there were no major obstacles to the acceptance by Ukraine of Article 2§3 of the Charter.

The Committee considered that the current legal situation and practice in Ukraine were an obstacle to the acceptance of Articles 4§1, 12§1, 13§1, 19§4, 19§11 and 25 of the Charter. It encouraged the Ukrainian authorities to continue their work to find ways of improving the situation in order to meet the requirements of these provisions.

The Committee needed information, or more detailed information, to reach a firm opinion on the level of conformity of the situation with the requirements of the Charter as regards Articles 12§2, 13§2, 13§3, 13§4, 19§1, 19§2, 19§3, 19§5, 19§6, 19§7, 19§8, 19§9, 19§10, 19§12 and 31§3. It therefore invited the Ukrainian authorities to take into account the Committee's conclusions and decisions when drafting the next report on the non-accepted provisions, so that the information provided is as complete as possible.

The Committee invited Ukraine to consider accepting additional provisions of the Charter as soon as possible so as to consolidate the paramount role of the Charter in guaranteeing and promoting social rights.

The next examination of the provisions not accepted by Ukraine will take place in 2026.

The Committee's report can be consulted at: [Ukraine and the European Social Charter \(coe.int\)](https://www.coe.int/t/09004016805cc1d4)

In conclusion, the European Committee of Social Rights encouraged States Parties to the Charter that have not yet accepted the Additional Protocol providing for a system of collective complaints to do so, namely Estonia, Georgia, Malta, Austria, Lithuania, the Republic of Moldova and Ukraine. In this respect, the Committee referred to the Committee of Ministers' Declaration on the 50th anniversary of the European Social Charter.³¹

The European Committee of Social Rights has expressed its full support to the respective national authorities in continuing the dialogue in the framework of the procedure on non-accepted provisions of the European Social Charter.

31. See Appendix 9: Declaration of the Committee of Ministers on the 50th anniversary of the European Social Charter, adopted by the Committee of Ministers on 12 October 2011 at the 1123rd meeting of the Ministers' Deputies: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805cc1d4

6. Strengthening the European Social Charter treaty system

Improving the implementation of social rights in Europe has been a longstanding Council of Europe objective. The various organs and entities of the Council of Europe – Committee of Ministers, Secretary General, Parliamentary Assembly, Congress of Local and Regional Authorities, Conference of International Non-Governmental Organisations – support this objective. They all consider that reinforcing the European Social Charter treaty system will contribute to achieving this objective as well as the social progress statutory aim of the Organisation.

Building on the “Turin process” for the European Social Charter³² that was launched in 2014, work has been ongoing through 2017 (the Committee of Ministers asked the Steering Committee for Human Rights (CDDH) to make proposals), 2018 and 2019 (CDDH reports and proposals³³), followed by the Secretary General’s proposals after seeking the advice of a high level group of social rights experts³⁴ (2020-2021), leading to decisions at the 131st Session of the Committee of Ministers and the Deputies’ follow-up decisions setting up, on 7 October 2021, an ad hoc working party on improving the European Social Charter system (GT-CHARTE)³⁵.

In the light of the proposals made by the Secretary General³⁶, and having regard also to the report submitted by the Steering Committee for Human Rights (CDDH) and the position papers adopted by the European Committee of Social Rights³⁷ and the Governmental Committee of the European Social Charter and the European Code of Social Security (GC)³⁸, the Deputies asked the ad hoc working party to look into practical ways of improving:

- a. the efficiency and impact of the reporting procedure under the Social Charter while reducing the reporting burden for member States;
- b. the follow-up by the GC and the Committee of Ministers to the conclusions prepared by the ECSR on the basis of the reports submitted by States Parties;

32. Turin Process for the European Social Charter: <https://www.coe.int/en/web/european-social-charter/turin-process>

33. Reports of the Steering Committee for Human Rights (CDDH): *Protection of social rights in Europe* (coe.int)

34. *Report of the High Level Group of Experts on Social Rights*, March 2021

35. *GT-CHARTE - Improving the European Social Charter system* (coe.int)

36. SG/Inf(2021)13: *Improving the implementation of social rights – reinforcing the European Social Charter system: Secretary General’s proposals*

37. Position paper adopted by the European Committee of Social Rights: <https://rm.coe.int/document-de-reflexion-sur-les-suites-a-donner-au-rapport-et-aux-propos/1680a0663b>

38. Position paper adopted by the Governmental Committee of the European Social Charter and the European Code of Social Security: <https://rm.coe.int/gc-2021-9-workinggrouppapercddh-en/1680a2eaf9>

- c. procedural aspects of the collective complaints procedure, including the follow-up by the ECSR and the Committee of Ministers of decisions on the merits of such complaints, having due regard to the competences of the ECSR.

The Deputies instructed the ad hoc working party:

- a. to submit in good time for the preparation of the Ministerial Session in May 2022, i.e. at the latest by 30 April 2022, its proposals in relation to a., b. and c. above; and
- b. to examine subsequently the more longer-term substantive and procedural issues.

Chaired by Ambassador Panos Beglitis, Permanent Representative of Greece, to date GT-CHARTE held 10 meetings, three of them in 2021 (and seven additional meetings in the first months of 2022). To ensure that the working party – open to all delegations within the Committee of Ministers – had all necessary information, a number of delegations were accompanied by advisers or experts from their capitals. Representatives of the two organs of the Charter, i.e. the ECSR and the GC, as well as of the CDDH, were invited to attend the GT-CHARTE meetings. The Conference of International Non-Governmental Organisations and the social partners (representatives of trade unions and of employers' organisations) were also invited to exchange with GT-CHARTE.

From the outset, the Chairperson underlined that the mandate of GT-CHARTE was to strengthen the European Social Charter system and improve the implementation of social rights while reducing the burden for States Parties, especially as regards reporting. He urged delegations to keep in mind this double objective and the consequence that the mandate would only be complied with if both objectives were achieved. Delegations confirmed their understanding that the primary objective is to reinforce the Charter mechanisms and the implementation of social rights, while many also emphasised the need to reduce the burden, especially in terms of reporting, of States Parties to the Charter.

Without prejudice to the outcome of GT-CHARTE's ongoing work (its consolidated report summarising its proposals was endorsed at a Ministerial level session of the Committee of Ministers in Turin in May 2022) and decisions yet to be taken by the Committee of Ministers, the general direction appears to involve further simplifying the statutory reporting (under Article 21 of the 1961 Charter, which was incorporated into the 1996 Revised Charter through the general renvoi made in Part IV, Article C of the latter) by pursuing and enhancing the ECSR's current approach of not covering all provisions and circumscribing the reporting to specific questions. This reduction in the reporting burden for States could be combined with a reduction in the frequency of reports to one every two years. There is also a general feeling that the follow-up by the GC and by the Committee of Ministers to the reporting and conclusions needs to be developed further, adopting a more constructive, less judgemental approach, so as to encourage positive change.

Ad hoc reports may be part of the new arrangements under the Charter, designed to examine from time to time new or critical issues. The outcome of ad hoc reports

could be a general analysis by the ECSR followed by dialogue among the States Parties within the framework of the GC. In appropriate cases, the matters examined could lead to additional guidance or recommendations addressed to States generally.

The state of discussions within GT-CHARTE also suggest that, while the procedural aspects of the collective complaints procedure do not call for immediate changes, the ECSR might be invited to apply strictly the admissibility requirements for collective complaints and to provide general information on the criteria it applies in this regard, and to ensure full respect of the adversarial dimension of the procedure.

Considerable emphasis has been placed on the need to enhance dialogue between the Charter's monitoring bodies (European Committee of Social Rights, Governmental Committee) and States Parties. A response to the demand for more dialogue could shape certain aspects of the procedure and, more specifically, the follow-up. It could involve communication between the Charter's organs and the authorities of one State or, in cases where there are common issues or when there is an opportunity for drawing on examples of good practice, a group of States.

Modernisation of the procedures under the Charter may also involve revised or enhanced use of information and communication technology.

7. Relations with Council of Europe Bodies

7.1. Secretary General of the Council of Europe

In 2021, the Secretary General continued to support the European Social Charter and the work of the European Committee of Social Rights. When addressing the Congress of Local and Regional Authorities of the Council of Europe in June 2021, she said that “the European Social Charter should be our loadstar”.

According to her 2021 report on the “State of Democracy, Human Rights and the Rule of Law - A democratic renewal for Europe”³⁹, existing weaknesses in provision of social rights have been further exposed by the impact of the Covid-19 pandemic, with healthcare and education suffering, child poverty rising and jobs, incomes and housing coming under particular strain, the full impact of which is not yet known. Extraordinary measures had been taken by many Council of Europe member States in order to safeguard the dignity of life and fundamental rights in times of crisis. These are prerequisites for a sustainable recovery effort that is yet to begin. The Secretary General stressed that the European Social Charter should be a guide to sustainable recovery efforts. Social rights complement civil and political rights, and set them in context, safeguard social justice, and bond cohesive and inclusive societies. Universal healthcare, resilient public health systems, employment security, arrangements to ensure protection of the rights of older people, solid public education and the protection of children and women are obligations under the European Social Charter that member States must respect and uphold.

In the abovementioned report, the Secretary General called on national authorities to return to fundamental democratic principles and to recommit to the Council of Europe’s *acquis*, starting with the European Convention on Human Rights and the European Social Charter. She underlined that, between them, these treaties define human rights on our continent, and they must be a consistent reality in the life of Europeans, an idea that she repeated on a number of occasions throughout the year. She also indicated that “steps will need to be taken to enable the Council of Europe to engage in a dialogue with the member states on their respect for social and economic rights, and especially the role and place of the European Social Charter, including on its interaction with the European Union. The Council of Europe will need to complete the revision of the Charter’s treaty system, reinforcing its efficacy and its monitoring arrangements, its impact at national level, communication and the outcomes of its processes, reigniting cooperation in the areas of public health and social cohesion.”

In her report, the Secretary General posed the question of how strong the commitment to social rights in Europe is. She replied by reference to signatures and

39. A Democratic Renewal for Europe, Report by the Secretary General of the Council of Europe 2021: <https://rm.coe.int/annual-report-sg-2021/1680a264a2>

ratifications of the 1961 and the revised European Social Charter, pointing out that four countries – Liechtenstein, Monaco, San Marino and Switzerland – have not ratified either version, and eight (now seven) – Croatia, Czech Republic, Denmark, Iceland, Luxembourg, Poland and the United Kingdom – remain with the 1961 Charter. She also indicated that two member states (now three, France, Portugal and Spain) have committed to all the provisions of the Revised Charter and that fifteen (now sixteen) accepted collective complaints, a procedure that enables social partners and certain international non-governmental organisations to refer a case before the European Committee of Social Rights if they consider that a state has failed to comply with the Charter.

Assessing social rights implementation, the Secretary General pointed to the conclusions of the European Committee of Social Rights and quoted a level of conformity in 48.9% of the situations examined over the last four supervisory cycles, and non-conformity in around 34.4% of the cases. She also signalled that the Committee's monitoring and case law contribute towards achieving the UN 2030 agenda for sustainable development goals (SDGs).

At the opening of a high-level panel discussion on the occasion of the 60th anniversary of the Charter, the Secretary General celebrated that the opening to signature of that treaty was “a landmark moment in the formation of Europe's human rights architecture” which “continues to have a deep and positive effect on the lives of people across our continent”.

Following up on proposals made by the Steering Committee for Human Rights (CDDH) at the request of the Committee of Ministers, the Secretary General took an active, hands-on approach to the reform of the European Social Charter system by appointing a high-level group of social rights experts to advise her on concrete actions to strengthen the Council of Europe's impact in terms of protection and promotion of social rights in Europe. After receiving the experts' report, the Secretary General presented her own vision for improving the implementation of social rights to the Committee of Ministers⁴⁰.

More on the Secretary General's support for the European Social Charter and work conducted under the Charter can be found under Chapter 6, on Strengthening the European Social Charter treaty system, and under Chapter 9, on the 60th anniversary of the Charter.

7.2. Committee of Ministers

At its Ministerial Session in Hamburg (May 2021) the Committee of Ministers expressed at the highest political level support for the European Social Charter. It “stressed the importance of the Charter in guaranteeing social rights across the continent” and provided political backing for reforms designed to improve the Charter system. The Ministers set the next political milestone at the Ministerial Session in May 2022. Acting upon this political impulse, the Deputies held an exchange of views

40. SG/Inf(2021)13: <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680a238c2>

(September 2021) on ways of enhancing the European Social Charter system and set up an ad hoc working party on reinforcing the European Social Charter system (GT-CHARTE). This group, open to all delegations within the Committee of Ministers and with the participation of experts from the capitals and representatives of the organs of the Charter and of the CDDH, has worked intensely since then. For more information on the reform process see Chapter 6, on Strengthening the European Social Charter treaty system.

On the occasion of the 60th anniversary of the European Social Charter, the Committee of Ministers reaffirmed in 2021 the eminent role of the Charter in guaranteeing and promoting social rights in Europe and reiterated its resolve to ensure that the Charter system is given the political support and the tools and means required to ensure its effectiveness. The Committee of Ministers underlined that challenges – such as globalisation, demographic changes, new information technologies and the consequences of the Covid-19 pandemic – further highlight the importance of a strong and effective European Social Charter. More information on the 60th anniversary of the Charter can be found in Chapter 9.

According to Article 9 of the 1995 Protocol providing for a system of collective complaints, when the European Committee of Social Rights “finds that the Charter has not been applied in a satisfactory manner, the Committee of Ministers shall adopt a recommendation addressed to the Contracting Party concerned”. In March 2021, the Committee of Ministers started applying consistently this provision, first in the follow-up to fourteen decisions by the European Committee of Social Rights in collective complaints concerning equal pay, lodged successfully by the international non-governmental organisation University Women of Europe (UWE), followed by other decisions in collective complaints where the Committee found a violation of Charter provisions. For more information on the follow-up by the Committee of Ministers to decisions in collective complaints, see Chapter 3.5.

Inspired by the Committee’s findings in the UWE complaints, the Committee of Ministers also adopted in 2021 a declaration on equal pay and equal opportunities for women and men in employment⁴¹. In this declaration, the Committee of Ministers pointed out to the following resources with a view to tackling pay and opportunities inequalities in employment:

- ▶ recognising in law the right to equal pay between women and men for work of equal value;
- ▶ ensuring access to effective remedies for victims of pay discrimination;
- ▶ promoting pay transparency, inter alia through relevant statistics, allowing for pay comparisons;
- ▶ maintaining effective equality bodies and relevant institutions in order to ensure equal pay in practice;
- ▶ adopting, when appropriate, a comprehensive strategy to promote the rights to equal pay for work of equal value and gender equality in employment,

41. Declaration by the Committee of Ministers on equal pay and equal opportunities for women and men in employment, 17 March 2021: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a1cb97

including concrete milestones and a detailed timeline, notably through the design of effective policies and measures and the collection of reliable and standardised sex-disaggregated data.

These elements have been emphasised by the European Committee of Social Rights in its decisions, conclusions and statements of interpretation.

Further, upon the proposal of the European Platform for Social Cohesion, the Committee of Ministers adopted a Declaration on the risks of computer-assisted or artificial intelligence-enabled decision making in the field of the social safety net⁴². It pointed to the importance of protecting human rights, including social rights, when they are put at risk as a result of the use of such technology. While it acknowledged possible benefits stemming from that use, the Committee of Ministers drew attention to the need for human oversight to mitigate or avoid errors and to the need for effective arrangements to protect vulnerable persons from serious or irreparable harm.

During the annual exchange of views between the President of the European Committee of Social Rights and the Committee of Ministers, Karin Lukas recalled that “the Charter was linked at birth with the very mission of this Organisation, which [pursuant to Article 1 of the Statute] includes facilitating the economic and social progress of the member States”. She expressed her gratitude to the Committee of Ministers for clearly setting out its ambitions in the adopted declaration on the 60th anniversary of the Charter. She also underlined the increased commitment of States to social rights through the ratification of the Revised Charter by Germany and Spain. This commitment is very much welcomed by the European Committee of Social Rights in particular in a process of a reform. Karin Lukas called on the Committee of Ministers to provide a strong follow-up to the decisions of the Committee in both reporting and complaints procedures.⁴³

7.3. Parliamentary Assembly of the Council of Europe

In 2021, the Parliamentary Assembly of the Council of Europe (PACE) adopted several Recommendations with particular relevance to the European Social Charter.

On 29 September 2021, the PACE adopted **Recommendation 2211 (2021) “Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe”**.⁴⁴

The Parliamentary Assembly expressed its concern at the speed and extent of environmental degradation, loss of biodiversity, and the climate crisis that has direct impact on human health, dignity and life. It considered that it is high time for the Council of Europe to show ambition and strategic vision for the future by facing up to this major transformative challenge for human rights and securing their enhanced

42. Declaration by the Committee of Ministers on the risks of computer-assisted or artificial-intelligence-enabled decision making in the field of the social safety net, 17 March 2021: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a1cb98

43. See Appendix 10: Intervention by Karin Lukas, President of the European Committee of Social Rights, before the Committee of Ministers of the Council of Europe, 20 October 2021

44. PACE Recommendation 2211(2021) “Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe”: <https://pace.coe.int/en/files/29501/html>

protection in the era of systemic environmental threats to the present and future generations. To this end, the PACE recommended, inter alia, that the Committee of Ministers “draw up an additional protocol to the European Social Charter on the right to a safe, clean, healthy and sustainable environment; the inclusion of this right in the European Social Charter would make it possible to recognise the inter-relationship between protection of social rights and environmental protection; it would also enable non-governmental organisations to lodge collective complaints on environmental issues”.

In its comments addressed to the Committee of Ministers on the above-mentioned PACE Recommendation, the European Committee of Social Rights stressed that the inclusion of such a right in the European Social Charter would strengthen the interrelationship between protection of social rights and environmental protection which has already been recognised by the ECSR through its evolutive interpretation of the Charter. It would constitute a necessary step forward in order to strengthen the protection of the environment, on the one hand, and the protection of social rights, on the other hand, which are closely interlinked.

On 22 June 2021, the PACE adopted **Recommendation 2205 (2021) “Overcoming the socio-economic crisis sparked by the Covid-19 pandemic”**⁴⁵, in which it underscored the need for member States to honour their commitments under the European Social Charter by investing more in effective implementation of social rights. The PACE recommended that the Committee of Ministers “mandate the European Committee of Social Rights to study the feasibility of adding new rights to the catalogue of rights already protected by the European Social Charter and of expanding the reach of existing rights to all persons living under the jurisdiction of States Parties”. Moreover, the PACE called, “on the four countries which have not yet ratified the Protocol amending the Charter to do so as soon as possible”.

