



European
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**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

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**FIFTH REPORT
ON THE NON-ACCEPTED PROVISIONS OF
THE EUROPEAN SOCIAL CHARTER
Romania**

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I. OVERVIEW AND EXECUTIVE SUMMARY

1. Overview of the adjusted procedure on the non-accepted provisions of the European Social Charter

The European Social Charter is based on a ratification system, which enables States Parties, subject to certain minimum requirements, to choose the provisions they are willing to accept as binding international legal obligations. This system is provided for by Article A of the revised European Social Charter (Article 20 of the 1961 Charter) and it allows States, at any time after their ratification of the treaty, to notify the Secretary General of their acceptance of additional articles or paragraphs.

It is in the spirit of the Charter for States Parties to progressively increase their commitments, tending towards acceptance of additional and eventually all provisions of the Charter where possible, as opposed to an *à la carte* stagnancy.¹

The procedure for examining reports on the non-accepted provisions is set out in Article 22 of the European Social Charter of 1961 (ETS No. 35). According to this provision, the States Parties must send to the Secretary General, at appropriate intervals set 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 ratification or by subsequent notification. The Committee of Ministers shall determine from time to time those provisions for which such reports will be requested and the form in which the reports should be provided.

In September 2022, the ECSR adopted a decision to implement the procedure on non-accepted provisions in respect of all State Parties to either Charter, in a reinforced manner. The procedure now provides for the submission of written information by States Parties in accordance with a pre-established calendar, and additional bilateral meetings when it is deemed to represent an added value. The written information, submitted by the States Parties shall be made public upon its receipt, and the national and international social partners, non-governmental organisations, national human rights institutions, equality bodies and other stakeholders are given the possibility to provide comments within three months of receiving the written information.

2. The situation of Romania in the context of the non-accepted provisions of the European Social Charter

Romania ratified the revised Charter on 7 May 1999 accepting 65 of its 98 paragraphs. Thus far, the following 33 provisions have not been accepted by Romania: Article 2§3, Article 3§4, Article 10§1, 2, 3, 4 and 5, Article 13§4, Article 14§1 and 2, Article 15§3, Article 18§1 and 2, Article 19§1, 2, 3, 4, 5, 6, 9, 10, 11 and 12, Article 22, Article 23, Article 26§1 and 2, Article 27§1 and 3, Article 30 and Article 31§1, 2 and 3. Romania has not yet accepted the system of collective complaints.

The procedure on non-accepted provisions (Articles 2§3, 3§4, 10§1, 2, 3, 4 and 5, 13§4, 14§1 and 2, 15§3, 18§1 and 2, 19§1, 2, 3, 4, 5, 6, 9, 10, 11 and 12, 22, 23, 26§1 and 2, 27§1 and 3, 30 and 31§1, 2 and 3) was applied to Romania for the first time in the context of a meeting between the ECSR and representatives of various institutions in a meeting held in Bucharest in 18-19 May

¹ The opening paragraph of Part I reads “The Parties accept as the aim of their policy, to be pursued by all appropriate means both national and international in character, the attainment of conditions in which the following rights and principles may be effectively realised”, followed by the heading of all rights contemplated by the European Social Charter. Part III, Article A, provides that “each of the Parties undertakes [...] to consider Part I of the Charter as a declaration of the aims which it will pursue by all appropriate means, as stated in the introductory paragraph of that part”, followed by the rules on the choices available as regards provisions that Parties can declare to be bound by and which determine the modalities of monitoring under Part IV of the Charter. (See [CM\(2022\)196-final](#)).

2004. Subsequent examinations of the situation in law and practice in Romania took place in 2009, 2015 and 2020.

After considering information provided by the Government in a meeting held in Bucharest on 7 November 2019, the ECSR invited the Romanian authorities to consider the possibility of accepting Articles 2§3, 10§§1–5, 19§§1–5, 27§1, 27§3. Moreover, the ECSR considered that the acceptance of the following provisions was also possible: Article 19§9, 22, 26§§1–2.