In its comments addressed to the Committee of Ministers on the PACE Recommendation 2205 (2021), the European Committee of Social Rights noted a very significant impact of the pandemic on socio-economic rights and referred to its general observations, targeted questions and Statement on Covid-19 and social rights. The European Committee of Social Rights welcomed the PACE’s proposal to call on all member States to sign, ratify and fully implement as many provisions as possible of the Charter and its Protocols and to accept the collective complaints procedure. As for adding new rights, the European Committee of Social Rights noted that the Revised Charter already guarantees a very wide and comprehensive set of rights and, taken together with the Committee’s dynamic and teleological interpretation of the treaty’s provisions, there should be no major obstacles to addressing new challenges.

On 28 September 2021, the PACE adopted the **Recommendation 2210 (2021) “Socio-economic inequalities in Europe: time to restore social trust by strengthening social rights”**⁴⁶, in which it deplored the gap between the rights protected by the European Social Charter and the socio-economic policies pursued at national

45. PACE Recommendation 2205(2021) “Overcoming the socio-economic crisis sparked by the Covid-19 pandemic”: <https://pace.coe.int/en/files/29351/html>

46. PACE Recommendation 2210(2021) “Socio-economic inequalities in Europe: time to restore social trust by strengthening social rights” <https://pace.coe.int/en/files/29492/html>

level, which is reflected in the annual conclusions and statements of the European Committee of Social Rights. The PACE supported the proposals put forward by the Secretary General of Council of Europe to reform the implementation of the Charter. It recommended the Committee of Ministers to ask the European Committee of Social Rights to study the feasibility of adding new provisions to the Charter on the social protection of workers in non-standard forms of work. The PACE also asked the Committee of Ministers to pursue efforts to promote the European Union's accession to the Revised Charter.

In its comments addressed to the Committee of Ministers on the PACE Recommendation 2210 (2021), the European Committee of Social Rights noted that one of the objectives of its periodic conclusions on state compliance with the provisions of the Charter is to minimise the existing gaps by identifying any current shortcomings and issues in the States Parties thus helping them to bring their socio-economic policies into line with the Charter. The European Committee of Social Rights also encouraged States Parties to accept the collective complaints procedure. With regard to new provisions, the Committee noted that it already examined measures taken by public authorities to protect workers against work-related stress, aggression and violence specific to work performed under atypical working relationships. As regards PACE's support for proposals on the reform of the Charter's system, the European Committee of Social Rights welcomed the Committee of Ministers' decision to set up a working party mandated to look into ways of strengthening the Council of Europe's social rights framework. Finally, the Committee stressed that the accession of the European Union to the Revised Charter would minimise the risk of the European Union Member States having to face conflicting obligations imposed by the European Union law and the Charter respectively.

On 22 June 2021, the PACE adopted **Recommendation 2206 (2021) on the "Impact of the Covid-19 pandemic on children's rights"**⁴⁷, calling on Council of Europe Member States to take urgent action to ensure that all children are protected in accordance with existing international standards. The Recommendation also included an endorsement of the Secretary General's proposals on reinforcing the European Social Charter system and called for consideration of a possible additional protocol on effective social protection in times of crises.

In its comments addressed to the Committee of Ministers on Recommendation 2206 (2021), the European Committee of Social Rights referred to its general observations, targeted questions and Statement on Covid-19 and social rights, which addressed alongside other issues the position of children in the context of the pandemic. With regard to the call for consideration of an additional protocol to the European Social Charter, the European Committee of Social Rights emphasised that absolute priority must be given to the proper implementation of the Charter and other relevant international standards, and that a new Protocol as suggested should be considered together with and in light of the other possible substantive developments referred to by the Secretary General in her proposals.

47. PACE Recommendation 2206(2021) on the "Impact of the Covid-19 pandemic on children's rights": <https://pace.coe.int/en/files/29353/html>

7.4. Congress of Local and Regional Authorities

The Congress has reiterated on a number of occasions the importance of the European Social Charter for local and regional authorities. On the occasion of the [60th anniversary of the European Social Charter](#), the President of the Congress, Leendert Verbeek, pointed to the need for a stronger local anchorage for the Charter⁴⁸.

When speaking on the occasion of the International Day for the Eradication of Poverty, focused on the fight against human trafficking, he underlined the role of the Charter in guaranteeing the right to safe and healthy working conditions, making the link with the role of local and regional authorities in the fight against poverty and the promotion of access to decent work for those who have fallen or are at risk of falling into poverty⁴⁹.

7.5. European Court of Human Rights

The European Committee of Social Rights held an exchange of views with the European Court of Human Rights on 28 January 2021. The exchange provided an opportunity to share practices and experiences, to explore ways to improve cooperation and to identify convergence and synergies between the two main Council of Europe instruments for the protection of human rights. Better cross-referencing and knowledge-sharing would undoubtedly increase the synergies between the two bodies. A number of other specific issues were also touched upon, including the right to health, the rights of people with disabilities, the right to a healthy environment and the impact of the Covid-19 pandemic on people's lives and on the enjoyment of human rights.

The European Committee of Social Rights often refers to the case-law of the European Court of Human Rights, both in the framework of the reporting procedure and its decisions concerning collective complaints. The following decision is a prominent 2021 example:

- ▶ [International Commission of Jurists \(ICJ\) and European Council for Refugees and Exiles \(ECRE\) v. Greece, Complaint No. 173/2018, decision on the merits of 26 January 2021](#)

Similarly, in 2021 the European Court of Human Rights referred to the European Committee of Social Rights and the European Social Charter in the following cases:

- ▶ [Case of Yakut Republican Trade Union – Union Federation v. Russia \(Application no. 29582/09\), Judgement of 7 December 2021 \(Final, 07/03/2022\)](#)
- ▶ [Case of Yocheva and Ganeva v. Bulgaria \(Application nos. 18592/15 and 43863/15\), Judgement of 11 August 2021](#)

48. Statement by the President of the Congress of Local and Regional Authorities, Leendert Verbeek, on the Charter's 60 Year Anniversary, 18 October 2021: <https://rm.coe.int/20211018-statement-president-of-the-congress-60-years-of-the-european-/1680a41fff>

49. Speech of the President of the Congress of Local and Regional Authorities, Leendert Verbeek, on the occasion of the International Day for the Eradication of Poverty 17 October: <https://rm.coe.int/20211018-speech-president-of-the-congress-ceremony-for-the-international/1680a43634>

- ▶ Case of F.O. v. Croatia (Application no. 29555/13), Judgement of 6 September 2021
- ▶ Case of Vavrička and others v. Czech Republic (Application nos. 47621/13 and 5 others), Judgement of 8 April 2021

7.6. Commissioner for Human Rights

The Council of Europe Commissioner for Human Rights, Dunja Mijatović, held an **exchange of views with the European Committee of Social Rights** on 25 March 2021. The Commissioner remarked that social rights still require adequate protection in Europe and generate important obligations that have immediate effect. She added that, as the full social inclusion of all members of society is a moving target, the notions of ‘non-retrogression’ and ‘progressive realisation’ mean that higher levels of protection should be constantly sought. She insisted that it is crucial that all Council of Europe member states ratify all provisions of the Charter to preserve the European social model. In her view, the collective complaint procedure is a powerful bottom-up tool for the enforcement of social rights at national level. She expressed her hope that the collective complaint procedure should bind more states. She highlighted that the findings of successive Commissioners have often been strengthened by references to the Social Charter and to the relevant conclusions and decisions adopted by the European Committee of Social Rights.

In her human rights comment **“Learning from the pandemic to better fulfil the right to health”**, issued in April 2020⁵⁰, the Commissioner emphasised that the right to health is closely interconnected with other social rights which include the rights to social security and protection, the right to housing and the broader issue of poverty. She further recalled that in her latest Issue Paper **“Protecting the right to health through inclusive and resilient health care for all”** (February 2021)⁵¹, she called on member states to build health care systems that meet the needs of the entire population and are robust enough to respond effectively to public health emergencies, as health and social policy making must be comprehensive, gender-sensitive and coherent. In this line, she drew the attention on her long-standing recommendation to eliminate coercive practices in all sectors of health, including sexual and reproductive, psychiatry, mental health care services and services for persons with psychosocial disabilities.

The Commissioner expressed her concerns that we are likely going into a prolonged period in which the exercise of social rights, including notably the right to protection against poverty, will remain challenged across Europe. At the same time, she also said that in her view this is also a period in which enormous attention is paid at highest political level to the state of our health and social care systems, and to inequalities as a collective risk factor for our societies. She considered that political leaders may now be especially receptive to related proposals and recommendations.

50. Human Rights Comment, April 2020: [Learning from the pandemic to better fulfil the right to health - 2020 - Human Rights Comments - Commissioner for Human Rights \(coe.int\)](https://rm.coe.int/learning-from-the-pandemic-to-better-fulfil-the-right-to-health-2020-human-rights-comments-commissioner-for-human-rights/1680a177ad)

51. Protecting the right to health through inclusive and resilient health care for all, February 2021: <https://rm.coe.int/protecting-the-right-to-health-through-inclusive-and-resilient-health-/1680a177ad>

With regard to meetings relevant to social rights, the Office of the Council of Europe Commissioner for Human Rights organised an **online round-table event with human rights defenders working on combating racism and racial discrimination against people of African descent in Europe** on 24 November 2020. The report for this event was published on 19 March 2021⁵². It highlighted the role of the European Social Charter in setting standards and guidelines at the European level, by underlining states' obligations to combat racism and racial discrimination, paying particular attention to persons of African descent.

In addition, the Office of the Council of Europe Commissioner for Human Rights organised an **online round-table event with LGBTI human rights defenders** on 9 February 2021. In this event, several issues related to rights guaranteed by the European Social Charter were discussed. The Commissioner recalled that: (i) Member states should take measures to ensure that LGBTI people have adequate access to healthcare, considering risks of discrimination and existing trauma; (ii) Specialised healthcare for intersex and transgender people should be considered as essential healthcare services to be always maintained; (iii) The most vulnerable members of LGBTI communities should be secured equal access to the rights to housing, food, and social security. Regarding the human rights impact of Covid-19 on LGBTI people and the right to health protected by the Charter, the Commissioner further recalled that Council of Europe member states should consult with LGBTI organisations locally to ensure that their response to the pandemic adequately takes into consideration the needs and vulnerabilities of LGBTI people. As to human rights related to the labour rights of LGBTI people, the Commissioner insisted that international, regional, and national networks of human rights defenders should co-operate in assisting those defenders who face difficulties in their work and threats to their personal security.⁵³

Moreover, the Office of the Council of Europe Commissioner for Human Rights organised an **online round-table event with environmental human rights defenders and activists** on 18 December 2020. The report for this event was published on 31 March 2021⁵⁴. The Commissioner noted the interdependence between the environment and human rights. The Commissioner further noted that the sense of an impending environmental emergency has galvanised many people in Europe and the world around a variety of initiatives demanding rights related to a clean and healthy environment. The Commissioner remarked that among the Council of Europe bodies, the European Social Charter has produced an extensive body of case law that delineates states parties' obligations in the field of environmental protection. The Commissioner further remarked that the European Committee of Social Rights has interpreted the right to health included in the Charter to encompass the right to a healthy environment, finding that states parties must strive to overcome

52. Commissioner's report "Combating racism and racial discrimination against people of African descent in Europe", 19 March 2021

53. Commissioner's Report of the online round-table with LGBTI human rights defenders from across Europe 'Human rights of LGBTI people in Europe: current threats to equal rights, challenges faced by defenders, and the way forward', 9 December 2021

54. Commissioner's report: "Environmental Rights Activism and Advocacy in Europe: Issues, Threats, Opportunities", 30 March 2021

pollution within a reasonable time and using available resources by taking concrete steps and monitoring progress.

In the framework of the regular monitoring work of the Commissioner, on 24 March 2021 the Commissioner published a **Memorandum on Portugal** addressing both the increasing level of racism and the persistence of related discrimination in the country, the persistent problem of violence against women and domestic violence and the measures taken by the Portuguese authorities to combat these phenomena.⁵⁵ In this Memorandum, the Commissioner drew attention to the Decision on the Merits of the European Committee of Social Rights in collective complaint No. 136/2016, *University Women of Europe (UWE) v. Portugal*, which found Portugal to be in violation of the Revised European Social Charter on grounds of insufficient measurable progress in promoting equal opportunities between women and men in respect of equal pay.

7.7. Conference of INGOs

The Conference of INGOs organised two events on 18 October 2021, to mark the **International Day for the Eradication of Poverty** (17 October) and the **European Anti-Trafficking Day** (18 October). The celebration included a ceremony with leading Council of Europe personalities, including the Council of Europe Secretary General, Marija Pejčinović Burić, the President of the European Court of Human Rights, Robert Spano, and the Vice President of the European Committee of Social Rights, Eliane Chemla. Testimonies of persons victims of trafficking or whose rights to decent work have been denied were also heard.⁵⁶

The ceremony was followed by a webinar on decent work for all and more particularly on formal or informal work, the usefulness of the work and its impact on the environment, and the respect for the rights and dignity of all persons. Several Articles of the European Social Charter were examined and used as example. Karin Lukas, President of the European Committee of Social Rights delivered an opening address⁵⁷ and Miriam Kullmann, member of the European Committee of Social Rights, participated in the discussions.

55. Commissioner for Human Rights' memorandum on Portugal, 24 March 2021: <https://rm.coe.int/memorandum-on-combating-racism-and-violence-against-women-in-portugal-/1680a1b977>

56. International Day for the Eradication of Poverty and European Anti-trafficking Day - Conference of INGOs organises two events - Conference of INGOs - Newsroom (coe.int)

57. See Appendix 11: Opening address of Karin Lukas, President of the European Committee of Social Rights at the seminar "Precariousness or slavery, it's not a job! Is decent and freely undertaken work for ALL possible?", 18 October 2021

8. Relations with other international organisations

8.1. European Union

The Council of Europe hosted a series of sessions at the hybrid **Fundamental Rights Forum 2021** on 11 and 12 October 2021. Those events included a panel debate on how the European Social Charter, the only specialised legal instrument on social rights in Europe, can address multiple discrimination and help to build a fairer Europe following the Covid-19 pandemic. It was organised jointly by the Department of the European Social Charter (renamed in early 2022 as Department of Social Rights) with ENNHRI and EQUINET on 11 October.⁵⁸ The debate offered an opportunity to discuss how international organisations, non-governmental organisations, national human rights institutions and equality bodies can work together to make the enjoyment of human rights and equality of individuals a reality in Europe.

The European Committee of Social Rights has regular exchanges with FRA representatives in the framework of the COE-FRA-ENNHRI-EQUINET Collaborative Platform on Social and Economic Rights. More information on the activities of the Platform in 2021 can be found in sub-chapter 8.4.

8.2. United Nations

The European Social Charter and the UN Agenda 2030 for Sustainable Development

The European Social Charter and the standards developed by the European Committee of Social Rights are relevant and contribute to the implementation of **Agenda 2030**. There is a close link between the European Social Charter and the Sustainable Development Goals – such as for example:

- ▶ Goal 1 “End poverty in all its forms everywhere” – Article 30 of the Charter (the right to protection against poverty and social exclusion). Furthermore, the European Committee of Social Rights emphasises the very close link between the effectiveness of the right recognised by Article 30 of the Charter and the enjoyment of the rights recognised by other provisions, such as the right to work (Article 1), access to health care (Article 11), social security allowances (Article 12), social and medical assistance (Article 13), the benefit from social welfare services (Article 14), the rights of persons with disabilities (Article 15), the social, legal and economic protection of the family (Article 16) as well as of children and young persons (Article 17), the right to equal opportunities and equal treatment in employment and occupation without sex discrimination (Article 20), the rights of the elderly (Article 23) or the right to housing (Article 31), without forgetting the important impact of the non-discrimination clause (Article E) which obviously includes non-discrimination on grounds of poverty.

58. [The European Social Charter: a story on equality - News \(coe.int\)](https://www.coe.int/t/e/sr/News/2021/20211011_en.asp)

- ▶ Goal 3 “Ensure healthy lives and promote well-being for all at all ages” – Article 11 of the Charter (the right to protection of health), Article 3 (the right to safe and healthy working conditions), Article 8 (the right of employed women to protection of maternity) and Article 23 (the right of elderly persons to social protection).
- ▶ Goal 4 “Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all” – Article 10 of the Charter (the right to vocational training), Article 17 (the right of children and young persons to social, legal and economic protection).
- ▶ Goal 5 “Achieve gender equality and empower all women and girls” – Article 4§3 of the Charter (to recognise the right of men and women workers to equal pay for work of equal value), Article 20 (the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on grounds of sex) Article 1§2 of the 1988 Additional Protocol;
- ▶ Goal 11 “Make cities and human settlements inclusive, safe, resilient and sustainable” – Article 16 of the Charter (the right of the family to social, legal and economic protection), Article 31 (the right to housing).

More information on the contribution of the European Committee of Social Right to the UN Agenda 2030 is available on the Council of Europe website⁵⁹.

8.3. Academic Network on the European Social Charter and social rights (ANESC)

In 2021, the European Committee of Social Rights continued its cooperation with the Academic Network on the European Social Charter and Social Rights (ANESC)⁶⁰. The Network actively participated in the celebrations of the 60th anniversary of the European Social Charter despite the increased workload of its members due to distance learning and the need to adapt the way they work to the health restrictions imposed in response to the Covid-19 pandemic. The following events can be mentioned:

- ▶ On 6 October 2021, Roma Tre University organised a conference on the theme: “60 years on bringing the European Social Charter into changed times” with the participation of the Network members.
- ▶ On 8 October 2021, a seminar organised by the Belgian Section of the Network was held in Brussels on the theme: “The system of collective complaints within the framework of the European Social Charter”.

59. Contribution of the Council of Europe to the United Nations 2030 agenda for sustainable development goals: <https://www.coe.int/en/web/un-agenda-2030>

60. ANESC is an association registered with the Strasbourg District Court (Tribunal d'Instance) and governed by Articles 21 to 79-III of the local Civil Code kept in force in the departments of Haut-Rhin, Bas-Rhin and Moselle by the Law of 1 June 1924, and by its statute. Its registered office is at the “Maison des associations”, 1-a Place des Orphelins, 67000 Strasbourg. According to its statute, the main objective of ANESC is to promote the European Social Charter and social rights in Europe and to take every initiative conducive to publicising the European Social Charter and the other instruments for the protection of social rights in Europe, and to improving their implementation and protection both at the level of the Council of Europe and in its member States (see Article 2). For more information on ANESC, please consult the following website: <http://www.racse-anesc.org/>.

- ▶ On 11 and 12 November 2021, the Faculty of Law of the University of Turin, in collaboration with ANESC, organised a conference on the theme: “The European Social Charter turns 60: Advancing economic and social rights across jurisdictions”.
- ▶ On 23 November 2021, the Polish Section of the Network, with the support of the Law and Partnership Foundation, organised a conference on “The current challenges and opportunities for the protection of social rights in the light of the revised European Social Charter”.
- ▶ The Moot Court Competition on the European Social Charter, launched by the ANESC in 2021 and finalised in 2022.

Indeed, during the academic year 2021-2022 and at the initiative of its Belgian Section, ANESC organised the first edition of the Moot Court Competition on the European Social Charter. This bilingual (French-English) competition was based on a fictitious collective complaint and included a written and an oral phase. Participation in the competition was open to law students registered with a university. By drawing lots, half of the competing teams were given the status of “claimants” and the other half the status of “defendant government”.

The following universities took part in the competition:

- ▶ University of Ferrara (Italy)
- ▶ University Saint-Louis - Brussels (Belgium)
- ▶ Vrije Universiteit Brussel (Belgium)
- ▶ University of Rouen (France)
- ▶ University of Paris-Saclay (France)
- ▶ Eötvös Loránd University (Hungary)
- ▶ University of Milan (Italy)
- ▶ University Sorbonne Paris Nord (France)
- ▶ University of Maynooth (Ireland)

The oral phase of the competition took place on 1 April 2022.

All these events were financially supported by the Social Rights Department of the Council of Europe and representatives of the Department as well as active and former members of the European Committee of Social Rights took part in these events.

The ANESC finalised its work on the 1st volume of the “Commentary on the European Social Charter” in which current and former members of the European Committee of Social Rights were involved.

The national sections of ANESC have undertaken the following activities related to the promotion of the European Social Charter:

The Belgian section

A large part of the activities in 2021 was devoted to the preparation of the Moot Court competition on the European Social Charter, which was finalised in 2022.

Another important part of the activities was dedicated to the preparation and holding of a seminar on the collective complaints procedure under the European

Social Charter. This event, organised with the support of the Council of Europe in the framework of the 60th anniversary of the European Social Charter, took place in Brussels on 8 October 2021. Registration was free of charge, in order to allow a maximum number of students and professionals to participate. The different presentations gave rise to in-depth discussions. The event:

- ▶ provided input for academic research on the European Social Charter;
- ▶ served to disseminate knowledge about the Charter and the collective complaints procedure among practitioners (members of non-governmental organisations, governmental organisations, lawyers, judges);
- ▶ contributed to teaching the Charter to students: this seminar was specifically designed as a “preparation” for the students of the nine teams participating in the Moot Court Competition on the European Social Charter organised by the Network.

The event was recorded thanks to grants from the Council of Europe, and can be consulted freely at <https://www.circ.usaintlouis.be/seminaire-charte-sociale-europeenne-8-octobre/>, which ensures the durability of the work and its free distribution to as many interested people as possible.

The Belgian section participated in the work carried out on the 1st volume of the “Commentary on the European Social Charter” at different levels: research, drafting, peer review (Sébastien Van Drooghenbroeck) or formal review (Guido Van Limberghen).

The French section

The French section has been highly involved in the work done on the 1st volume of the “Commentary on the European Social Charter”:

- ▶ *Carole Nivard*: coordination of Volume 1 in English and French and coordination of Volume 2. Co-writing the chapter “The European Social Charter and legal theory” (Volume 1). Proofreading.
- ▶ *Konstantina Chatzilaou*: drafting in English and French of the chapter on Article 6 of the Charter (Volume 2) and proofreading.
- ▶ *Victor Guset*: drafting of the chapter on “Perspectives on the evolution of the European Social Charter system (in particular the Turin Process)” (Volume 1) and assistance with the formal revision of the texts.
- ▶ *Benoît Petit*: drafting of the chapter “Follow-up to the decisions of the European Committee of Social Rights” (Volume 1).
- ▶ *Marco Rocca*: drafting of the chapter “The European Social Charter and the European Union” (Volume 1).
- ▶ *Mouloud Boumghar*: proofreading.

The section was very much involved in the first edition of the Moot Court Competition on the European Social Charter. Three French universities participated: University Paris-Nord (coordinator Despina Sinou), University Saint-Quentin in Yvelines (coordinator Benoît Petit) and University of Rouen (coordinators Victor Guset and Carole Nivard).

Finally, the French section held remotely its annual meeting on 29 April 2021.

The Greek section

In February 2021, the Academic Network on the European Social Charter and Social Rights co-organised an online conference on “Covid-19 and Labour Rights”.

On 22-23 September 2021, the Centre for International and European Economic Law (CIEEL) and the Academic Network on the European Social Charter and Social Rights co-organised a webinar on “The evolution of the case law of the European institutions on the protection of human rights and its impact on national law”.

On 13 and 14 December 2021, the Centre for International and European Economic Law (CIEEL) and the Academic Network on the European Social Charter and Social Rights co-organised a webinar on “Contemporary challenges for European labour law”.

The Irish and United Kingdom section

On 22 April 2021, a webinar on “Protecting social rights using the European Social Charter: the case of the right to health protection in times of pandemic” took place at NUI, Galway with keynote speaker Prof. Giuseppe Palmisano, General Rapporteur of the European Committee of Social Rights and with the participation of Padraic Kenna, member of the Irish section of ANESC, and Stefano Angeleri, coordinator of the Irish/United Kingdom section.

Stefano Angeleri also participated in a conference of Young European Law Scholars (YELS), held at the University of Zurich on 20-21 May 2021, where he gave a presentation on “The descriptive value and normative force of the preambles of the European Social Charter treaty system”.

The Italian section

During the academic year 2020-2021, Professor Silvia Borelli organised at the University of Ferrara (with the cooperation of the Universities of Foggia, Catanzaro, Milano Statale and Roma Tre) an advanced legal clinic on the European Social Charter.

On 6 October 2021, an important conference entitled “60 years on bringing the European Social Charter into changed times” was held at the Law Department of the University of Roma Tre. The event (held in hybrid mode) was organised by Professors Giuseppe Palmisano, General Rapporteur of the European Committee of Social Rights, and Maria Giovannone, member of the Italian section of ANESC, University of Roma Tre (Department of Law, International Research Centre “Law and Globalisation”) in collaboration with the Human Rights Law Centre of the University of Nottingham, and with the support of the Social Rights Department of the Council of Europe. The conference was part of the Charter’s 60th anniversary events. It provided an opportunity for academics, representatives of international organisations and civil society to discuss current issues such as labour rights in the gig economy and in the era of digitisation, as well as migrants’ rights, the right to a sustainable environment or how to strengthen the European Social Charter system and its relevance in Europe.

On 11 and 12 November 2021, Professors Lorenza Mola, Francesco Costamagna and Giovanni Boggero of the University of Turin organised an international conference

entitled “The European Social Charter turns 60: Advancing Economic and Social Rights across Jurisdictions” at the University’s Faculty of Law. The event was organised on the occasion of the 60th anniversary of the signing of the European Social Charter in Turin. The conference (held in hybrid mode) was divided into three sessions, dealing respectively with (a) Shaping the content of the European Social Charter through the courts, (b) Promoting academic research and teaching on the European Social Charter (with ANESC’s activity at the centre) and (c) The European Social Charter in national litigation and international proceedings. The conference focused in particular on the challenges and future prospects of the European Social Charter.

A non-exhaustive list of publications by ANESC members in 2021 can be found below:

► for the French Section:

Publication of the Proceedings of the Conference “Social Justice and Judges” in May 2021 (Rouen Conference 2019) with contributions by Carole Nivard, Konstantina Chatzilaou, Catherine Dimitroulias, Despina Sinou, Giovanni Guiglia, Christina Deliyanni, Cristina Samboan, and Bruno Mestre (Institut Louis Joinet, coll. “Transition et justice”, 2021).

Publications by Konstantina Chatzilaou:

- “Workers’ collective action and economic freedoms before the European Court of Human Rights” (ECHR, 10 June 2021, LO and NTF v. Norway, No. 45487/17), *Labour Law Review*, 2021, pp. 535-544;
- “Directive 2020/1057 of 15 July 2020: what protection for posted lorry drivers?” *Droit ouvrier*, 2021, pp. 378-383;
- “*Les rapports entre l’Organisation internationale du travail et la Charte sociale européenne*” in: N. Maggi-Germain (ed.), *L’impact des normes de l’OIT sur la scène internationale*, Mare et Martin, 2021, pp. 41-50;
- “*La Cour de justice de l’Union européenne*” in: C. Nivard (ed.), *Justice sociale et juges*, Institut Louis Joinet, coll. “Transition et justice”, 2021, pp. 137-150;
- “*Le détachement de conducteurs dans le secteur du transport routier*” (CJUE, 1 Dec. 2020, FNV, aff. C-815/18) *Revue de droit du travail*, 2021, pp. 204-210.

Publications by Raphaël Dalmasso:

- “*L’arrêt Paragon Transaction : un coup d’arrêt aux ruptures conventionnelles collectives ?*”, *Droit Social*, N° 12, 2021, p. 987;
- “*Un pas de plus de plus dans la remise en cause du barème italien des indemnités de licenciement*”, *Droit Social*, N° 6, 2021, p. 523;
- “*Licenciements économiques : l’office du juge face au ‘fantôme des causalités lointaines’*”, *Droit Social*, N° 1, 2021, p. 34.

Publications by Carole Nivard:

- “*La concordance des standards européen et constitutionnel dans le domaine des droits sociaux*” in: M. AFROUKH and J. BONNET (eds.), *Le Conseil constitutionnel et la Cour européenne des droits de l’homme : vers un nouvel équilibre ? Actes du colloque du 7 février 2020*, Anthemis, coll. *Droit et Justice* n° 121, 2021, pp. 247-258;

- “De ‘nouveaux’ droits à l’eau, à l’énergie et au logement à l’ère de l’Etat post-providence ?” L. BONY, C. LEVY-VROELANT, M. TSANGA TABI, Précarités en eau. Un état des lieux en Europe, Ined éditions, 2021, pp. 61-78;
- Entries “Material equality”, “Exclusion”, “Housing” in: D. THARAUD and C. BOYER-CAPELLE, Dictionnaire de l’égalité et de la non-discrimination, L’Harmattan, 2021;
- Post: “Hungarian ‘anti-LGBT’ law: what sanctions from the European Union?” published on the blog of the Club des juristes on 8 July 2021.

Publications by Benoît Petit:

- “Porto Social Summit: full of legitimacy before the difficulties”, Revue de l’Union Européenne, N° 649, 2021, p. 324;
- Benoît Petit, Sandrine Maillard, Alexis Triclin, Laure Camaji and Benoît Lopez, “Chronique de droit social européen”, Revue de l’Union Européenne, N° 648, 2021, p. 307.

Publications by Marco Rocca:

- Marco Rocca and Nathalie Mihman, “Controversy: What legal approach to labour mobility in Europe?”, Revue de Droit du Travail, No. 3, 2021, p. 151;
- “Posting: for a unitary approach to labour mobility in Europe”, Revue de Droit du Travail, 2021, p. NC;
- “Introduction: The EU New Economic Governance, Labour Law and Labour Lawyers”, European labour law journal, 2021, p. NC.

Publication by Mélanie Schmitt:

- Mélanie Schmitt, Nicolas Moizard and Mathilde Frapard, “Chronique annuelle de droit social européen”, Journal de Droit Européen, 2021, p. NC.

► for the Irish/United Kingdom Section:

Publications by Stefano Angeleri:

- “The Descriptive Value and Normative Force of the Preambles to the Treaties making up the European Social Charter System” (2021) Swiss Journal of International and European Law 31, pp. 771-792;
- “Salute e sicurezza per i lavoratori migranti nel diritto internazionale ed europeo dei diritti umani” in: L. Calafà, S. Iavicoli, B. Persechino (eds) Lavoro insicuro. Salute, sicurezza e tutele sociali dei lavoratori immigrati in agricoltura (Il Mulino 2021) pp. 27-54;
- “The Health, Safety and Associated Rights of Migrant Workers in International and European Human Rights Law” in: S. Angeleri, L. Calafà and V. Protopapa (eds) Promoting the health and safety of migrant workers. Different disciplines, a shared objective, WP / Centre for the Study of European Labour Law ‘Massimo d’Antona’ 2020, available at: <http://csdle.lex.unict.it/docs/workingpapers/Promoting-the-health-and-safety-of-migrant-workers-Different-disciplines-a-shared-objective/6039.aspx>;

The collaboration between the European Committee of Social Rights and the Academic Network on the European Social Charter and Social Rights contributed once again to promote the European Social Charter and the protection of social rights in Europe.

8.4. COE-FRA-ENNHRI-EQUINET Collaborative Platform on social and economic rights

Due to the Covid-19 pandemic, the COE-FRA-ENNHRI-EQUINET Collaborative Platform on Social and Economic Rights⁶¹ had to adapt its activities again.

In 2021, the European Social Charter Secretariat organised **two online training activities for National Human Rights Institutions (NHRIs) and National Equality Bodies (NEBs)** on 22 and 24 February 2021⁶².

The objectives of the meetings were to strengthen the knowledge of these institutions on the monitoring procedures of the European Social Charter, and in particular on the reporting procedure and the collective complaints procedure, in order to encourage them to take an active part in the monitoring. NHRIs and NEBs examined the opportunities available to them for submitting additional information to the European Committee of Social Rights for conclusions 2021 relating to the thematic group “health, social security and social protection”. They also shared concrete experiences relating to collecting, presenting and submitting additional information to the European Committee of Social Rights.

Following these meetings, the Secretariat prepared and published a guide for NHRIs and NEBs on how to engage with the ECSR in several languages: English, French, German, Polish and Spanish⁶³.

The Platform held in September 2021 an **online event on ageism** and how best to effectively use international human rights instruments and in particular the European Social Charter to protect the rights of older persons.

The main objective of the meeting was to present the Council of Europe publication “Against Ageism and Towards Active Social Citizenship for Older Persons. The Current Use and Future Potential of the European Social Charter”⁶⁴, authored by Gerard Quinn, UN Special Rapporteur on the rights of persons with disabilities and Israel (Issi) Doron, Head of the Centre for Research and Study of Aging, University of Haifa. The foreword is authored by Claudia Mahler, UN Independent Expert on the enjoyment of all human rights by older persons.

The meeting brought together national and international human rights players to discuss, on the basis of the abovementioned study, ways of improving the situation of older persons across Europe, to examine how different international human rights

61. The COE-FRA-ENNHRI-EQUINET Collaborative Platform on Social and Economic Rights is a follow-up activity to the conference held jointly by the Council of Europe, the European Network of National Human Rights Institutions (ENNHRI), the European Network of Equality Bodies (EQUINET) and the European Union Agency for Fundamental Rights (FRA) in Vienna in October 2013

62. Agenda and concept note of the meeting “How can National Human Rights Institutions and Equality Bodies engage with the European Committee of Social Rights”, 22 and 24 February 2021: <https://rm.coe.int/nhris-nebs-engagement-with-ecsr-concept-agenda-final/1680a19677>

63. Guide “How can National Human Rights Institutions and National Equality Bodies engage with the European Committee of Social Rights”: [English](#) | [French](#) | [German](#) | [Polish](#) | [Spanish](#)

64. Gerard Quinn and Israel (Issi) Doron, September 2021, “Against Ageism and Towards Active Social Citizenship for Older Persons. The Current Use and Future Potential of the European Social Charter”: <http://rm.coe.int/against-ageism-and-towards-active-social-citizenship-for-older-persons/1680a3f5da>

standards can be optimised to uphold the rights of older persons and to inspire national policies that ensure respect for dignity, equality and non-discrimination.

The study lays out a vision of how the Charter can be optimised in the future as Europe struggles to eliminate ageist laws and policies.

As part of the Platform activities, funded by the Council of Europe, the German Institute for Human Rights (GIHR) initiated work on a **“Background Research for Targeted Capacity Building Measures on Social Rights for Civil Society Actors in Germany”**.

Building on the Guide for NHRIs and NEBs on engaging with the European Committee of Social Rights, the objective of this action was to kickstart a capacity-building project with national civil society actors in Germany to strengthen their awareness on and engagement with the monitoring procedures under the Revised European Social Charter (ratified by Germany on 29 March 2021). In the long run, the GIHR seeks to:

- ▶ enable civil society actors to take advantage of the RESC framework and language for domestic demands through different capacity-building formats;
- ▶ set up a joint social rights monitoring process with local NGOs and facilitate the submission of a joint civil society shadow country report to the ECSR;
- ▶ establish an active network of social rights champions in Germany;
- ▶ and ultimately harness synergies between European and UN social rights mechanisms to improve the domestic implementation of social rights and ensure coherence.

9. European Social Charter 60th anniversary

Social rights were one of the priorities of the Council of Europe in 2021, year in which the European Social Charter celebrated its 60th anniversary⁶⁵ with numerous events and a declaration by the Committee of Ministers.⁶⁶

A **high-level panel took place on 18 October 2022**⁶⁷ with the participation, among others, of the Council of Europe Secretary General, Marija Pejčinović Burić⁶⁸, the European Union Commissioner for Jobs and Social Rights, Nicolas Schmit, and the President of the European Committee of Social Rights, Karin Lukas⁶⁹.

They all recalled the importance of the European Social Charter for the protection of social rights in everyday life. The Charter, also frequently referred to as the Social Constitution of Europe. The Charter, together with the European Convention on Human Rights, which protects civil and political rights, are the two fundamental constituent parts of the human rights protection architecture in Europe.

The Charter has made a significant contribution to Europe's social progress, and to the objective of leaving no one behind. It has done so in terms of working conditions, social protection, public health, equality between women and men, children's rights, etc. The Charter has guided action in member states and also inspired the European Union and contributed to the development of international human rights law in other parts of the world.

However, progress has been uneven and slipping back has been experienced for example as regards increasing inequalities or the erosion of labour and trade union rights. The recent financial and health crises have also revealed important weaknesses in the protection of fundamental social rights.

The 60th anniversary of the Charter was celebrated through **several other events around Europe**: Nottingham, Moscow, Rome, Brussels, Turin and Białystok.⁷⁰

65. Web page dedicated to the 60th anniversary of the European Social Charter: <https://www.coe.int/en/web/european-social-charter/60-anniversary>

66. See Appendix 12: Declaration by the Committee of Ministers on the occasion of the 60th anniversary of the adoption of the European Social Charter, 13 October 2021: <https://rm.coe.int/20211018-decl-2021-13102021-2762-9476-5060-v-1/1680a4281c>

67. High-level Panel on the 60th anniversary of the European Social Charter: <https://www.coe.int/en/web/european-social-charter/high-level-panel-on-the-60th-anniversary-of-the-european-social-charter>

68. Speech of the Secretary General of the Council of Europe, Marija Pejčinović Burić, on the occasion of the 60th anniversary of the Charter: <https://www.coe.int/en/web/secretary-general/-/60th-anniversary-of-the-european-social-charter-high-level-panel-discussion>

69. See Appendix 13: What are the main strengths of the European Social Charter and how we can build on them?, Karin Lukas, High-level Panel on the 60th anniversary of the European Social Charter, 18 October 2021

70. See all the events organised in the framework of the 60th anniversary of the European Social Charter: <https://www.coe.int/en/web/european-social-charter/60-anniversary-news>

In addition, current and former Committee members shared their thoughts on a range of social rights related topics such as the rights of children, equality and non-discrimination, poverty, the welfare state and the labour market.⁷¹

In March 2021, the **European Trade Union Confederation (ETUC)** adopted a Resolution on the 60th Anniversary of the European Social Charter and the 25th Anniversary of the Revised European Social Charter⁷², underlining that both “have been landmark human rights instruments for the protection and enforcement of fundamental trade union, workers’ and social rights and the improvement of working and living conditions of people in Europe”.