Furthermore, the ECSR considered that, subject to some improvements in practice or with respect to data collection mechanisms, Romania could accept the following provisions: Article 3§4, 14§§1–2, 15§3, 18§1, 19§6, 23. The ECSR was of the view that further analysis of the legislation and practice was needed in respect of the following provisions: Article 13§4, 18§2, 30, 31§1. Finally, the ECSR considered that the information provided in the report was not sufficient to allow a thorough assessment with regard to Articles: 19§§10–12, 31§§2–3.

The ECSR also invited the Romanian authorities to take the necessary steps towards acceptance of the collective complaints procedure and more provisions of the revised Charter.

3. Current examination

This third examination of the non-accepted provisions is based on the adjusted procedure on non-accepted provisions. In terms of this procedure, Romania was invited on **7 November 2023** to submit written information before **31 March 2024**. The requested written information was registered on **2 April 2024** and it was subsequently published on the [CoE website](#).²

Having examined the written information provided by Romania, the ECSR considers that there are no obstacles to the acceptance of Articles 2§3, 10§§1-5, 18§2, 19§§1-3, 5, 9, 12, 27§§3; that further clarification is necessary in order to assess the situation with regard to Articles 3§4, 13§4, 14§§1-2, 15§3, 18§1, 19§§4 and 6, 26§§1-2; that the situation does not appear to be fully in line with the requirements of the Charter in respect of Articles 19§10-11, 22, 23, 27§1, 30 and 31§§1-3.

The ECSR also invites Romania to accept the Collective Complaints Procedure, in order to increase the effectiveness, speed and impact of the implementation of the Charter and strengthen the role of the social partners and non-governmental organisations, as well as make a declaration enabling national NGOs to submit collective complaints, as a step towards meeting the strong interest of domestic NGOs in the continuous strengthening of social standards at the national level.

The ECSR remains at the disposal of the Government for enhanced dialogue on the provisions of the Charter and the relevant case law, and invites Romania to undertake further commitments under the Charter as soon as possible so as to consolidate the paramount role of the Charter in achieving social and economic progress and, ultimately, greater unity among the Council of Europe's Member States by guaranteeing and promoting common social human rights standards.

A table showing the provisions of the revised Charter accepted by Romania appears in Appendix I.

The next examination of the provisions not yet accepted by Romania will take place in 2029.

² [5th national report on the non-accepted provisions of the European Social Charter - 2024](#).

II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS

Article 2§3 – The right to just conditions of work

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:

to provide for a minimum of four weeks annual holiday with pay.

Situation in Romania

Written information submitted by Romania indicate that the Labour Code guarantees the right to annual holiday with pay, with minimum duration of 20 working days. Where leave is scheduled in instalments, the employer is obliged to arrange the scheduling in such a way that each employee takes at least 10 working days of uninterrupted leave per calendar year. This right is not subject to any transfer, waiver, or limitation.

The employment contract stipulates the length of annual leave in line with law and collective agreements. Public holidays and sick leave, parental leave and carers' leave are not calculated as part of annual leave. Further, if temporary incapacity for work for the above reasons occurs during the annual leave, the latter is interrupted, and the employee shall take the remaining days of leave after the temporary incapacity for work is over.

If the employee, for justified reasons, is unable to take all or part of the annual leave to which they were entitled in the calendar year in question, with the agreement of the person concerned, the employer shall be obliged to grant the unused annual leave within a period of 18 months starting from the year following that in which the entitlement to annual leave arose.

Financial compensation for untaken rest leave is allowed only in the event of termination of the employment contract (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter, provided by Romania](#)).