Both Charters also constitute, in particular in times of social, economic or other crisis, “one of the last safeguards to protect fundamental rights of trade unions, workers and citizens, in particular the most vulnerable such as elderly people, children, people with disabilities and migrants”.

Using the momentum of these anniversaries, ETUC called in particular on the Council of Europe and its institutions as well as Member States to improve the effective implementation of the rights enshrined in the Revised Charter, in accordance with the 2014 Turin Process and recently adopted reports of the Steering Committee for Human Rights on ‘Improving the protection of social rights in Europe’.

Furthermore, it called on the European Union (EU) and its institutions to underline the importance of the EU respecting all the social rights enshrined in the European Social Charter by adhering to both the European Convention on Human Rights and the Revised Charter (and the collective complaints procedure) and to ensure that, in the design, interpretation and implementation of EU legislation, the European Social Charter is duly taken into account.

The President of the **Congress of Local and Regional Authorities** Leendert Verbeek stated⁷³ on the occasion of the Charter’s anniversary that the Social Charter “needs to develop an effective local anchorage” and reminded the audience of the crucial and often under-estimated role of local and regional authorities in the defence of social rights. He pointed out that to allow for a better implementation of the Social Charter, local and regional authorities must be trusted, consulted, and perhaps even integrated into monitoring procedures. The President of the Congress renewed his commitment to the rights and values defended by the European Social Charter and stressed that all levels of governance must be involved to face the social challenges ahead.

The **Conference of INGOs** also took a stand⁷⁴ on the occasion of the 60th anniversary of the Charter, as well as on the reform process of the treaty system. The Conference

71. Reflection papers by current and former members of the European Committee of Social Rights on the occasion of the 60th anniversary of the European Social Charter (coe.int)

72. ETUC Resolution on the 60th Anniversary of the European Social Charter and the 25th Anniversary of the Revised European Social Charter: <https://www.etuc.org/en/document/etuc-resolution-60th-anniversary-council-europe-european-social-charter-and-25th>

73. Statement by the President of the Congress of Local and Regional Authorities on the Charter’s 60 Year Anniversary: <https://rm.coe.int/20211018-statement-president-of-the-congress-60-years-of-the-european-/1680a41fff>

74. Position paper of the Council of Europe Conference of INGOs: <https://rm.coe.int/cads-social-charter-position-ingo-120821-en/1680a4e7ea>

of INGOs has always been committed to advancing social rights in Europe, a commitment that is reflected in its latest strategic plan. The Conference's "Action for Social Rights" Committee, created in 2021, brings together INGOs directly active in the protection and promotion of social rights. Furthermore, the Conference of INGOs believes that the current phase of the reform process of the Charter treaty system is crucial for the future of the Charter and social rights in Europe.

Also, in the framework of the 60th anniversary of the Charter, in December 2021, the President of the European Committee of Social Rights, Karin Lukas, presented at the Council of Europe her book "**The Revised European Social Charter. An article-by-Article commentary**"⁷⁵ and discussed the future of social rights together with Ambassador Panayiotis Beglitis, Permanent Representative of Greece to the Council of Europe and Gerhard Ermischer, President of the Conference of INGOs of the Council of Europe. The event was organised under the auspices of the Permanent Representation of Austria to the Council of Europe.⁷⁶

The Permanent Representation of Belgium to the Council of Europe, the Delegation of the European Union to the Council of Europe together with the University of Strasbourg and the Council of Europe's Department of Social Rights organised a **seminar on social rights in the digital age** on 9 December 2021⁷⁷. The event brought together academics, experts, representatives of trade unions and employers organisations, as well as of the European Commission. The speakers exchanged views, on two panels, about the challenges that the digital age is posing on the exercise of social rights, and the response of international organisations to this phenomenon.

75. Karin Lukas, "The Revised European Social Charter. An article-by-Article commentary", 2021: <https://www.e-elgar.com/shop/gbp/the-revised-european-social-charter-9781789903638.html>

76. Presentation of a book on the Revised European Social Charter, followed by a panel discussion on the future of social rights - 60 Anniversary: relevant events (coe.int)

77. Social rights in the digital age: challenges and opportunities - 60 Anniversary: relevant events (coe.int)

10. Other important developments in 2021

Rooted structural inequalities were magnified in 2021 by the Covid-19 pandemic, leading to deeper poverty, erosion of social rights and greater social polarisation in society. In the abovementioned **statement on Covid-19 and social rights** adopted in March 2021, the European Committee of Social Rights responded to these developments. The statement aims to provide guidance to States Parties, organisations of workers and employers, civil society and other key stakeholders by clarifying certain aspects of the Charter rights in relation to the pandemic. The statement highlights those Charter rights that are particularly affected by the Covid-19 crisis, such as employment and labour rights, the right to social security, social and medical assistance, the right to be protected against poverty and social exclusion, the right to housing and education. The statement also addresses the rights of children and families, women, older persons and persons with disabilities.

In designing and implementing additional measures in response to the challenges presented by the Covid-19 pandemic, States Parties must take due account of all social rights-holders, according special attention and appropriate priority to people and groups in particularly vulnerable situations. States Parties must ensure that measures taken in response to the crisis, including economic and social policy measures, do not result in discrimination in terms of social rights enjoyment, whether direct or indirect (as provided by Article E of the Charter).

The European Committee of Social Rights takes the view that investment in social rights and in their delivery – consistent with the use of maximum available resources – will mitigate the adverse impact of the crisis and accelerate the post-pandemic social and economic recovery. The obligations set out by the Charter must serve as a human rights roadmap for the difficult decisions on law, policy and resource allocation that will have to be taken in the coming years.

The success of the efforts to overcome the Covid crisis depends decisively on the involvement of social partners and civil society in the planning, implementation and evaluation of these efforts to ensure legitimacy and impact.

Evidencing the Charter's vitality, Germany⁷⁸ and Spain⁷⁹ **ratified the Revised European Social Charter** in spring 2021, Spain accepting all the provisions of the treaty and the collective complaints procedure.

While Germany did not accept all the provisions of the Revised Charter, it will significantly expand its commitments compared to what they were under the 1961 Charter.

Since its adoption in 1996, the Council of Europe has been encouraging all member States to ratify the Revised Charter, because of its more modern and comprehensive

78. [Germany ratifies Council of Europe's Revised Social Charter - News \(coe.int\)](#)

79. [Spain ratifies the Revised European Social Charter and accepts the collective complaints procedure - News \(coe.int\)](#)

nature. The Charter guarantees a broad range of everyday human rights related to employment, safety at work, health, social protection and welfare, housing, education, with a specific emphasis on the protection of people and groups in vulnerable situations such as older persons, children, persons with disabilities and migrants. The enjoyment of these rights must be guaranteed without discrimination.

Following Spain's ratification, 35 States are Parties to the Revised Charter, while seven remain bound by the 1961 Charter (Croatia, Czech Republic, Denmark, Iceland, Luxembourg, Poland and the United Kingdom). Liechtenstein, Monaco, San Marino and Switzerland have yet to ratify either of the two instruments.

Karin Lukas, President of the European Committee of Social Rights participated in the High-level meeting⁸⁰ **“Recommendation on the development and strengthening of effective, pluralist and independent National Human Rights Institutions”**, held on 26 April 2021. She pointed out that strong, independent and engaged National Human Rights Institutions (NHRIs) are the basis of well-functioning democratic societies, as they have an excellent understanding of human rights on the ground. She called on Council of Europe Member States to guarantee a broad mandate, inclusion in the participatory process and adequate funding for NHRIs.

The meeting, organised by the European Network of National Human Rights Institutions (ENNHRI), brought together heads of European NHRIs with Council of Europe key actors, including civil society organisations. It explored avenues for further strengthening cooperation and support between the Council of Europe and NHRIs at national level, and for meaningful participation of NHRIs and ENNHRI in the Council of Europe, in follow-up of the adopted Recommendation⁸¹.

The European Social Cohesion Platform (transformed by the Council of Europe Committee of Ministers into a European Committee for Social Cohesion from 2022 onward⁸²) continued its functioning in 2021. The Platform issued a concept paper on new trends and challenges in social cohesion, particularly in light of the Covid-19 pandemic⁸³. It also prepared a declaration on the risks of computer-assisted or artificial intelligence-enabled decision making in the field of the social safety net⁸⁴, which was adopted by the Committee of Ministers in March 2021.

The Department of the European Social Charter continued its **co-operation activities** in member states, including the final part of its activities on the rights of persons

80. Online High-Level Meeting on the Council of Europe Recommendation on the development and strengthening of effective, pluralist and independent National Human Rights Institutions, 26 April 2021

81. Recommendation CM/Rec(2021)1 of the Committee of Ministers to member States on the development and strengthening of effective, pluralist and independent National Human Rights Institutions, 31 March 2021: https://search.coe.int/cm/pages/result_details.aspx?objectId=0900001680a1f4da

82. Web page of the European Committee for Social Cohesion: <https://www.coe.int/en/web/european-social-charter/european-committee-for-social-cohesion>

83. Concept paper on new trends and challenges in social cohesion, particularly in light of the Covid-19 pandemic, Marc Maudinet, June 2021: <https://rm.coe.int/concept-paper-on-new-trends-and-challenges-in-social-cohesion-particul/1680a4d00d>

84. Declaration by the Committee of Ministers on the risks of computer-assisted or artificial intelligence-enabled decision making in the field of the social safety net, 17 March 2021: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a1cb98

with disabilities and older persons in Ukraine⁸⁵ and subsequent follow-up activities. A project on strengthening social and economic rights in Georgia⁸⁶ began in September and achieved its first major milestone, a comprehensive needs assessment report. New co-operation projects were discussed in respect of other countries, most notably the Republic of Moldova and Armenia.

With respect to the Republic of Moldova, a comprehensive needs assessment report⁸⁷ was prepared under a project “Framing Cooperation for social rights development in the Republic of Moldova”. The Report, published in February 2021, addresses the current situation in the Republic of Moldova regarding the protection of social rights vis-à-vis the provisions of the European Social Charter, identifies the priority areas and needs for further cooperation, and suggests concrete recommendations on how to address the shortcomings observed.

85. Council of Europe Project “Promoting social human rights as a key factor of sustainable democracy in Ukraine”: <https://www.coe.int/en/web/kyiv/socialrights>

86. Council of Europe Project on strengthening social and economic rights in Georgia: <https://www.coe.int/fr/web/tbilisi/strengthening-protection-of-social-and-economic-rights-in-georgia>

87. Needs assessment report in the Republic of Moldova: <https://rm.coe.int/moldova-needs-assessment-31-12-2020-final/1680a18a35>

11. Appendices

Appendix 1: Signatures and ratifications of the European Social Charter at 1 January 2022

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Appendix 12: Declaration by the Committee of Ministers on the occasion of the 60th anniversary of the adoption of the European Social Charter, 13 October 2021

Appendix 13: What are the main strengths of the European Social Charter and how we can build on them?, Karin Lukas, President of the European Committee of Social Rights, High-level Panel on the 60th anniversary of the European Social Charter, 18 October 2021

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Appendix 16. Bibliography on the European Social Charter (recent publications)

Appendix 1

Signatures and ratifications of the 1961 European Social Charter, its Protocols and the European Social Charter (revised) as of 1st January 2022

Member states	European Social Charter 1961 STE 035		Additional Protocol 1988 STE 128		Amending Protocol 1991 STE 142		Collective complaints Protocol 1995 STE 158		Revised European Social Charter 1996 STE 163	
	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification
Albania	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	21/9/98	14/11/02
Andorra	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	4/11/00	12/11/04
Armenia	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	18/10/01	21/1/04
Austria	22/7/63	29/10/69	4/12/90		7/5/92	13/7/95	(2)	(2)	7/5/99	20/5/11
Azerbaijan	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	18/10/01	2/9/04
Belgium	18/10/61	16/10/90	20/5/92	23/6/03	22/10/91	21/9/00	14/5/96	23/6/03	3/5/96	2/3/04
Bosnia and Herzegovina	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	11/5/04	7/10/08
Bulgaria	(2)	(2)	(3)	(3)		(2/2)		(4/4)	21/9/98	7/6/00
Croatia	8/3/99	26/2/03	8/3/99	26/2/03	8/3/99	26/2/03	8/3/99	26/2/03	6/11/09	—
Cyprus	22/5/67	7/3/68	5/5/88	(3)	21/10/91	1/6/93	9/11/95	6/8/96	3/5/96	27/9/00
Czech Republic	27/5/92*	3/11/99	27/5/92*	17/11/99	27/5/92*	17/11/99	26/2/02	4/4/12	4/11/00	—
Denmark	18/10/61	3/3/65	27/8/96	27/8/96	—	***	9/11/95	—	3/5/96	—
Estonia	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	4/5/98	11/9/00
Finland	9/2/90	29/4/91	9/2/90	29/4/91	16/3/92	18/8/94	9/11/95	17/7/98	3/5/96	21/6/02
France	18/10/61	9/3/73	22/6/89	(3)	21/10/91	24/5/95	9/11/95	7/5/99	3/5/96	7/5/99
Georgia	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	30/6/00	22/8/05

Member states	European Social Charter 1961 STE 035		Additional Protocol 1988 STE 128		Amending Protocol 1991 STE 142		Collective complaints Protocol 1995 STE 158		Revised European Social Charter 1996 STE 163	
	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification
Germany	18/10/61	27/1/65	5/5/88	—	—	***	(1)	—	29/6/07	—
Greece	18/10/61	6/6/84	5/5/88	18/6/98	29/11/91	12/9/96	18/6/98	18/6/98	3/5/96	18/03/16
Hungary	13/12/91	8/7/99	7/10/04	1/6/05	13/12/91	4/2/04	7/10/04	—	7/10/04	20/4/09
Island	15/1/76	15/1/76	5/5/88	—	12/12/01	21/2/02	(1)	—	4/11/98	—
Ireland	18/10/61	7/10/64	(3)	(3)	14/5/97	14/5/97	4/11/00	4/11/00	4/11/00	4/11/00
Italy	18/10/61	22/10/65	5/5/88	26/5/94	21/10/91	27/1/95	9/11/95	3/11/97	3/5/96	5/7/99
Latvia	29/5/97	31/1/02	29/5/97	—	29/5/97	9/12/03	(1)	—	29/5/07	26/03/13
Liechtenstein	9/10/91	—	—	—	—	—	—	—	—	—
Lithuania	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	8/9/97	29/6/01
Luxembourg	18/10/61	10/10/91	5/5/88	—	21/10/91	***	(1)	—	11/2/98	—
Malta	26/5/88	4/10/88	(3)	(3)	21/10/91	16/2/94	(2)	—	27/7/05	27/7/05
Republic of Moldova	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	3/11/98	8/11/01
Monaco	(1)	—	(1)	—	(1)	—	(1)	—	5/10/04	—
Montenegro	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	22/3/05**	3/3/10
The Netherlands	18/10/61	22/4/80	14/6/90	5/8/92	21/10/91	1/6/93	23/1/04	3/5/06	23/1/04	3/5/06
North Macedonia	5/5/98	31/3/05	5/5/98	—	5/5/98	31/3/05	(2)	—	27/5/09	6/1/12
Norway	18/10/61	26/10/62	10/12/93	10/12/93	21/10/91	21/10/91	20/3/97	20/3/97	7/5/01	7/5/01
Poland	26/11/91	25/6/97	(1)	—	18/4/97	25/6/97	(1)	—	25/10/05	—
Portugal	1/6/82	30/9/91	(3)	(3)	24/2/92	8/3/93	9/11/95	20/3/98	3/5/96	30/5/02

Member states	European Social Charter 1961 STE 035		Additional Protocol 1988 STE 128		Amending Protocol 1991 STE 142		Collective complaints Protocol 1995 STE 158		Revised European Social Charter 1996 STE 163	
	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification
Romania	4/10/94	(2)	(3)	(3)	(2)	(2)	(2)	(2)	14/5/97	7/5/99
Russian Federation ⁸⁸	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	14/9/00	16/10/09
San Marino	(1)	—	(1)	—	(1)	—	(1)	(1)	18/10/01	—
Serbia	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	22/3/05*	14/9/09
Slovak Republic	27/5/92*	22/6/98	27/5/92*	22/6/98	27/5/92*	22/6/98	18/11/99	—	18/11/99	23/4/09
Slovenia	11/10/97	(2)	11/10/97	(3)	11/10/97	(2)	11/10/97	(4)	11/10/97	7/5/99
Spain	27/4/78	6/5/80	5/5/88	24/1/00	21/10/91	24/1/00	(1)	—	23/10/00	—
Sweden	18/10/61	17/12/62	5/5/88	5/5/89	21/10/91	18/3/92	9/11/95	29/5/98	3/5/96	29/5/98
Switzerland	6/5/76	—	—	—	—	—	—	—	—	—
Turkiye	18/10/61	24/11/89	5/5/98	(3)	6/10/04	10/6/09	(2)	—	6/10/04	27/6/07
Ukraine	2/5/96	(2)	(3)	(3)	(2)	(2)	(2)	—	7/5/99	21/12/06
United Kingdom	18/10/61	11/7/62	(1)	—	21/10/91	***	(1)	—	7/11/97	—

* Date of signature by the Czech and Slovak Federal Republic.

** Date of signature by the State Union of Serbia and Montenegro.

*** State whose ratification is necessary for the entry into force of the protocol.

⁸⁸. By decision of 16 March 2022 of the Committee of Ministers of the Council of Europe, on that day the Russian Federation ceased to be a member of the Council of Europe.

Appendix 2

Composition of the European Committee of Social Rights at 1 January 2022 (in order of precedence⁸⁹)

	Term of Office
Karin LUKAS, President (Austrian)	31/12/2022
Eliane CHEMLA, Vice-President (French)	31/12/2024
Aoife NOLAN, Vice-President (Irish)	31/12/2022
Giuseppe PALMISANO, General Rapporteur (Italian)	31/12/2022
József HAJDÚ (Hungarian)	31/12/2024
Barbara KRESAL (Slovenian)	31/12/2022
Kristine DUPATE (Latvian)	31/12/2022
Karin MØHL LARSEN (Danish)	31/12/2020
Yusuf BALCI (Turkish)	31/12/2024
Ekaterina TORKUNOVA (Russian) ⁹⁰	31/12/2024
Tatiana PUIU (Moldovan)	31/12/2024
Paul RIETJENS (Belgian)	31/12/2026
George THEODOSIS (Greek)	31/12/2026
Mario VINKOVIĆ (Croatian)	31/12/2026
Miriam KULLMANN (German)	31/12/2026

89. According to Article 7 of the Committee's Rules.

90. Ekaterina Torkunova resigned from her position as member of the European Committee of Social Rights on 22 March 2022.