ECSR interpretation (DIGEST)

Article 2§3 guarantees the right to a minimum of four weeks (or 20 working days) annual holiday with pay. The taking of annual holiday may be subject to the requirement that the twelve working months for which it is due have fully elapsed.³

Annual leave may not be replaced by financial compensation and employees must not have the option of giving up their annual leave.⁴ This principle does not prevent however the payment of a lump sum to an employee at the end of their employment in compensation for the paid holiday to which they were entitled but which they had not taken.⁵

At least two weeks uninterrupted annual holidays must be used during the year the holidays were due.⁶ The fact that not all employees have the right to take at least two weeks of uninterrupted holiday during the year is a ground for non-conformity.⁷ Annual holidays exceeding two weeks may be postponed in particular circumstances defined by domestic law, the nature of which should justify the postponement.⁸

Allowing all annual leave to be carried over to the following year is not in conformity with Article 2§3 of the Charter.⁹ Workers who suffer from illness or injury during their annual leave are entitled

³ [Conclusions I \(1969\) Statement of interpretation on Article 2§3](#)

⁴ [Conclusions I \(1969\), Ireland](#)

⁵ [Conclusions I \(1969\) Statement of interpretation on Article 2§3](#)

⁶ [Conclusions 2007, Statement of interpretation on Article 2§3](#)

⁷ [Conclusions XXI-3 \(2018\), Spain](#)

⁸ [Conclusions 2007, Statement of interpretation on Article 2§3](#)

⁹ [Conclusions 2018, Russian Federation](#)

to take the days lost at another time so that they receive the four-week annual holiday provided for under this paragraph.¹⁰

This requirement applies in all cases, whether the incapacity commences before or during the holiday period, as well as in cases of employment in which there is a fixed holiday period for all workers in an enterprise.¹¹ Imposing a condition requiring the employee to notify their employer immediately and provide a medical certificate is compatible with Article 2§3 of the Charter.¹²

Opinion of the ECSR

In its previous examination of the situation concerning non-accepted provisions in Romania, the ECSR held that there were no obstacles to the ratification of Article 2§3 and invited Romanian authorities to consider immediate acceptance of this provision. The legal situation in Romania has not changed since the previous examination and the main aspects of the provision are satisfied.

The ECSR, therefore, reiterates its previous positive opinion, and encourages Romanian authorities to consider accepting Article 2§3 without delay.

Article 3§4 – The right to safe and healthy working conditions

With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Parties undertake:

4. in consultation with employers' and workers' organisations, to promote the progressive development of occupational health services for all workers with essentially preventive and advisory functions.

Appendix: It is understood that for the purposes of this provision the functions, organisation and conditions of operation of these services shall be determined by national laws or regulations, collective agreements or other means appropriate to national conditions.¹³

Situation in Romania

The Government informs that Law No. 319/2006 on health and safety at work includes a section on 'health supervision', referring to medical services for workers, that take into account the risks regarding safety and health at work, and are established so that each worker can benefit from health surveillance by doctors specialized in occupational medicine.

Other legal sources regulating the provision of health services for workers include the Labor Code; Law no. 418/2004 regarding the status of labour medicine doctors; Government Decision (G.D.) No. 355/2007 on workers' health supervision, as amended; G.D. no. 1425/2006 regarding the approval of Methodological Norms to Law No. 319/2006.

Romanian authorities further state that workers' health surveillance services are accessible to all workers in Romania, in all branches of the national economy and for all enterprises, regardless of their size or their field of activity, and that the Ministry of Health is the competent authority in the field of occupational medicine and the supervision of workers' health (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#)).

¹⁰ [Conclusions XII-2 \(1992\), Statement of Interpretation on Article 2§3](#)

¹¹ [Conclusions XII-2 \(1992\), Statement of Interpretation on Article 2§3](#)

¹² [Conclusions 2014, Austria](#)

¹³ [Appendix to the European Social Charter, European Treaty Series - No. 163](#)

ECSR interpretation (DIGEST)

Article 3§4 requires States Parties to promote, in consultation with employers' and workers' organisations, the progressive development of occupational health services that are accessible to all workers, in all branches of economic activity and for all enterprises.¹⁴ If those services are not established within all enterprises, public authorities must develop a strategy, in consultation with employers' and workers' organisations, for that purpose.¹⁵

In terms of Article 3§4, States Parties are required to promote the progressive development of occupational services.¹⁶ This means that a State Party must take measures that allow it to achieve the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources.¹⁷

Therefore, If occupational health services are not established for all enterprises, the authorities must develop a strategy, in consultation with employers' and employees' organisations, for that purpose.¹⁸ Any strategy to promote the progressive development of occupational health services must include the full national territory, cover nationals of other States Parties, and not only some branches of activity, major enterprises or especially severe risks, but all types of workers.¹⁹

The number of occupational physicians in the total workforce, the number of enterprises providing occupational health services or who share those services, as well as any increase in the number of workers supervised by those services in comparison to the previous reference period, is relevant on the assessment of State Party conformity to this provision, as is the ratification of ILO Occupational Health Services Convention No. 161 (1985), or the transposition of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work.²⁰

Occupational health services, which are specialised in occupational medicine, have preventive and advisory functions, beyond mere safety at work.²¹ They contribute to conducting workplace-related risk assessment and prevention, worker health supervision, training in matters of occupational safety and health, as well as to assessing working conditions impact on worker health.²² Occupational health services must be trained, endowed and staffed to identify, measure and prevent work-related stress, aggression and violence.²³

Opinion of the ECSR

The ECSR recalls that relevant indicators for assessment of conformity with Article 3§4 are: the ratification of relevant European and international instruments (ILO Occupational Health Services Convention No. 161 (1985), Council Directive 89/391/EEC of 12 June 1989); the number of occupational physicians in the total workforce; the number of enterprises providing occupational health services or who share those services; and any increase in the number of workers supervised by those services in comparison to the previous reference period.

¹⁴ [Conclusions 2003, Bulgaria](#)

¹⁵ [Conclusions 2003, Bulgaria](#)

¹⁶ [Conclusions 2009, Albania](#)

¹⁷ [Conclusions 2009, Albania](#), citing [International Association Autism Europe v. France](#), Complaint No. 13/2002, decision on the merits of 4 November 2003, §53.

¹⁸ [Conclusions 2009, Albania](#)

¹⁹ [Conclusions 2013, Ukraine](#)

²⁰ [Conclusions 2009, France; Albania, Slovenia; Conclusions 2017, Bulgaria](#)

²¹ [Conclusions 2009, Andorra](#)

²² [Conclusions 2003, Bulgaria](#)

²³ [Conclusions 2013, Statement of Interpretation on Article 3](#)

In its previous examination of non-accepted provisions, the ECSR was satisfied with the legal framework and the then active relevant national strategy on occupational health and safety. However, it held that further information was needed on the practical implementation of the relevant framework to be able to assess whether there were or not major obstacles for the acceptance of Article 3§4.

It encouraged Romanian authorities to monitor the situation in practice and collect data on indicators related to occupational health services, such as the number of workers benefitting from occupational health services, the conditions of access to these services, the number of occupational physicians and occupational health service providers.²⁴ The report submitted by Romanian authorities in the context of the current examination of non-accepted provisions contains no relevant information.

In view of these requirements, the ECSR considers that further information is necessary to assess whether the situation in law and practice is in line with the standards of the Charter. It encourages the Government to pursue its efforts and to continue considering accepting Article 3§4 in the near future.

Article 10§1 - The right to vocational training

With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake:

- 1. to provide or promote, as necessary, the technical and vocational training of all persons, including the handicapped, in consultation with employers' and workers' organisations, and to grant facilities for access to higher technical and university education, based solely on individual aptitude.***

Situation in Romania

The Government indicates that several laws regulate the right to vocational training, for different categories of persons: the Labour Code regulates vocational training of employees; Law No. 76/2002 on the unemployment insurance system and the stimulation of employment states regulates vocational training for job seekers; Law No. 335/2013 on the completion of traineeships for higher education graduates regulates traineeships for higher education graduates; Law No. 279/2005 on apprenticeship at work provides relevant definitions, regulates the apprenticeship contract as a form of employment contract, and sets out the clauses that should be contained in the apprenticeship contract (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