Appendix 3

List of collective complaints registered in 2021

In 2021, the European Committee of Social Rights registered the following six complaints:

1. European Federation of National Organizations Working with the Homeless (FEANTSA) v. Belgium
Complaint No. 203/2021
2. Comitato Nazionale Quadri Direttivi della Pubblica Amministrazione (CO.N.QUA.DIR - P.A.) and Cassa Mutua Nazionale tra i Cancellieri e Segretari Giudiziari v. Italy
Complaint No. 202/2021
3. European Trade Union Confederation (ETUC), Netherlands Trade Union Confederation (FNV) and National Federation of Christian Trade Unions (CNV) v. the Netherlands
Complaint No. 201/2021
4. Associazione Professionale e Sindacale (ANIEF) v. Italy
Complaint No. 200/2021
5. European Organisation of Military Associations and Trade Unions (EUROMIL) v. Portugal
Complaint No. 199/2021
6. Norwegian Association of Small & Medium Enterprises (SMB Norge) v. Norway
Complaint No. 198/2021

Appendix 4

Number of decisions adopted by the European Committee of social Rights 1998 – 2021

Years	Registered complaints	Pending complaints on 1 st January	Decisions on admissibility	Decisions on the merits	Decisions on admissibility and the merits	Decisions on immediate measures	Decisions on admissibility and immediate measures	Striking off/inadmissible	Total decisions
1998	1	0	0	0	0	0	0	0	0
1999	5	1	2	1	0	0	0	0/1	3
2000	4	4	7	5	0	0	0	0	12
2001	1	3	2	3	0	0	0	0	5
2002	2	1	2	1	0	0	0	0	3
2003	10	2	8	2	0	0	0	0	10
2004	5	10	6	10	0	0	0	0	16
2005	4	5	5	4	0	0	0	0/2	9
2006	7	3	5	4	0	0	0	0/1	9
2007	7	5	7	5	0	0	0	0	12
2008	8	7	8	5	0	0	0	1/0	14
2009	5	9	7	7	0	0	0	0	14

Years	Registered complaints	Pending complaints on 1 st January	Decisions on admissibility	Decisions on the merits	Decisions on admissibility and the merits	Decisions on immediate measures	Decisions on admissibility and immediate measures	Striking off/inadmissible	Total decisions
2010	4	7	3	6	0	0	0	0	9
2011	12	5	11	4	0	0	0	0	15
2012	13	13	9	15	0	0	0	0	24
2013	15	11	18	9	4	4	0	0	27
2014	10	17	3	8	0	0	0	1/0	12
2015	6	18	11	5	1	0	1	0	15
2016	21	19	6	8	3	0	0	0/1	11
2017	18	31	31	6	1	0	0	0/1	36
2018	15	42	14	9	0	0	0	0/1	23
2019	15	47	11	20	0	0	3	0/3	31
2020	9	39	17	8	0	0	1	0/5	25
2021	6	35	6	5	0	0	3	0/1	11
Total period	203		199	150	9	4	8	2/16	346

Appendix 5

Collective complaints – Statistics by country – 1998 – 2021

	Registered Complaints	Decisions on admissibility	Admissible	Inadmissible	Decision on immediate measures / Decisions on admissibility and immediate measures	Decisions on admissibility and the merits	Decisions on the merits	Violation	Non violation	Striking-off
Belgium	14	13	12	0	1/2	1	11	10	1	0
Bulgaria	9	9	9	0	0	0	8	8	0	1
Croatia	4	4	4	0	0	0	4	4	0	0
Cyprus	2	2	2	0	0	0	1	1	0	1
Czech Republic	9	9	9	0	0	0	6	6	0	0
Finland	13	13	12	1	0/2	3	10	8	2	0
France	53	53	48	5	0/1	2	38	27	11	0
Greece	22	22	19	3	0/2	0	18	17	1	0
Ireland	12	12	12	0	1/0	1	11	8	3	0

	Registered Complaints	Decisions on admissibility	Admissible	Inadmissible	Decision on immediate measures / Decisions on admissibility and immediate measures	Decisions on admissibility and the merits	Decisions on the merits	Violation	Non violation	Striking-off
Italy	34	32	27	5	0/2	1	17	11	6	0
Netherlands	5	5	5	0	2/0	0	4	4	0	0
Norway	5	5	4	1	0	0	3	2	1	0
Portugal	14	13	12	1	0	0	11	5	6	0
Slovenia	3	3	3	0	0	0	3	3	0	0
Sweden	4	4	4	0	0	1	4	2	2	0
Total	203	199	182	16	4/9	9	150	116	34	2

Appendix 6

Summary of the European Committee of Social Rights' Conclusions for 2021 Revised European Social Charter and 1961 European Social Charter (XXI-2)

Country	Article 3§1	Article 3§2	Article 3§3	Article 3§4	Article 11§1	Article 11§2	Article 11§3	Article 12§1	Article 12§2	Article 12§3	Article 12§4	Article 13§1	Article 13§2	Article 13§3	Article 13§4	Article 14§1	Article 14§2	Article 23	Article 30
ALB	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
AND	0	-	0	Nex	0	+	0	0	+	0	-	-	Nex	0	0	+	+	+	0
ARM	-	-	-	-	-	-	-	-	-	-	-	-	0	-	-	-	-	-	-
AUT	+	0	0	Nex	0	+	+	Nex	+	0	+	-	Nex	Nex	-	+	+	-	-
AZE	-	-	-	-	-	0	-	-	-	-	-	-	-	-	-	-	-	-	-
BIH	-	-	0	-	0	-	-	-	-	-	-	-	+	-	-	-	-	-	-
CYP	-	0	0	0	0	0	-	-	+	0	0	-	Nex	Nex	-	+	0	-	-
EST	+	+	-	-	0	+	0	-	+	+	-	-	Nex	Nex	+	+	0	-	-
GEO	-	-	-	-	-	-	-	-	-	0	-	-	-	-	+	0	0	-	-
HUN	+	-	-	Nex	-	0	0	-	-	-	-	-	Nex	Nex	-	-	0	-	-
LVA	0	0	-	0	-	0	0	-	-	-	-	-	+	Nex	-	-	0	-	-
LTU	+	0	-	0	-	+	+	0	-	+	0	-	Nex	Nex	+	+	0	-	-
MLT	+	+	-	Nex	0	-	-	-	-	0	0	-	Nex	-	+	+	0	-	-
MDA	0	-	-	-	-	-	-	-	-	-	0	-	-	-	-	-	-	-	-
MNE	+	-	-	Nex	0	+	0	-	-	0	0	-	Nex	Nex	-	+	0	-	-
NLD	+	0	+	Nex	+	0	0	Nex	+	+	-	+	Nex	Nex	0	+	+	-	+
MKD	-	0	-	Nex	0	+	0	-	+	0	-	-	Nex	+	Nex	-	-	-	+

Country	NOR	ROU	RUS ⁹¹	SRB	SVK	SVN	SWE	TUR	UKR	Article 3§1	Article 3§2	Article 3§3	Article 3§4	Article 11§1	Article 11§2	Article 11§3	Article 12§1	Article 12§2	Article 12§3	Article 12§4	Article 13§1	Article 13§2	Article 13§3	Article 13§4	Article 14§1	Article 14§2	Article 23	Article 30	
		+	0	0	0	0	0	0	0	0	0	0	0	+	0	0	0	Nex	+	+	-	-	Nex	Nex	+	+	+	-	+
		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
		Nex	Nex	Nex	Nex	Nex	Nex	Nex	Nex	Nex	Nex	Nex	Nex	Nex	Nex	Nex	Nex	Nex	Nex	Nex	Nex	Nex	Nex	Nex	Nex	Nex	Nex	Nex	Nex

Legend

	Non-accepted provision
Nex	Non-examined provision because the previous conclusion was in conformity
+	Conformity
-	Non-conformity
0	Deferral

91. These conclusions were adopted while the Russian Federation was a Contracting Party to the European Social Charter. The information set out herein reflects that fact. However, subsequently, by decision of 16 March 2022 of the Committee of Ministers of the Council of Europe, on that day the Russian Federation ceased to be a member of the Council of Europe.

1961 European Social Charter – Conclusions 2021 (XXI-2)

Pays	Article 3§1 CSE 1961	Article 3§2 CSE 1961	Article 3§3 CSE 1961	Article 11§1	Article 11§2	Article 11§3	Article 12§1	Article 12§2	Article 12§3	Article 12§4	Article 13§1	Article 13§2	Article 13§3	Article 13§4	Article 14§1	Article 14§2	Article 23/P-4
HRV				0	+	0					-	Nex	Nex	-	0		
CZE	+	0	Nex	0	0	0	-	+	+	0	-	Nex	+	0	+		
DNK	+	0	Nex	+	+	+	Nex	+	+	-	-	Nex	Nex	Nex	+	0	-
LUX	0	0	Nex	+	+	0	0	+	0	+	0	Nex	Nex	0	+	0	
POL	0	0	Nex	0	0	0	-	+	0	-		Nex	-		-		
ESP	0	-	+	0	+	0	-	+	0	-	-	Nex	Nex	Nex	+	+	-
GBR	-	0	Nex	+	+	0	-				-	Nex	Nex	Nex	+	0	

Legend

	Non-accepted provision
Nex	Non-examined provision
+	Conformity
-	Non-conformity
0	Deferral

Germany and Iceland submitted their reports too late and therefore the Committee did not adopt any conclusions in respect of these two countries.

Appendix 7

Development in the number of accepted provisions since 1962

Year of ratification/acceptance of additional provisions	CHARTER 1961			REVISED CHARTER 1996			Overall total of the accepted provisions (both Charters)
	States	Accepted provisions	Total	States	Accepted provisions	Total	
1962	1. United Kingdom	60	60				60
	2. Norway	60	120				120
	3. Sweden	66	186				186
1963			186				186
1964	4. Ireland	63	249				249
1965	5. Germany	67	316				316
	6. Denmark	49	365				365
	7. Italy	76	441				441
1966			441				441
1967			441				441
1968	8. Cyprus	43	484				484
1969	9. Austria	62	546				546
1970			546				546
1971			546				546
1972			546				546

Year of ratification/acceptance of additional provisions	CHARTER 1961		REVISED CHARTER 1996		Overall total of the accepted provisions (both Charters)
	States	Accepted provisions	States	Accepted provisions	
1973					546
1974	10. France	72			618
1975					618
1976	11. Island	41			659
1977					659
1978					659
1979					659
1980	12. Netherlands	75			734
	13. Spain	76			810
1981					810
1982					810
1983					810
1984	14. Greece	71			881
1985					881
1986					881
1987					881
1988	15. Malta	55			936

Year of ratification/acceptance of additional provisions	CHARTER 1961			REVISED CHARTER 1996			Overall total of the accepted provisions (both Charters)
	States	Accepted provisions	Total	States	Accepted provisions	Total	
1989	16. Türkiye	46	982				982
1990	17. Belgium	72	1054				1054
1991	18. Finland	66	1120				1120
	19. Portugal	72	1192				1192
	20. Luxembourg	69	1261				1261
1992			1261				1261
1993			1261				1261
1994			1261				1261
1995			1261				1261
1996			1261				1261
1997	21. Poland	58	1319				1319
1998		-66	1253	1. Sweden	83	83	1336
	22. Slovak Republic	64	1317			83	1400
1999		-72	1245	2. France	98	181	1426
		-76	1169	3. Italy	97	278	1567
	23. Hungary	44					
	24. Czech Republic	56	1345	4. Romania	65	343	1688

Year of ratification/acceptance of additional provisions	CHARTER 1961			REVISED CHARTER 1996			Overall total of the accepted provisions (both Charters)
	States	Accepted provisions	Total	States	Accepted provisions	Total	
		-76	1269	5. Slovenia	95	438	1707
2000			1269	6. Bulgaria	61	499	1768
			1269	7. Estonia	79	578	1847
		-43	1226	8. Cyprus	63	641	1867
		-63	1163	9. Ireland	93	734	1897
2001		-60	1103	10. Norway	81	815	1918
			1103	11. Lithuania	86	901	2004
			1103	12. Republic of Moldova	63	964	2067
2002		-72	1031	13. Portugal	98	1062	2093
		-66	965	14. Finland	89	1151	2116
	25. Latvia	25	990			1151	2141
	26. Croatia	43	990	15. Albania	64	1215	2205
2003			1033				1033
2004			1033	16. Armenia	67	1282	2315
		-72	961	17. Belgium	87	1369	2330
				18. Azerbaijan	47	1416	1416
			961	19. Andorra	75	1491	2452

Year of ratification/acceptance of additional provisions	CHARTER 1961			REVISED CHARTER 1996			Overall total of the accepted provisions (both Charters)
	States	Accepted provisions	Total	States	Accepted provisions	Total	
2005	27. North Macedonia	41	1002			1491	2493
		-55	947	20. Malta	72	1563	2510
				21. Georgia	63	1626	1626
2006		-75	872	22. Netherlands	97	1723	2595
				23. Ukraine	74	1714	1714
2007		-46	826	24. Türkiye	91	1888	2714
		-44	782	25. Hungary	60	1948	2730
				Bulgaria	1	1949	1949
2008				26. Bosnia and Herzegovina	51	2000	2000
2009		-64	718	27. Slovak Republic	86	2086	2804
				28. Serbia	88	2174	2174
				29. Russian Federation	67	2241	2241
2010				30. Montenegro	66	2307	2307
2011	Poland	-1	717				
		-62	655	31. Austria	76	2383	3039
				Cyprus	9	2392	2392
2012		-41	614	32. North Macedonia	63	2455	3070

Year of ratification/acceptance of additional provisions	CHARTER 1961			REVISED CHARTER 1996			Overall total of the accepted provisions (both Charters)
	States	Accepted provisions	Total	States	Accepted provisions	Total	
				Estonia	8	2463	3078
2013		-25	589	33. Latvia	90	2553	3143
2015				Belgium	4	2557	3147
2016		-71	518	34. Greece	95	2652	3171
2017				Ukraine	2	2654	3173
2021		-60	458	35. Germany	88	2742	3200
		-72	386	36. Spain	98	2840	3226
	United Kingdom	-1	385				3225
2022				Bulgaria	7	2847	3232

Appendix 8

Acceptance of provisions of the Revised European Social Charter (1996) at 1 January 2021

Acceptation des dispositions de la Charte sociale européenne révisée (1996) au 1 janvier 2021

accepted/ accepté not accepted/ non accepté

Articles 1-4 Para.	Article 1				Article 2							Article 3				Article 4				
	1	2	3	3	1	2	3	4	5	6	7	1	2	3	4	1	2	3	4	5
Albania/Albanie																				
Andorra/Andorre																				
Armenia/Arménie																				
Austria/Autriche																				
Azerbaijan/Azerbaïdjan																				
Belgium/Belgique																				
Bosnia and Herzegovina/ Bosnie-Herzégovine																				
Bulgaria/Bulgarie																				
Cyprus/Chypre																				
Estonia/Estonie																				
Finland/Finlande																				
France																				
Georgia/Géorgie																				
Greece/Grèce																				
Hungary/Hongrie																				
Ireland/Irlande																				
Italy/Italie																				
Latvia/Lettonie																				
Lithuania/Lituanie																				
Malta/Malte																				
Republic of Moldova/ République de Moldova																				
Montenegro/Monténégro																				
Netherlands/Pays-Bas ⁹²																				

92. Ratification by the Kingdom in Europe. Aruba, Curaçao and Sint Maarten, as well as the special municipalities of Bonaire, Saba and Sint Eustatius remain bound by Articles 1, 5, 6 and 16 of the 1961 Charter and Article 1 of the Additional Protocol/ *Ratification par le Royaume en Europe. Aruba, Curaçao et Saint-Martin, ainsi que les municipalités spéciales de Bonaire, Saba et Saint-Eustache restent liées par les articles 1, 5, 6 et 16 de la Charte de 1961 et de l'Article 1 du Protocole additionnel.*

<i>Articles 1-4 Para.</i>	Article 1				Article 2							Article 3				Article 4				
	1	2	3	3	1	2	3	4	5	6	7	1	2	3	4	1	2	3	4	5
North Macedonia/ Macédoine du Nord																				
Norway/Norvège																				
Portugal																				
Romania/Roumanie																				
Serbia/Serbie																				
Slovak Republic/ République Slovaque																				
Slovenia/Slovénie																				
Sweden/Suède																				
Türkiye																				
Ukraine																				

<i>Articles 5-9 Para.</i>	Art. 5	Article 6				Article 7										Article 8					Art. 9
		1	2	3	4	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	
Albania/Albanie																					
Andorra/Andorre																					
Armenia/Arménie																					
Austria/Autriche																					
Azerbaijan/Azerbaïdjan																					
Belgium/Belgique																					
Bosnia and Herzegovina/ Bosnie-Herzégovine																					
Bulgaria/Bulgarie																					
Cyprus/Chypre																					
Estonia/Estonie																					
Finland/Finlande																					
France																					
Georgia/Géorgie																					
Germany/Allemagne																					
Greece/Grèce ⁹³																					
Hungary/Hongrie																					
Ireland/Irlande																					

93. Ratification of Article 6 except for the right to establish and use arbitration mechanisms for the settlement of labour disputes, in particular as regards the right to unilateral access to arbitration in case of collective bargaining failure, as well as the employers' right to collective action, in particular the right to lockouts.