Anti-discrimination guarantees regarding vocational training can be found in Law no. 76/2002 on the unemployment insurance system and the stimulation of employment, as well as Government Ordinance (G.O.) no. 129/2000 on vocational training of adults. Specifically on equal treatment of migrants with citizens, art. 80¹ from the Government Emergency Ordinance No. 194/2002 'on the status of foreigners' in Romania, grants persons with 'permanent stay right' access to all forms and levels of education and vocational training, including to being granted scholarships for study.

Further, Government Emergency Ordinance No. 194/2002 provides that persons with temporary residence rights, employed or registered as unemployed, have equal access to the labour market, including access to all forms and levels of education and vocational training (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#)).

Since the previous examination of non-accepted provisions, Romania has adopted the 'National Strategy for Adult Training for the period 2024-2027', aiming to increase the participation rate of

²⁴ [4th Report on the non-accepted provisions of the Revised European Social Charter - Romania](#).

adults in lifelong learning at 12% by the end of 2027, compared to 5.9% at present, by increasing and improving the provision of formal, non-formal and informal learning opportunities. Further, Orders of the Minister of Education Nos. 5732/2022 and 5733/2022 regulate the organization of dual education, including high-school education (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#) provided by Romania).

ECSR interpretation ([DIGEST](#))

The right to vocational training must be guaranteed to everyone.²⁵

Article 10§1 covers all kind of higher education.²⁶ In view of the evolution of national systems, which tend to blur the boundaries between education and training at all levels and merge them into an approach promoting lifelong learning, the notion of vocational training of Article 10§1 covers: initial training (i.e. general and vocational secondary education), university and non-university higher education, and vocational training organised by other public or private actors (including continuing training, which is dealt with under Article 10§3 of the Charter).²⁷

University and non-university higher education are considered to be vocational training insofar as they provide students with the knowledge and skills necessary to exercise a profession.²⁸ At a time of economic recession, the importance of vocational training should be emphasised, and priority should be given to young persons, who face high levels of unemployment.²⁹

In order to provide for vocational training States Parties must:

- ensure general and vocational secondary education, university and non-university higher education; apprenticeships and continuing education;³⁰
- build bridges between secondary vocational education and university and non-university higher education;³¹
- introduce mechanisms for the recognition/validation of knowledge and experience acquired in the context of training/working activity in order to achieve a qualification or to gain access to general, technical and university higher education;³²
- take measures to make general secondary education and general higher education qualifications relevant from the perspective of professional integration in the job market;³³

Access to higher technical or university education based solely on individual aptitude cannot be achieved only by setting up educational structures which facilitate the recognition of knowledge and experience as well as the transfer from one type or level of education to another: it also implies that registration fees or other educational costs should not create financial obstacles for some candidates.³⁴

Other measures must be taken to ease access to technical or university higher education based solely on individual aptitude (for example by having enough establishments, a reasonable level of educational fees and by offering scholarships and other grants or benefits).³⁵

²⁵ [Conclusions I \(1969\), Statement of Interpretation on Article 10§1](#)

²⁶ [Conclusions 2003, France](#)

²⁷ [Conclusions 2003, France](#)

²⁸ [Conclusions 2003, France](#)

²⁹ [Conclusions IV \(1975\), Statement of Interpretation on Article 10](#)

³⁰ [Conclusions 2007, Ireland](#)

³¹ [Conclusions 2016, Russian Federation](#)

³² [Conclusions 2016, Russian Federation](#)

³³ [Conclusions 2016, Russian Federation](#)

³⁴ [Conclusions 2003, France](#)

³⁵ [Conclusions I \(1969\), Statement of Interpretation on Article 10§1](#)