Articles 5-9 Para.	Art.	Article 6					Article 7										Article 8					Art.
	5	1	2	3	4	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	9	
Italy/Italie																						
Latvia/Lettonie																						
Lithuania/Lituanie																						
Malta/Malte																						
Republic of Moldova/ République de Moldova																						
Montenegro/Monténégro																						
Netherlands/Pays-Bas ⁹⁴																						
North Macedonia/ Macédoine du Nord																						
Norway/Norvège																						
Portugal																						
Romania/Roumanie																						
Serbia/Serbie					95																	
Slovak Republic/ République Slovaque																						
Slovenia/Slovénie																						
Spain/Espagne																						
Sweden/Suède																						
Türkiye																						
Ukraine/Ukraine																						

Articles 10-15 Para.	Art. 10					Art. 11			Art. 12				Art. 13				Art. 14		Art. 15		
	1	2	3	4	5	1	2	3	1	2	3	4	1	2	3	4	1	2	1	2	3
Albania/Albanie																					
Andorra/Andorre																					
Armenia/Arménie																					
Austria/Autriche																					
Azerbaijan/Azerbaïdjan																					
Belgium/Belgique																					

94. Ratification by the Kingdom in Europe. Aruba, Curaçao and Sint Maarten, as well as the special municipalities of Bonaire, Saba and Sint Eustatius remain bound by Articles 1, 5, 6 and 16 of the 1961 Charter and Article 1 of the Additional Protocol/ *Ratification par le Royaume en Europe. Aruba, Curaçao et Saint-Martin, ainsi que les municipalités spéciales de Bonaire, Saba et Saint-Eustache restent liés par les articles 1, 5, 6 et 16 de la Charte de 1961 et de l'Article 1 du Protocole additionnel.*

95. With the exception of professional military personnel of the Serbian Army / *A l'exception des militaires de carrière de l'Armée serbe.*

Articles 10-15 Para.	Art. 10					Art. 11			Art. 12				Art. 13				Art. 14		Art. 15		
	1	2	3	4	5	1	2	3	1	2	3	4	1	2	3	4	1	2	1	2	3
Bosnia and Herzegovina/ Bosnie-Herzégovine																					
Bulgaria/Bulgarie			96																		
Cyprus/Chypre																					
Estonia/Estonie																					
Finland/Finlande																					
France																					
Georgia/Géorgie																					
Germany/Allemagne																					
Greece/Grèce																					
Hungary/Hongrie																					
Ireland/Irlande																					
Italy/Italie																					
Latvia/Lettonie																					
Lithuania/Lituanie																					
Malta/Malte					97						98										
Republic of Moldova/ République de Moldova																					
Montenegro/Monténégro																					
Netherlands/Pays-Bas																					
North Macedonia/ Macédoine du Nord																					
Norway/Norvège																					
Portugal																					
Romania/Roumanie																					
Serbia/Serbie																					
Slovak Republic/ République Slovaque																					
Slovenia/Slovénie																					
Spain/Espagne																					
Sweden/Suède																					
Türkiye																					
Ukraine																					

96. Sub-paragraph a. accepted/ *Alinéa a. accepté.*

97. Sub-paragraphs a. and d. accepted/ *Alinéas a. et d. acceptés.*

98. Sub-paragraph a. accepted/ *Alinéa a. accepté.*

Articles 16-19 Para	Art. 16	Art. 17		Article 18				Article 19													
		1	2	1	2	3	4	1	2	3	4	5	6	7	8	9	10	11	12		
		Albania/Albanie																			
Andorra/Andorre																					
Armenia/Arménie																					
Austria/Autriche																					
Azerbaijan/Azerbaïdjan																					
Belgium/Belgique																					
Bosnia and Herzegovina/ Bosnie-Herzégovine																					
Bulgaria/Bulgarie																					
Cyprus/Chypre																					
Estonia/Estonie																					
Finland/Finlande																					
France																					
Georgia/Géorgie																					
Germany/Allemagne																					
Greece/Grèce																					
Hungary/Hongrie																					
Ireland/Irlande																					
Italy/Italie																					
Latvia/Lettonie																					
Lithuania/Lituanie																					
Malta/Malte																					
Republic of Moldova/ République de Moldova																					
Montenegro/Monténégro																					
Netherlands/Pays-Bas																					
North Macedonia/ Macédoine du Nord																					
Norway/Norvège																					
Portugal																					
Romania/Roumanie																					
Serbia/Serbie		99																			
Slovak Republic/ République Slovaque													100								

99. Sub-paragraphs 1b and 1c accepted / *Alinéas 1b et 1c acceptés*

100. Sub-paragraphs a. and b. accepted / *Alinéas a. and b. acceptés*

Articles 16-19 Para	Art. 16	Art. 17		Article 18				Article 19											
		1	2	1	2	3	4	1	2	3	4	5	6	7	8	9	10	11	12
		Slovenia/Slovénie																	
Spain/Espagne																			
Sweden/Suède																			
Türkiye																			
Ukraine																			

Articles 20-31 Para.	Art. 20	Art. 21	Art. 22	Art. 23	Art. 24	Art. 25	Art. 26		Art. 27			Art. 28	Art. 29	Art. 30	Art. 31			
							1	2	1	2	3				1	2	3	
							Albania/Albanie											
Andorra/Andorre																		
Armenia/Arménie																		
Austria/Autriche																		
Azerbaijan/Azerbaïdjan																		
Belgium/Belgique																		
Bosnia and Herzegovina/ Bosnie-Herzégovine																		
Bulgaria/Bulgarie																		
Cyprus/Chypre			101															
Estonia/Estonie																		
Finland/Finlande																		
France																		
Georgia/Géorgie																		
Germany/Allemagne																		
Greece/Grèce																		
Hungary/Hongrie																		
Ireland/Irlande									102									
Italy/Italie																		
Latvia/Lettonie																		
Lithuania/Lituanie																		
Malta/Malte																		
Republic of Moldova/ République de Moldova																		

101.Sub-paragraph b. accepted / *Alinéa b. accepté*

102.Sub-paragraphs a. and b. accepted / *Alinéas a. et b. acceptés*

Articles 20-31 Para.	Art. 20	Art. 21	Art. 22	Art. 23	Art. 24	Art. 25	Art. 26			Art. 27			Art. 28	Art. 29	Art. 30	Art. 31		
							1	2	3	1	2	3				1	2	3
Montenegro/ Monténégro										103								
Netherlands/Pays-Bas																		
North Macedonia/ Macédoine du Nord																		
Norway/Norvège										104								
Portugal																		
Romania/Roumanie																		
Serbia/Serbie																		
Slovak Republic/ République Slovaque																		
Slovenia/Slovénie																		
Spain/Espagne																		
Sweden/Suède																		
Türkiye																		
Ukraine																		

103.Sub-paragraph a. accepted / *Alinéa a. accepté*

104.Sub-paragraph c. accepted / *Alinéa c. accepté*

**Acceptance of provisions of the European Social Charter (1961) and of the Additional Protocol (1988)
*Acceptation des dispositions de la Charte sociale européenne (1961) et du Protocole additionnel (1988)***

accepted/ accepté not accepted/ non accepté

	Article 1			Article 2			Article 3			Article 4			Art.	Article 6			Article 6							
	1	2	3	4	1	2	3	4	5	1	2	3		4	1	2	3	4	5	6	7	8	9	10
Articles 1-7																								
<i>Para.</i>																								
Croatia/Croatie																								
Czech Republic/ République tchèque																								
Denmark/Danemark																								
Iceland/Islande																								
Luxembourg																								
Poland/Pologne																								
United Kingdom/ Royaume-Uni																								

	Article 8			Article 9			Article 10			Article 11			Article 12			Article 13			Article 14			Article 15			Article 16			Article 17			Article 18		
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	
Articles 8-18																																	
<i>Para.</i>																																	
Croatia/Croatie																																	
Czech Republic/ République tchèque																																	
Denmark/Danemark																																	
Iceland/Islande																																	

105. The Czech Republic denounced paragraph 4 on 25 March 2008 / La République tchèque a dénoncé l'alinéa 4 le 25 mars 2008

Articles 8-18 Para.	Article 8				Art. 9			Article 10			Article 11			Article 12			Article 13			Art. 14		Art. 15		Art. 16		Art. 17		Article 18								
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	1	2	1	2	1	2	1	2	3	4				
Luxembourg																																				
Poland/Pologne																																				
United Kingdom/ Royaume-Uni																																				107

106

Articles 19 Para.	Article 19										Additional Protocol/ Protocole additionnel							
	1	2	3	4	5	6	7	8	9	10	Additional Protocol Para.							
Croatia/Croatie																		
Czech Republic/ République tchèque																		
Denmark/Danemark																		
Iceland/Islande																		
Luxembourg																		
Poland/Pologne																		
United Kingdom/ Royaume-Uni																		

106. Poland denounced paragraph 4 on 27 January 2011 / La Pologne a dénoncé l'alinéa 4 le 27 janvier 2011
107. The United Kingdom denounced paragraph 2 on 12 July 2021 / Le Royaume-Uni a dénoncé l'alinéa 2 le 12 juillet 2021

Appendix 9

Declaration of the Committee of Ministers on the 50th anniversary of the European Social Charter

*(Adopted by the Committee of Ministers on 12 October 2011
at the 1123rd meeting of the Ministers' Deputies)*

The Committee of Ministers of the Council of Europe,

Considering the European Social Charter, opened for signature in Turin on 18 October 1961 and revised in Strasbourg on 3 May 1996 ("the Charter");

Reaffirming that all human rights are universal, indivisible and interdependent and interrelated;

Stressing its attachment to human dignity and the protection of all human rights;

Emphasising that human rights must be enjoyed without discrimination;

Reiterating its determination to build cohesive societies by ensuring fair access to social rights, fighting exclusion and protecting vulnerable groups;

Underlining the particular relevance of social rights and their guarantee in times of economic difficulties, in particular for individuals belonging to vulnerable groups;

On the occasion of the 50th anniversary of the Charter,

1. Solemnly reaffirms the paramount role of the Charter in guaranteeing and promoting social rights on our continent;
2. Welcomes the great number of ratifications since the Second Summit of Heads of States and Governments where it was decided to promote and make full use of the Charter, and calls on all those member states that have not yet ratified the Revised European Social Charter to consider doing so;
3. Recognises the contribution of the collective complaints mechanism in furthering the implementation of social rights, and calls on those member states not having done so to consider accepting the system of collective complaints;
4. Expresses its resolve to secure the effectiveness of the Social Charter through an appropriate and efficient reporting system and, where applicable, the collective complaints procedure;
5. Welcomes the numerous examples of measures taken by States Parties to implement and respect the Charter, and calls on governments to take account, in an appropriate manner, of all the various observations made in the conclusions of the European Committee of Social Rights and in the reports of the Governmental Committee;
6. Affirms its determination to support States Parties in bringing their domestic situation into conformity with the Charter and to ensure the expertise and independence of the European Committee of Social Rights;

7. Invites member states and the relevant bodies of the Council of Europe to increase their effort to raise awareness of the Charter at national level amongst legal practitioners, academics and social partners as well as to inform the public at large of their rights.

Appendix 10

Exchange of views between Karin Lukas, President of the European Committee of Social Rights and the Committee of Ministers of the Council of Europe

Strasbourg, 20 October 2021

Dear Chair, dear Ministers' Deputies (Ambassadors), dear Secretary General, dear Ladies and Gentlemen,

Let me begin by saying that I was elected President of the European Committee of Social Rights – the ECSR – in January 2021. This is therefore my first exchange of views with the Committee of Ministers. It is an honour and a privilege for me to continue the established tradition of these annual exchanges, which the ECSR values very highly.

Our exchange comes at an opportune moment: only two days after we celebrated the 60th anniversary of the European Social Charter at a High-Level Panel involving all the major institutional pillars of the Council of Europe, including the Committee of Ministers, as well as representatives of the United Nations and the European Union.

It was a solemn occasion to re-state our commitment to the indivisibility of human rights and to recall that the Charter was linked at birth with the very mission of this Organisation which, pursuant to Article 1 of the Statute, includes facilitating the *economic and social progress* of the member States. Let me take this opportunity to express my gratitude to the Committee of Ministers for clearly setting out its ambitions in those respects in the anniversary declaration adopted on 13 October.

Apart from Monday's High-Level Panel, 2021 has seen a very large number of events dedicated to the Charter anniversary organised by governments, civil society, academia and other actors in the human rights field.

Let me just mention a few of the events where I was fortunate to participate myself: two major academic conferences, one organised by University of Nottingham in April and one organised by University Roma-Tre in early October, the Roundtable organised jointly by the Russian Federation and the Council of Europe at the end of September and the event on poverty and new labour relations organised by the Council of Europe Conference of INGOs on Monday. More such events are in the pipeline before the end of the year.

2021 also saw significant expressions of increased state commitment to the Charter: Germany ratified the Revised Charter on 29 March and Spain ratified the Revised Charter and accepted the collective complaints procedure on 17 May. I cannot think of better anniversary gifts, and I would encourage other States that have not yet ratified the Revised Charter or accepted the complaints procedure to follow suit. In fact, increased state commitment to the Charter must be a corollary of the current reform process, to which I will return in a moment.

Before doing so, let me say a few words about the Covid-19 pandemic and social rights and how it has affected our work as a monitoring body. Fortunately, it seems

that we are now gradually extricating ourselves from the grip of the pandemic crisis, which changed our lives so much.

The pandemic has underscored how important social rights are in holding together our societies. The pandemic has also exposed the sheer folly of the old trope that “government is not the solution, government is the problem”. On the contrary, government, democratic governance, is a crucial part of the solution. Implementing social rights is hardly possible without strong government-led action and provision, without a strong government commitment.

As you may know, the ECSR at a very early stage provided guidance to States on the implications of the pandemic for the right to health in the Charter and followed up, in April 2021, with a quite detailed statement with guidance on a wide range of other Charter rights. It can be used as a human rights roadmap for states decisions after the pandemic and to support the implementation of social rights for all.

The ECSR also considered it important to get to grips – sooner rather than later – with the social rights implications of the pandemic within the framework of the **reporting procedure**. In fact, in the targeted questions which we addressed to States for their reports on the Charter provisions relating to health, social security and social protection, we invited States to provide information on their first responses to the pandemic and on the (provisional) results achieved.

The ECSR is currently examining these reports and I would like to thank those States who agreed to provide information on their Covid-19 responses, despite the enormous pressures faced by national administrations and despite it strictly speaking falling outside the reference period for the reports. I expect that we will be able to publish our conclusions on these reports in March next year as we did previously.

In this respect, I am pleased to inform you that the state reports have been the subject of unprecedented interest from the social partners and civil society. The number of comments, or shadow reports, has more or less tripled compared to the usual average. This new level of engagement is a major achievement. Certainly, the economic crisis and now the pandemic crisis have focused the minds of the social partners and civil society, but it is also the result of continuing hard work to raise awareness about this fundamental human rights treaty and its procedures.

Speaking about the social partners and civil society, let me turn to the **collective complaints procedure** which no doubt counts for quite a lot in their increased engagement with the Charter. The complaints procedure works well from a procedural point of view, strictly respecting the contradictory principle and the right of last reply for respondent States. And the ECSR’s decisions in complaints have a strong visibility and impact, probably even more so than its conclusions in the reporting procedure.

As regards the procedural aspects, I would like to pay tribute to the excellent cooperation we have had with the Government Agents from the 16 States that have accepted the procedure. On 25 June 2021, we resumed our informal annual meetings with the Agents and, once again, it was a very productive meeting prompting adjustments to the ECSR’s working methods and even to its Rules.

With respect to the impact of the complaints procedure, I would like to welcome the fact that the Committee of Ministers now adopts recommendations in those complaints where the ECSR finds violations of the Charter. This is a great step forward in ensuring a principled follow-up to our decisions as provided in Article 9 of the 1995 Additional Protocol on the collective complaints procedure. I take this as a sign of political commitment to ensuring the best possible functioning of the procedure on the part of the States concerned. This is very much appreciated!

Despite the constraints imposed by the pandemic, I am happy to report that the ECSR has generally been able to maintain its productivity and keep the complaints procedure turning. Since your last exchange of views with President Palmisano on 25 November 2020, the Committee has adopted 8 decisions on admissibility and 5 decisions on the merits, some of them in very complex and important complaints.

In this respect, let me just refer to *ICJ/ECRE v. Greece* (Complaint No. 173), concerning the protection of unaccompanied migrant children, to *CGT/CGC-CFE v. France* (Complaint No. 149), concerning the protection of workers under the so-called “working days system”, and to *European Youth Forum v. Belgium* (Complaint No. 150), concerning the practice of unpaid internships. Some of these already have or will soon arrive on your agenda for follow-up.

I might also add that we have registered the first complaints relating to the implementation of Covid-19 measures at national level. The pandemic has, despite the tragic loss of life and health involved, to some extent been the story of social States being resilient and able to fight back and build back. But this does not mean that everything has worked well, far from it. I believe that we all benefit from being able to scrutinise and dialogue in the unique format offered by the complaints procedure on what perhaps did not work so well.

Finally, let me turn to the **reform process** aimed at strengthening the Council of Europe’s social rights framework. It has been a quite long process, beginning to some extent all the way back in 2014 with the so-called “Turin process”. More formally, it was launched with the work of the Steering Committee for Human Rights (CDDH) and its report adopted in June 2019. This was followed by the report of an expert group, the Social Rights Advisors, established by the Secretary General, and in April this year she presented her own proposals to the Committee of Ministers.

Along the way, as you know, both the ECSR and the **Governmental Committee** have submitted “position papers” on the reform in response to the CDDH report. I can inform you that, yesterday, the ECSR’s Bureau held a joint meeting with the Bureau of the Governmental Committee with reform being high on the agenda.

It goes without saying that the ECSR has examined the various documents and proposals with great interest – and with great expectations, I would add. They are crucial for the future of social rights within a Council of Europe framework. I therefore also welcome very much the Committee of Ministers’ decision of 7 October to set up a working party with a view to making concrete proposals for the Ministerial Session in Rome in May next year.

The ECSR stands ready to contribute to the working party. At our session this week we will consider a set of objectives and criteria specifically concerning a re-vamped reporting procedure, which we hope could eventually be taken into account by the working party. And we will certainly follow through with contributions on other aspects of the reform at a later stage.

The ECSR can definitely subscribe to the Secretary General's keywords of *simplification* and *dialogue*. The reporting procedure must be made more understandable and accessible not only to the direct stakeholders, but also to the wider public. And dialogue is a *sine qua non* for the ECSR, as I hope my remarks today have shown. The ECSR sees itself as a body that rules on conformity with the Charter not at arms length, but precisely on the basis of dialogue, transparency and mutual understanding of the issues at stake.

However, I consider it necessary to underline once again that strengthening the Council of Europe's social rights framework is not realistic without tangible additional commitment by States to the Charter and its procedures. Tinkering with procedural technicalities will not suffice. First and foremost, more States must commit more fully to the Charter instruments, ratify the Revised Charter, accept more provisions and, perhaps most importantly: accept the collective complaints procedure! And the Committee of Ministers should be seen to provide strong follow-up: recommendations should be adopted in appropriate cases, not only within the complaints procedure, but also on the basis of conclusions within the reporting procedure.

Moreover, I do not think that we can talk about commitment without also mentioning the question of resources for the Charter system. I am aware of the budgetary constraints of this Organisation and I have no doubt that you are constantly faced with demands for resources from different sectors and bodies. Nevertheless, I respectfully submit that the situation of the Charter system is quite special. For at least two reasons.

Firstly, because of the decisive political importance of social rights in contemporary Europe, which is particularly striking against a background of historical sidelining of social rights being for far too long regarded as a secondary class of human rights ("poor rights"). Secondly, and more concretely, because of the huge increase in tasks following the introduction of the Revised Charter and the complaints procedure at the end of the 1990s. This quantum leap was never accompanied by matching additional resources.

In 1998, there were 23 States Parties to the Charter. These 23 States Parties had, altogether, accepted a total of 1,400 provisions whose compliance was assessed by the ECSR. In 2021, the number States Parties stands at 43, and the number of accepted provisions has grown to a total of 3,220 provisions. An increase of 130%.

In 1998, there were 23 States Parties, mostly to the 1961 Charter, having accepted a grand total of 1,400 Charter provisions. In 2021, we have 43 States Parties, mostly to the revised Charter containing many more provisions, and the grand total of provisions that must be examined by the ECSR has grown to 3,220. On top of this, the complaints procedure came into operation. In the first decade, from 1998 to

2009, we registered a total of 59 complaints; in the last decade, from 2010 to 2021, the total was 143. In relative terms, a massive increase.

Without additional commitment and without additional resources, I am afraid that the reform process could end up being all words and no deeds. I trust that none of us would want such a result.

So the time is ripe for strengthening the Charter system through a reform process aimed at making it fit for the social challenges of the next decades. The ECSR stands ready to contribute fully to this process with all the means available to it.

Thank you very much for your attention.

Appendix 11

International Day for the Eradication of Poverty and European Anti-trafficking Day

Precariousness or slavery, it's not a job! Is decent and freely undertaken work for ALL possible?

Opening address by Karin Lukas,
President of the European Committee of Social Rights

18 October 2021

The objective of the webinar is to explore the issue of decent work - articles 1, 2, 3, 4 and 26 of the [revised European Social Charter](#) related to: the formality of work; usefulness of work and impact on the environment, respect for the rights and dignity of all persons.

Dear Ladies and Gentlemen, it is a pleasure to speak to you as a representative of the European Committee of Social Rights on this highly relevant topic.

I want to take the opportunity and thank you chair, Gerhard Ermischer and everybody at the Conference of INGOs for organising this very important [webinar](#) on the occasion of yesterday's International Day for the Eradication of Poverty and today's European Anti-Trafficking Day. Civil society is an indispensable partner in the struggle for social rights and I am very pleased to jointly open the upcoming discussion with panellists representing such a wide range of European NGOs.

The call for decent work could not be more topical. For decades, we have been facing a rise in precarious employment. This trend has recently been further exacerbated by the COVID-19 pandemic, posing an unprecedented challenge to labour markets all over the world. The COVID-19 pandemic and the corresponding economic crisis have led to a massive increase in unemployment and to a further precarisation of work. This concerns specifically those who have already been working in insecure and precarious employment before the pandemic.

While millions of people lost their jobs or were on short-time work in the wake of the crisis, others were facing a huge increase in workload and a further deterioration of their working conditions. This was not least true for people working for delivery services and logistic companies, often working under particularly precarious circumstances.

- a. Modern delivery (and other) services are often based on platform driven business models and thereby try to circumvent applicable labour law provisions.
- b. Workers find themselves often in bogus self-employment and are therefore neither entitled to holiday with pay, sick leave payments and other social security benefits, nor covered by certain crisis response measures like short-time work.

- c. These developments have led to solo self-employed becoming a “new” group of particularly vulnerable people who are severely affected by the recent crisis with many of them losing their job.

In addition to this, the digital transformation and the accompanying use of artificial intelligence and new surveillance technologies bear the potential to further exacerbate precariousness.

The Revised European Social Charter includes several Articles relating to the topic of non-precarious, decent work.

Already the first Article of the Charter emphasizes the right to work. Given the extensive case law of the European Committee of Social Rights in particular on the effective protection of right of the workers to earn their living in an occupation freely entered upon – Article 1(2) – and the recent challenges for European labour markets due to global competition, outsourcing and the COVID-19 pandemic, this provision is key in supporting decent work for all European citizens.

Article 2 emphasises the right to fair and decent working conditions as cornerstones of human rights protection in the labour market. Among others, this provision calls for reasonable working hours and rest periods as well as for paid public and annual holidays. Grievances often arise in both of these areas in connection with precarious employment.

In the course of the pandemic, the right to safe and healthy working conditions, enshrined in Article 3 of the Charter, became a much discussed topic. Precarious working conditions are favouring the spread of the virus, not least because workers often turn up for work sick due to low wages and a lack of social coverage. The mass outbreaks of the COVID-19 virus in the meat processing sector and in several logistic centres are examples of this.

Article 4 is emphasising the right to a fair remuneration, sufficient to ensure a decent standard of living for all workers and their families. Shortcomings in this area became evident not least when many inner-European borders were closed due to the pandemic, resulting in the loss of European seasonal workers, who usually do harvest work in many European countries for meagre wages.

To ensure the right to dignity at work, Article 26 stipulates that state parties are required to take all necessary preventive and compensatory measures to protect individual workers against any form of harassment, sexual and otherwise. The Charter contains several further provisions relevant to the topic of decent work, like the right to bargain collectively, the right to protection in case of termination of employment or the right of migrant workers – often working in precarious conditions – and their families to protection and assistance – to only name a few.

Still, precarious and forced work remains a problem all over Europe. In its 2018 conclusions, relating to provisions from thematic Group 3 on labour rights (e.g. Articles 2, 4 and 26), the European Committee of Social Rights adopted 580 conclusions including 206 situations of non-conformity. Grievances where for instance identified regarding the right to fair remuneration – Article 4(1) – and the right to organise (Article 5). In its 2020 conclusions, relating to provision from thematic Group 1 on

employment, training and equal opportunities (e.g. Article 1), the Committee identified several recurrent shortcomings in terms of state parties' efforts to ensure equal enjoyment of labour rights for all as well as situations where states have failed to fulfil their positive 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.

Let me conclude by saying that it is more than difficult to estimate at this stage the exact extend of the impact of the recent crisis. Still, the precarisation of labour and the rise of atypical work had posed a problem already way before the emerging COVID-19 pandemic.

As a binding treaty, which is the most the wide-ranging and comprehensive legal instrument for the protection of social rights, the Revised European Social Charter provides us with leverage to tackle precarious employment.

The collective complaints procedure provides a unique form of legal action in the human rights system, enabling international and national NGOs to file complaints alleging that a state is in breach of the Charter.

In my view, NGOs are vital partners for our work in the European Committee of Social Rights and I would like to take the opportunity and invite all participants in today's webinar to contact us if you have any questions relating to the reporting or the collective complaints procedures and about how it can be used by you.

I wish you fruitful and resourceful discussions and all the very best for the actions that will follow from this event. Thank you very much.

Appendix 12

Declaration by the Committee of Ministers on the occasion of the 60th anniversary of the adoption of the European Social Charter

*(Adopted by the Committee of Ministers on 13 October 2021
at the 1414th meeting of the Ministers' Deputies)*

Sixty years ago – to the day – the Council of Europe member States enshrined in international law a series of social rights (Turin, 18 October 1961). It was the first time that the social rights objectives set out in the Universal Declaration of Human Rights and the social progress objective inscribed in the Statute of the Council of Europe were translated into a binding international treaty protecting a broad range of social rights, as a complement to the rights recognised in the European Convention on Human Rights.

Six decades later, the European Social Charter remains a unique and precious international law instrument. It has contributed to many improvements in the protection of social rights in member States, improving the life of people across Europe. New rights were added in a 1988 Protocol and in the 1996 revised European Social Charter. The latter is widely acknowledged as the most up-to-date international human rights treaty in the area of social rights permitting States to take different levels of commitments and to advance at differing speeds depending on their political, social and economic diversity.

The Committee of Ministers reaffirms the eminent role of the European Social Charter in guaranteeing and promoting social rights in Europe and reiterates its resolve to ensure that the Charter system is given the political support and the tools and means required to ensure its effectiveness. The Committee of Ministers underlines that challenges such as globalisation, demographic changes, new information technologies and the consequences of the Covid-19 pandemic further highlight the importance of a strong and effective European Social Charter.

The Charter's supervision mechanisms also progressed over time, through practice and by virtue of decisions of the Committee of Ministers of the Council of Europe. A 1995 Protocol offers States Parties the possibility to adhere to a system of collective complaints. Mindful of the need for permanent improvement in the protection of human rights, in 2015 the Committee of Ministers set in motion a reflection on how to improve the implementation of the European Social Charter. Continuing this process, the importance of which was recalled at the 131st Ministerial Session (Hamburg, 19 May 2021), on the occasion of the Charter's 60th anniversary, it has established a working party to this end.

60th Anniversary of the European Social Charter: High-level panel discussion

18 October 2021, Strasbourg

What are the main strengths of the European Social Charter and how we can build on them?

Karin Lukas,

President of the European Committee of Social Rights

I don't think that I am a terrible boast if I say that the realisation of social rights in Europe is a success story. Forty-three [42 today] countries have ratified the European Social Charter and have shown considerable progress in making those rights a reality for many people in Europe. The Charter, in particular after the modernisation process in the nineties, covers all rights that are relevant for everyday life: education, health, housing, decent work, social security, and specific rights for persons with disabilities and migrant workers, among others. It is truly the social constitution of Europe.

My second point is: the Charter is very accessible. It is accessible for NGOs, trade unions and employers' organisations because they can directly bring complaints for the European Committee of Social Rights when they think that the state is in breach of social rights. It is a relatively open and rapid procedure, it has the ability to be topical and politically relevant, addressing issues that are of eminent concern to States, the social partners and civil society. It also has a high degree of visibility and there is a comparatively high impact. This way of asserting rights is unique, you will not find it anywhere else in the world. However, here we have still some work to do because this is only possible in 16 of the 43 Charter countries. I congratulate Spain which has accepted the collective complaints procedure this year.

And my third point is, because the Charter is so broad in coverage it is fit to be used for the challenges that we face: the Covid-19 Pandemic, new forms of employment such as the platform or gig economy, and to some extent also the climate crisis. The main thing is that we put more efforts into strengthening social rights, so that all European citizens can use and enjoy them. Because the pandemic has shown that inequalities among people in Europe increase and it is all the more important that social rights are strengthened.

The Council of Europe reform process and the challenges for social rights in the future

Although we can be proud of our achievements, a lot still needs to be done. Europe still faces a huge implementation gap regarding equality and social rights. Large disparities in social rights protection remain among and within European countries. Discrimination of marginalized groups is prevalent in all 43 Charter countries. While there is progress in terms of legislation, inequalities on the ground continue to exist. This has been confirmed by the Committee's conclusions of 2020, which show that discrimination based on gender, ethnicity, disability and sexual orientation persists.

The Covid-19 situation underlines even more the need to tackle inequalities, child poverty and rising unemployment. This year, the Committee has published a statement on Covid-19 and social rights which can be used as a human rights roadmap for the tough decisions that states need to make and will hopefully support the implementation of social rights for all. The Committee will be very vigilant in order to ensure that social rights are adequately protected throughout this period of economic recovery and improved in the longer term.

In this situation I very much welcome the reform process initiated within the Council of Europe to strengthen social rights. As the Council of Europe Secretary General, Madame Pejčinović Burić, has outlined in her proposals, dialogue is a key element in this process. Dialogue could mean increased communication with the stakeholders, in particular governments and notably the Governmental Committee, but also with civil society and other relevant actors. One of the aims of dialogue would be to improve the information basis for the Committee's findings.

Having said that, the Committee stands ready to provide its input and expertise in the reform process with all means available to it. I say with all means available because the success of the Charter has meant that the Committee's workload has increased, but not its resources. To give you a number here, in comparison between when the collective complaints procedure became operational in 1998 and last year, we saw an increase of complaints of 142%.

So, we face challenges, but I think they are manageable. However, we need commitment not only on paper but in concrete deeds, and social rights being high on Council of Europe countries' agenda. Let me end by a quote of – I think – one of the greatest writers in the world, Toni Morrison.

She said: "Love is or it ain't. Thin love ain't love at all."

In view of our event today I say: Social rights are, or they aren't. Thin social rights, social rights on paper without strong implementation are no rights at all.

Thank you very much.

Appendix 14

Selection of activities organised in 2021

The European Committee of Social Rights and the Secretariat of the European Social Charter organised and participated in a number of activities in 2021. A selection of those is presented below:

- ▶ Strasbourg (virtual), January 2021, 11-12 and 17-18 February 2021
Working Group on HELP course on the Charter and the Committee
A. UBEDA DE TORRES, V. MANTOUVALOU
- ▶ Strasbourg (virtual), 22 and 24 February 2021
Webinar “How can National Human Rights Institutions and Equality Bodies engage with the European Committee of Social Rights under the monitoring procedures of the European Social Charter”
A. NOLAN, N. CASEY, T. MONTANARI
- ▶ Strasbourg (virtual), 9, 18 February and 4, 11 March 2021
Meetings of High-level group of experts on social rights
G. PALMISANO, M. SCHLACHTER, J. MALINOWSKI
- ▶ Strasbourg (virtual), 23, 25 February and 9 March 2021
Meetings of the Working group of the Governmental Committee on the follow up to the CDDH report
J. MALINOWSKI, A. UBEDA, L. MIARA
- ▶ Georgia, 1 March 2021
A new co-operation project “Strengthening protection of social and economic rights in Georgia” started for 18 months
M. GALSTYAN
- ▶ Strasbourg (virtual), 9 March 2021
Meeting of the Bureau of the Governmental Committee
A. UBEDA DE TORRES
- ▶ Strasbourg (virtual), 11 March 2021
2nd meeting of the Inter-Secretariat Task Force on the Implementation of the Strategic Action Plan for Roma and Traveller Inclusion (2020-2025)
A. UBEDA DE TORRES
- ▶ Online event, 22-23 March 2021
The ETUC Executive Committee has adopted at its meeting a Resolution on the occasion of the 60th anniversary of the European Social Charter and the 25th Anniversary of the Revised European Social Charter
- ▶ Strasbourg, 24 March 2021
Presentation of Conclusions 2020 at a press conference
ECSR members, H. KRISTENSEN, J. MALINOWSKI

- ▶ Online Event, 29-30 March 2021
ENNHRI Working Group on Economic and Social Rights
T. MONTANARI
- ▶ Strasbourg, 30 March 2021
Meeting of the Governmental Committee Bureau
A. UBEDA DE TORRES, L. MIARA
- ▶ Online event, 26 April 2021
High-Level Meeting on the Council of Europe “Recommendation on the development and strengthening of effective, pluralist and independent national human rights institutions”
K. LUKAS
- ▶ Online event, 27 April 2021
Online workshop on “Human Rights and Business as a framework for addressing environmental protection challenges” organised by the German Presidency of the Committee of Ministers
J. MALINOWSKI
- ▶ Online event, 28 April 2021
“Taking stock of the European social Charter at 60” organised by University of Nottingham Human Rights Law Centre, together with the Roma Tre Centro Internazionale di Ricerca ‘Diritto e Globalizzazione’ and the European Social Charter Department
K. LUKAS, A. NOLAN, G. PALMISANO, C. O’CINNEIDE
- ▶ Strasbourg (virtual), 10 and 12 May 2021
142nd meeting of the Governmental Committee
J. MALINOWSKI, A. UBEDA DE TORRES, L. MIARA
- ▶ Online event, 18 May 2021
Peer-to-peer exchange on Covid-19 and mental health organised by United Nations Human Rights Regional Office for Europe
K. DUPATE
- ▶ 10-11 June 2021
Final Conference COGENS “Collective Bargaining and the Gig Economy - New Perspectives”
B. KRESAL
- ▶ 11 June 2021
Meeting with National Human Rights Institutions on parallel reports to be submitted to the ECSR for Conclusions 2021
N. CASEY, T. MONTANARI
- ▶ Online event, 17 June 2021
PECS Seminar on Social Cohesion: A New Horizon for 21st Century Europe
J. MALINOWSKI, M. GALSTYAN

- ▶ Online event, 22 June 2021
 “State of Play: Equality and non-discrimination in the access to healthcare”
 T. PUIU
- ▶ Online event, 25 June 2021
 Meeting with the European Commission, DG EMPL, on information-sharing, training and other mutual support activities, H. KRISTENSEN, N. CASEY.
- ▶ Online event, 25 June 2021
 6th Informal Meeting between Government Agents and the Committee’s Bureau in the framework of the collective complaints procedure
- ▶ Online event, 25 June 2021
 Meeting with the European Commission, DG EMPL, on information-sharing, training and other mutual support activities
 H. KRISTENSEN, N. CASEY
- ▶ Strasbourg, 2 July 2021
 HELP annual conference: Presentation of the updated Labour rights courses, as well as the challenges of protection of social rights in Europe during the COVID-19 pandemic
 A. UBEDA DE TORRES
- ▶ St Petersburg (Russia), 6-9 July 2021
 High-level conference of Heads of Prosecutors’ Offices of the European States
 “Role of the Prosecutor’s Offices in Protection of Individual Rights and Public Interest in light of Requirements of the European Convention on Human Rights”
 G. PALMISANO
- ▶ Online event, 23 September 2021
 Launching event of the Project “Strengthening Protection of Social and Economic Rights in Georgia”
 M. GALSTYAN, E. CAM
- ▶ Online event, 27 September 2021
 Meeting on the rights of older persons: “Against Ageism and Towards Active Social Citizenship for Older Persons”
 A. NOLAN, T. PUIU, G. QUINN, C. O’CINNEIDE, J. MALINOWSKI, T. MONTANARI
- ▶ Moscow (Russia), 29 September 2021
 Round table on “European Social Charter – 60th anniversary and 25 years of Russian membership of the Council of Europe”
 K. LUKAS, G. PALMISANO, E. TORKUNOVA, J. GOMIS, S. CLAUWAERT, J. MALINOWSKI, H. KRISTENSEN, A. KUZNETSOVA
- ▶ Strasbourg, 4 October 2021
 Exchange of views with the Lanzarote Committee
 A. NOLAN

- ▶ Strasbourg, 4-5 October 2021
1st meeting of the Drafting Committee on Trafficking for the Purpose of Labour Exploitation (DH-TET)
M. KULLMANN, J. FABER, A. UBEDA DE TORRES, E. CORNARO
- ▶ Rome, 6 October 2021
Conference organised by University Roma Tre on “60 years on, Bringing the European Social Charter into changed times”
G. PALMISANO, K. LUKAS, A. NOLAN, J. HAJDU, M. SCHLACHTER, L.J. QUESADA, C. GIAKOUMOPOULOS, R. BRILLAT, H. KRISTENSEN
- ▶ Brussels (Belgium) Hybrid event, 8 October 2021
Seminar on the collective complaints’ procedure under the European Social Charter
A. NOLAN, P. STANGOS, F. VANDAMME
- ▶ Geneva (Switzerland) 11 October 2021
A panel discussion “The European Social Charter – a story on equality” in the Fundamental Rights Forum
A. NOLAN
- ▶ Online event, 13 October 2021
Launch of the Council of Europe HELP course on “The Environment and Human Rights”
A. UBEDA DE TORRES
- ▶ Lille, France, 13 October 2021
Presentation of the collective complaints procedure to health students from CHU Lille (France)
L. VIOTTI
- ▶ Online event, 14 October 2021
Launch of the of the Council of Europe HELP updated course on “Labour rights” in Bosnia and Herzegovina
A. UBEDA DE TORRES
- ▶ Strasbourg, hybrid event, 18 October 2021
High-Level Panel “Celebration of the European Social Charter’s 60th anniversary
K. LUKAS
- ▶ Strasbourg, 18 October 2021
Ceremony to mark the International Day for the Eradication of Poverty
E. CHEMLA
- ▶ Strasbourg, 18 October 2021
International Day for the Eradication of Poverty and European Anti-trafficking Day – two events organised by the Conference of INGOs
K. LUKAS, M. KULLMANN