The main indicators of compliance with Article 10§1 include: the existence of the education and training system; that system's total capacity (in particular, the ratio between training places and candidates); the total spending on education and training as a percentage of the GDP; the completion rate of young people enrolled in vocational training courses and of students enrolled in higher education; the employment rate of people who hold a higher-education qualification and the waiting-time for these people to get a first qualified job.³⁶

Strategies and measures must be adopted to match the skills acquired through vocational education and training with the demands of the labour market, and in particular in view of technological developments and of globalisation.³⁷

According to the Appendix to the Charter, equality of treatment shall be provided to nationals of other States Parties lawfully resident or regularly working on the territory of the State Party concerned.³⁸ This implies that no length of residence is required from students and trainees residing in any capacity, or having the right to reside in reason of their ties with persons lawfully residing, on the territory of the Party concerned before starting training.³⁹ This does not apply to students and trainees who, without having the above-mentioned ties, entered the territory with the sole purpose of attending training.⁴⁰

Length of residence requirements or employment requirements and/or the application of the reciprocity clause are contrary to the provisions of the Charter.⁴¹ Measures must be taken to integrate migrants and refugees into vocational education and training.⁴² Where the law on employment promotion and labour market institutions does not provide for any specific instruments on vocational training or skills development for refugees, the situation is not in conformity with Article 10§1.⁴³

The situation is not in conformity with Article 10§1 of the Charter where nationals of other States Parties suffer from indirect discrimination due to a one-year length of residence requirement for access to higher education.⁴⁴ Vocational training of persons with disabilities is dealt with under Article 15 of the Charter for States Parties having accepted Article 15.⁴⁵

Opinion of the ECSR

In its previous examination, the ECSR considered that Article 10§1 could be immediately accepted by Romania. The ECSR reiterates its previous opinion and invites the Romanian authorities to accept Article 10§1 without delay.

Article 10§2 - The right to vocational training

With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake:

- 2. to provide or promote a system of apprenticeship and other systematic arrangements for training young boys and girls in their various employments.***

Situation in Romania

³⁶ [Conclusions 2012, Cyprus](#)

³⁷ [Conclusions 2020, Ukraine](#)

³⁸ [Conclusions 2003, Slovenia](#)

³⁹ [Conclusions 2003, Slovenia](#)

⁴⁰ [Conclusions 2003, Slovenia](#)

⁴¹ [Conclusions 2003, Slovenia](#)

⁴² [Conclusions 2020, Estonia](#)

⁴³ [Conclusions XXII-1 \(2020\), Poland](#)

⁴⁴ [Conclusions 2007, Ireland](#)

⁴⁵ [Conclusions 2003, Slovenia](#)

The Government indicates that vocational training through apprenticeship includes both theoretical and practical training, as provided by G.O. No. 129/2000. Relevant legal framework also refers to Law No. 279/2005 'on apprenticeship at work'.

According to the law, an apprenticeship contract is an individual employment contract of a particular type, concluded for a fixed term, under which a natural person (apprentice) undertakes to undergo vocational training and to work for and under the authority of a legal or natural person (employer). The latter undertakes to pay them a wage and to provide them with all the conditions necessary for their vocational training.

The duration of apprenticeship contracts is determined based on the level of qualification to be achieved, spanning from 6 to 36 months. Provision is made in law for the elements of the apprenticeship contracts. The provisions of the Labour Code apply to apprenticeships, insofar as they are not contrary to those specific to the apprenticeship status (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#)).

Women apprentices have all rights relevant to protection of maternity in the workplace (G.D. no. 423/2019). Foreign citizens and stateless persons, as well as European Union citizens and European Economic Area citizens and their family members can conclude apprenticeship contracts.

Finally, legislation provides for the adaptation of apprenticeship programmes to the needs of persons with disabilities (Law No. 448/2006 on the protection and promotion of the rights of persons with disabilities and G.O. No. 129/2000) (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#)).

Apprenticeship programmes are financed through employers' own resources, sponsorships by natural and/or legal persons, European and national public funds, and other sources, such as through taxation and donations. Employers may also benefit from additional funding from the unemployment insurance budget (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#)).

ECSR interpretation (DIGEST)

The apprenticeship facilities referred to in the Charter should not be purely empirical or aim solely at manual training but should be conceived in broad terms and comprise full, co-ordinated and systematic training.⁴⁶ 'Apprenticeship' means training based on a contract between the young person and the employer, whereas other training arrangements can be based on such a contract but also be school-based vocational training.⁴⁷

Apprenticeship must combine theoretical and practical training and close ties must be maintained between training establishments and the working world.⁴⁸ Apprenticeship is assessed on the basis of the following elements: length of the apprenticeship and division of time between practical and theoretical learning; selection of apprentices; selection and training of trainers; termination of the apprenticeship contract.⁴⁹

In addition, the main indicators for assessing compliance with this provision are the existence of the apprenticeship system and other training arrangements for young people, the quality of such

⁴⁶ [Conclusions I \(1969\), Statement of Interpretation on Article 10§2](#)

⁴⁷ [Conclusions XIX-1 \(2008\), Slovak Republic](#)

⁴⁸ [Conclusions XIV-2 \(1998\), Slovak Republic](#)

⁴⁹ [Conclusions XVI-2 \(2004\), Malta](#)

training, i.e. the number of apprentices, the total amount of expenditure – both public and private – devoted to these types of training, and a sufficient supply of places to meet all demands.⁵⁰

The compulsory periods of partial experience forming part of the training of students in areas such as medicine, dentistry, law and education, whether in the course of their university studies or after, fall within the scope of Article 10§2.⁵¹

Equal treatment with respect to access to apprenticeship and other training arrangements must be guaranteed to non-nationals on the basis of the conditions mentioned under Article 10§1.⁵² This implies that no length of residence is required from students and trainees residing in any capacity, or having the right to reside due to their ties with persons lawfully residing, on the territory of the State Party concerned before starting training.⁵³

This does not apply to students and trainees who, without having the above-mentioned ties, entered the territory with the sole purpose of attending training.⁵⁴ With respect to access to training, the length of residence or employment requirements and/or the application of the reciprocity clause are not in conformity with the Charter.⁵⁵

Opinion of the ECSR

In its previous examination, the ECSR found that there were no obstacles to the ratification of Article 10§2 and invited Romanian authorities to consider immediate acceptance of the provision. The ECSR reiterates this opinion and invites the Romanian authorities to accept Article 10§2 without delay.

Article 10§3 - The right to vocational training

With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake:

3. to provide or promote, as necessary:

- ***adequate and readily available training facilities for adult workers;***
- ***special facilities for the re-training of adult workers needed as a result of technological development or new trends in employment.***

Situation in Romania

Vocational training is envisaged for both employed and unemployed persons. In line with the Labour Code, already employed persons have the right to access to vocational training aiming at: the employee's adjustment and updating of skills to the requirements of their position or of the workplace; the vocational re-conversion caused by social-economic restructuring; acquiring advanced knowledge, modern methods and procedures, needed for carrying out one's vocational activities; preventing the risk of unemployment; and work promotion.

Relevant legislation regulates access to vocational training for job-seekers (Law No. 76/2002 on the unemployment insurance system and employment stimulation, with subsequent amendments and additions G.D. No. 377/2002 for the approval of the Procedures regarding access to measures to stimulate employment, financing methods and their implementation instructions). Persons who have obtained refugee status or another form of international protection and

⁵⁰ [Conclusions 2020, Georgia](#)

⁵¹ [Conclusions III \(1973\), Statement of Interpretation on Article 10§2](#)

⁵² [Conclusions 2003, Slovenia](#)

⁵³ [Conclusions 2003, Slovenia](#)

⁵⁴ [Conclusions 2003, Slovenia](#)

⁵⁵ [Conclusions 2003, Slovenia](#)

stateless persons, who have been employed or who have earned income in Romania, benefit from vocational training services free of charge.