- ▶ Strasbourg, 19 October 2021
 Joint meeting of the Bureau of the ECSR and the Bureau of the Governmental Committee
 K. LUKAS, E. CHEMLA, G. PALMISANO, A. NOLAN, J. FABER. A. HORGAN, J. MALINOWSKI, H. KRISTENSEN, A. UBEDA DE TORRES, L. MIARA
- ▶ Online event, 4-5 November 2021
 7th meeting of the European Social Cohesion Platform (PECS) Two round tables were in addition organised: one on the impact of COVID-19 on employment and health (particularly as regards to mental health) and one on minimum income schemes
 E. BOGGIA, J. MALINOWSKI
- ▶ Budapest (Hungary), 11 November 2021
 Seminar on equal opportunities: “Practices and Experiences on Fighting against Discrimination in the Countries of the Council of Europe”
 A. NOLAN, J. HAJDU
- ▶ Turin (Italy), 11-12 November 2021
 “The European Social Charter turns 60: advancing economic and social rights across jurisdictions”
 G. PALMISANO, H. KRISTENSEN
- ▶ Online event, 16 November 2021
 Diversity in the Workplace, a Sexual Orientation, Gender Identity or Expression and Sex Characteristics approach (SOGIESC) “The importance of the European Social Charter”
 T. PUIU
- ▶ Online event, Bialystok (Poland), 23 November 2021
 “60th anniversary of the European Social Charter: The challenges and opportunities of 60 years of social rights protection in the European Social Charter”
 H. KRISTENSEN
- ▶ Hybrid event, Thessaloniki (Greece), 25-26 November 2021
 3rd Thessaloniki Forum on Human Rights
 G. PALMISANO, P. STANGOS
- ▶ Strasbourg, Hybrid event, 29-30 November 2021
 2nd meeting of the Drafting Committee on trafficking for the purpose of labour exploitation (DH-TET)
 M. KULLMAN, A. UBEDA DE TORRES, J. VAQUERIZAS PULIDO
- ▶ Paris, 2-3 December 2021
 Netlex conference: “25 years of trade union legal activism in Europe”
 E. CHEMLA, H. KRISTENSEN

- ▶ Strasbourg, 7 December 2021
Book presentation “The Revised European Social Charter. An article-by-Article commentary” and panel discussion on the future of social rights
K. LUKAS, H. KRISTENSEN
- ▶ Strasbourg, 8 December 2021
Conference “Labour Law as Conditionality and Recommendation: The Impact of the New European Economic Governance on Four National Systems”
M. KULLMANN
- ▶ Strasbourg, 9 December 2021
Seminar “Social rights in the digital age: challenges and opportunities”
G. PALMISANO
- ▶ Online event, Vilnius (Lithuania), 10 December 2021
“Social Security: is it patronizing or ensuring human rights?”
J. HAJDÚ

Appendix 15

Selection of judicial decisions from 2021 referring to the European Social Charter

FRANCE

The European Social Charter was still relatively rarely invoked before French judges of the 2nd and 3rd degree (in appeal or cassation) in 2021. As a result, there are few court decisions in which the plea of violation of the European Social Charter was examined.

- ▶ **Before the administrative courts of appeal and cassation**, out of five decisions in which the plea of violation of the Social Charter is invoked, a decision of the *Conseil d'Etat* answers the plea and thus implicitly confirms the direct effect of Article 5 of the European Social Charter (CE, 20/10/2021, n° 457101).

Furthermore, the Nancy Administrative Court of Appeal has had occasion to point out that Article 13 of the European Social Charter does not have direct effect for individuals (CAA de NANCY, 4th Chamber, 28/12/2021, No. 20NC02171).

- ▶ **Before the judicial courts**, the plea of violation of the Social Charter was presented in 5 cases before the Social Division of the Court of Cassation, 1 case before the First Civil Division of the Court of Cassation and 2 cases before the Court of Appeal.

The First Civil Chamber was seized for the first time with a plea alleging violation of Article 18 of the European Social Charter. However, it ruled on a different basis and without ruling on the “scope of the provisions of Article 18 of Part II of the European Social Charter in the domestic order” (Court of Cassation, Civil Division 1, 5 May 2021, No. 17-21.006).

The Court of Appeal of Basse Terre and the Court of Appeal of Dijon applied the opinion of 17 July 2019 of the plenary assembly for opinion of the Court of Cassation. When asked about the conventionality of the scales governing compensation for dismissal without a valid reason, they refused to examine the plea on the basis of Article 24 of the European Social Charter because of its lack of direct effect, but did examine it (and rejected it) on the basis of Article 10 of ILO Convention No. 158, which has direct effect. (CA Dijon, 4 November 2021, No. 19/006756 and CA Basse Terre, 17 May 2021, No. 19/012241).

ITALY

- ▶ **Constitutional Court, 21 September - 21 October 2021, no. 196 (Art. 13 and 30 ESC)** [inadmissibility]

Social assistance and solidarity - Foreign national - Inclusion benefit. Applicants who are nationals of non-member countries required to hold an EU long-term residence permit - Benefit included among the benefits covering essential personal needs. (in <https://www.cortecostituzionale.it/actionPronuncia.do>, looking for no. 196 of 2021).

- ▶ **Constitutional Court, 24 February – 01 April 2021, no. 59 (Art. 24 ESC)**
[partial constitutional illegitimacy]

Labour and employment - Dismissal of a worker for objective justified reason - Protection of a worker in the event of unlawful dismissal - Judicial finding that the facts underlying the dismissal for objective justified reason are manifestly unfounded - Provision allowing the court to apply the rules in Article 18(4) of Law No 300/1970 [attenuated real protection]. Provision for the possibility for the court to apply the rules in Article 18(4) of Law No 300/1970 [attenuated real protection] as an alternative to those in Article 18(5) [compensation protection] - No obligation to apply only the protection of reinstatement in the workplace.

See point 8 of the grounds of law.

(in <https://www.cortecostituzionale.it/actionPronuncia.do>, looking for no. 59 of 2021).

- ▶ **Tribunal, Rome, Labour Section, judgement 12 October 2021 (Art. 24 ESC)**

The judgment concerns the reinstatement of workers dismissed following a change of contract (under Legislative Decree no. 23/2015) in which the judge first qualifies the termination as collective and then, given that the trade union procedure under Law no. 223/91 was not carried out, - referring to European Union principles, the Constitutional Court, the Charter of Rights and, indeed, the “case law” of the European Social Rights Committee - reinstates the workers.

- ▶ **Tribunal, Rome, Section II, ordinance 24 February 2021 (Art. 24 ESC)**

Question of constitutional legitimacy of Article 9(1) of Legislative Decree No 23 of 4 March 2015 in relation to Article 3(1), Article 4, Article 35(1) of the Constitution and Article 117(1) of the Constitution in relation to Article 24 of the European Social Charter. Public Hearing of the Constitutional Court scheduled for 7 June 2022. / *Question de constitutionnalité de l'Article 9 du décret législatif n° 23/2015 en relation à l'Article 3 Constitution (principe d'égalité) et à l'art. 117 Constitution (pour violation de l'art. 24 Charte sociale européenne); l'indemnité dédommageant le licenciement illégitime dans les petites entreprises (entre 3 mois et 6 mois de salaire) est en violation de la Constitution italienne parce qu'elle est trop petite et n'est pas dissuasive envers les comportements illégitimes des employeurs, à la lumière de la décision du CEDS CGIL c. Italie du 11 février 2020.*

(in <https://www.cortecostituzionale.it/schedaOrdinanze.do> looking for ordinance no. 84 of 2021).

IRELAND

- ▶ **High Court of Ireland**

Start Mortgages DAC v. Christopher Cussen and Elisabeth Cussen (Approved) [2021] IEHC 531 (27 July 2021) [2018 No. 172 CA]

The case concerns the non-repayment of a mortgage loan. The defendants argue that the proceedings are contrary to their rights under human rights law, including the Revised European Social Charter.

(https://www.courts.ie/acc/alfresco/8b526047-e539-43f7-b05f-23d8744661a4/2021_IEHC_531.pdf/pdf#view=fitH).

► Court of Appeal

Darragh Galvin v. Director of Public Prosecutions, the Attorney General and Ireland ([2020] IECA 319, [2019 352])

This is an appeal against the decision of the High Court to change the form of proceedings from a judicial review to a full trial. The general background is that the applicant is charged with an offence under the financial legislation and wishes to challenge its constitutionality. The applicant invokes certain articles of the European Convention on Human Rights interpreted in the light of Article 1, Part 1 of the European Social Charter.

(https://www.courts.ie/acc/alfresco/45ed2976-708d-493e-b4c9-5e51c3bd8f96/2020_IECA_319_Ni%20Raifeartaigh%20J..pdf/pdf#view=fitH)

THE NETHERLANDS

► **Rechtbank Midden-Nederland, 06/05/2021, ECLI:NL:RBMNE:2021:1826; Art 6(4)**

After the failure of the collective bargaining negotiations, FNV announced actions in the metal sector. For instance, an overtime strike has been announced at [defendant]. The [defendant] had to take measures in 2020 because of the corona pandemic. For instance, [defendant] introduced a so-called hours bank. The hours bank meant that in the period between 14 April and 1 September 2020, negative hours were accumulated due to shifted work schedules. The employees had to make up these minus hours by creating 'plus hours' or 'catch-up hours' not later than 14 April 2021 (within 12 months after the start). The employees' wages continued to be paid in full. Due to the announced actions of the FNV, the employees stopped working during the catch-up hours (hours in addition to the normal daily working schedule) as overtime. The [defendant] sent a warning letter to the employees who were on strike and informed them that the catch-up hours that were not worked would be set off against their wages. As a result, FNV suspended the actions at [the defendant]. In these proceedings FNV objects to the warning letters issued by [the defendant] and the withholding of wages. The Court in preliminary relief proceedings found in favour of FNV. Normally it is correct that in case of a strike, hours not worked are not paid by the employer. However, this case concerns a special situation. Article 7:628 of the Dutch Civil Code (no work, but salary, unless) stipulates that an employer is obliged to pay the salary if the employee has wholly or partially failed to perform the agreed work, unless the non-performance should reasonably be at the expense of the employee. The fact that [the defendant] was forced to adjust its working method in connection with the corona pandemic, as a result of which employees of [the defendant] were prevented from performing their full work, is a circumstance that lies within the sphere of risk of the employer. Therefore, in the preliminary opinion of the Court in preliminary relief proceedings, settlement of the catch-up hours affected by the strike is not appropriate and, moreover, it is also in conflict with Section 7:611 of the Dutch Civil Code.

► **Hoge Raad, 06/11/2020, ECLI:NL:HR:2020:1746; Art 2**

Section 7:610 of the Dutch Civil Code defines the employment contract as the agreement whereby one party, the employee, undertakes to work for the other party, the

employer, against remuneration during a certain period of time. If the content of a contract meets this description, the contract must be considered an employment contract. It is not important whether the parties actually intended the contract to fall under the statutory regulation of the employment contract. What matters is whether the agreed rights and obligations meet the legal description of the employment contract. Contrary to what has been derived from the Groen/Schoevers judgment (HR 14 November 1997, NJ 1998/149), the intention of the parties does not play a role in the question whether the agreement must be regarded as an employment contract. The qualification of a contract must be distinguished from the - preceding - question which rights and obligations the parties have agreed upon. This question should be answered on the basis of the Haviltex standard. After the court has established the agreed rights and obligations by means of that standard (explanation), it may assess whether that contract has the characteristics of an employment contract (qualification).

► **Hoge Raad, 19/11/2021, ECLI:NL:PHR:2021:1083; Art 1(2)**

These summary proceedings are about the fulfilment of a non-competition clause of an international driver. The Court of Appeal put first and foremost that a non-competition clause is intended to protect the employer's business - the accumulated know-how and goodwill - and not to bind employees. Unlike the Subdistrict Court, the Court of Appeal has suspended the non-competition clause because it is of the preliminary opinion that the clause puts the driver at an unfair disadvantage in relation to the business to be protected by his employer. Meijndert Trucking was thereby ordered to repay what the Employee had already paid in performance of the interlocutory judgment. In cassation, Meijndert Trucking complained, inter alia, that the Court of Appeal had assumed an incorrect interpretation of the law with regard to the intention of the non-competition clause. This cassation procedure is connected to case 20/03561, in which a judgment will also be rendered today.

POLTUGAL

► **Constitutional Court**

In its judgment no. 379/2021, the Constitutional Court of Portugal refers to Article 25 of the European Social Charter (<https://www.tribunalconstitucional.pt/tc/acordaos/20210379.html>).

► **Constitutional Court**

In its judgment No. 379/2021, the Constitutional Court of Portugal refers to Article 25 of the European Social Charter (<https://www.tribunalconstitucional.pt/tc/acordaos/20210379.html>).

SLOVENIA

► **Constitutional Court of the Republic of Slovenia**

Decision No U-I-16/21 and 27/21, 18 November 2021 (ECLI:SI:USRS:2021:U.I.16.21, published in the Official Journal RS No 202/2021, 24.12.2021, https://www.uradni-list.si/_pdf/2021/Ur/u2021202.pdf, pp. 12779-12784; short summary in English: <https://www.us-rs.si/decision/?lang=en&q=U-I-16%2F21&caseId=&df=&dt=&af=&at=&pri=1&vd=&vo=&vv=&vs=&ui=&va=&page=1&sort=&order=&id=117564>): **Termination**

of an employment contract at the employer's initiative without a valid reason – fulfilment of prescribed conditions for statutory old-age pension.

Trade unions challenged legal provisions which introduced the possibility for the employers to dismiss without a valid reason/without justification a worker who has fulfilled the prescribed conditions for the statutory old-age pension. The Constitutional Court decided that the challenged provisions were inconsistent with the Constitution. In its reasoning, the Constitutional Court referred to the ILO Convention No 158 and to Article 24 of the Revised European Social Charter, both binding upon Slovenia, and emphasized that there must be a valid reason for termination of an employment contract at the initiative of the employer, related to the ability or conduct of the employee or to the operational needs of the company justifying the termination.

The Constitutional Court held that the termination of an employment contract at the initiative of the employer for a business reason because the employee meets the conditions for acquiring the right to an old-age pension, without the employer's decision being justified by serious objective reasons arising from the employer's own sphere, and as a result depriving the employee of adequate labour law protection with regard to the termination of the employment relationship, is inconsistent with Article 4 of ILO Convention No. 158 and Article 24 of the European Social Charter (revised), and consequently with Article 8 of the Constitution.

UNITED KINGDOM

► England and Wales Court of Appeal (Civil Division)

Secretary of State for the Home Department v. First-tier Tribunal (Social Entitlement Chamber) [2021] EWHC 1690 (Admin) (21 June 2021) (Case No: CO/1613/2021).

During the debate, the Court recalls that "Within the legal framework established by the Council of Europe, social and economic rights are protected by a separate treaty, the European Social Charter, adopted by the Council in 1961."

([https://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/Admin/2021/1690.html&query=\(%22european+OR+social+OR+charter%22\)](https://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/Admin/2021/1690.html&query=(%22european+OR+social+OR+charter%22)))

EUROPEAN COURT OF HUMAN RIGHTS

- Case of Yakut Republican Trade Union – Union Federation v. Russia (Application no. 29582/09), Judgement of 7 December 2021 (Final, 07/03/2022)
- Case of Yocheva and Ganeva v. Bulgaria (Application nos. 18592/15 and 43863/15), Judgement of 11 August 2021
- Case of F.O. v. Croatia (Application no. 29555/13), Judgement of 6 September 2021
- Case of Vavříčka and others v. Czech Republic (Application nos. 47621/13 and 5 others), Judgement of 8 April 2021

Appendix 16

Bibliography on the European Social Charter (publications referenced in 2021)

Periodicals and Reports

Activity Report 2020 of the European Committee of Social Rights, July 2021

Articles and communications

DE LAS HERAS GARCÍA, M.A.

La Carta Social Europea revisada y el Protocolo de reclamaciones colectivas: ¿abre su ratificación una revolución jurídico-social?, Revista de Trabajo y Seguridad Social. CEF 460, July 2021

KRESAL, B.

Gender pay gap and under-representation of women in decision-making positions: UWE decisions of the European Committee of Social Rights, ERA Forum 22, 10 May 2021

60 years of the European Social Charter and 25 years of the Revised European Social Charter, Slovenian journal "Employees and Employers: Labour Law and Social Security Review, October 2021

KÜÇÜKSU, A.

In the Aftermath of a Judgment: Why Human Rights Organisations Should Harness the Potential of Rule 9, Strasbourg Observers, 3 March 2021

LUKAS, K.

The Revised European Social Charter - An Article by Article Commentary, 2021

LUGARÀ R.

Parità retributiva tra uomini e donne: brevi spunti di riflessione alla luce delle recenti decisioni del Comitato europeo dei diritti sociali, Osservatorio Costituzionale, 2 February 2021

PALMISANO, G.

Collective Complaints as a Means for Protecting Social Rights in Europe, October 2021

QUINN, G. DORON, I.

Against Ageism and Towards Active Social Citizenship for Older Persons. The Current Use and Future Potential of the European Social Charter, December 2021

SALCEDO BELTRAN, C.

La Carta Social Europea: Pilar de recuperación y sostenibilidad del modelo social europeo. Homenaje al Profesor José VIDA SORIA, Valencia 2021.

Conclusiones 2020 del Comité Europeo de Derechos Sociales: Un imperio de Discriminaciones sociales sobrevuela Europa, Revista General de Derecho Europeo 54 (2021)

La Carta Social Europea guiando al sindicalismo, Lavoro e diritto (ISSN 1120-947X), Fascicolo 3-4, estate-autunno 2021

SCHLACHTER, M.

60 Jahre Europäische Sozialcharta, 25 Jahre revidierte Sozialcharta – Deutschlands Rolle im Erneuerungsprozess, 1 May 2021

SPINOY, M.

FIDH and Inclusion Europe v. Belgium: Chronicle of a Conviction Foretold, EjiTalk, Blog of the European Journal of International Law, 24 February 2021

UBEDA DE TORRES, U.

Research Handbook on International Law and Social Rights, October 2021

VANDAMME, F.

Reflections On Social Rights Application: Interests at Stake and Controversies Behind the Scenes, Lex Social, Vol. 11 Núm. 1 (2021), 24 February 2021

Joint Publication

Nijmegen Principles and Guidelines on Interim Measures 2021, 26 mai 2021

Website

www.coe.int/socialcharter

The European Social Charter, adopted in 1961 and revised in 1996, is the counterpart of the European Convention on Human Rights in the field of economic and social rights. It guarantees a broad range of human rights related to employment, housing, health, education, social protection and welfare.

No other legal instrument at pan-European level provides such an extensive and complete protection of social rights as that provided by the Charter.

The Charter is therefore seen as the Social Constitution of Europe and represents an essential component of the continent's human rights architecture.

www.coe.int/socialcharter
[@social_charter](https://twitter.com/social_charter)

www.coe.int

The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.



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