Access to vocational training free of charge is also provided for employees that have resumed activity after parental leave, after military service or disability (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#)).

ECSR interpretation (DIGEST)

The right to continuing vocational training must be guaranteed to employed and unemployed persons, including young unemployed people.⁵⁶ Self-employed persons are also covered by this provision.⁵⁷ Article 10§3 takes into consideration only those of the activation measures for unemployed people that strictly concern training, while Article 1§1 deals with general activation measures for unemployed people.⁵⁸ Specific measures for long-term unemployed people are dealt with under Article 10§4.⁵⁹

The notion of continuing vocational training includes adult education. For both employed and unemployed persons, the main indicators of compliance with this provision are the types of continuing vocational training and education available on the labour market, training measures for certain groups (such as women), the overall participation rate of persons in training and the gender balance, the percentage of employees participating in continuing vocational training, and the total expenditure.⁶⁰

As regards employed persons, the purpose of Article 10§3 of the Charter is, among others, to oblige States Parties to provide facilities for training and retraining of adult workers, in particular the arrangements for retraining redundant workers and workers affected by economic and technological change.⁶¹ The aim is to prevent the deskilling of still active workers at risk of becoming unemployed as a consequence of technological and/or economic development.⁶²

Strategies and measures (legal, regulatory and administrative frameworks, financing and practical measures) must be put in place for training and retraining across the entire range of skills (especially digital culture, new technologies, human-machine interaction and new working environments, the use and operation of new tools and machines) which workers need in order to be competitive in emerging labour markets.⁶³

As regards unemployed people, vocational training must be available to them.⁶⁴ The activation rate – i.e. the ratio between the annual average number of previously unemployed participants in active measures divided by the number of registered unemployed persons and participants in active measures - is used to assess the impact of the States Parties' policies.⁶⁵

In addition, the following aspects are taken into account:

- the existence of legislation on individual leave for training and its characteristics, in particular the length, the remuneration, and the initiative to take it;⁶⁶

⁵⁶ [Conclusions 2012, Serbia](#)

⁵⁷ [Conclusions 2012, Serbia](#)

⁵⁸ [Conclusions 2012, Serbia](#)

⁵⁹ [Conclusions 2012, Serbia](#)

⁶⁰ [Conclusions 2012, Serbia](#)

⁶¹ [Conclusions XIX-1 \(2008\), Spain](#)

⁶² [Conclusions XIX-1 \(2008\), Spain](#)

⁶³ [Conclusions XXII-1 \(2021\), Luxembourg](#)

⁶⁴ [Conclusions XIX-1 \(2008\), Hungary](#)

⁶⁵ [Conclusions 2012, Serbia](#)

⁶⁶ [Conclusions 2012, Serbia](#)

- the sharing of the burden of the cost of vocational training among public bodies (state or other collective bodies), unemployment insurance systems, enterprises, and households as regards continuing training.⁶⁷

Any length of residence or employment requirement is contrary to the Charter.⁶⁸

Opinion of the ECSR

In its previous examination, the ECSR gave a positive opinion on the acceptance of Article 10§3. The ECSR reiterates its previous finding and invites the Romanian authorities to accept this provision without delay.

Article 10§4 - The right to vocational training

With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake:

- 4. to provide or promote, as necessary, special measures for the retraining and reintegration of the long-term unemployed.***

Situation in Romania

The ECSR notes from its previous report, that Romanian legislation defines the long-term unemployed person as a person who is unemployed for a period of more than 12 months, in the case of persons of minimum 25 years old, or for a period of 6 months, in the case of persons between 16–25 years old.⁶⁹

The ECSR notes from the information provided from Romanian authorities for the current examination, that long-term unemployed are one of the target groups of the National Vocational Training Plans implemented by the National Authority for Employment. The situation regarding the participation of long-term unemployed to vocational training is monitored annually.

Furthermore, employment agencies conclude work integration agreements with registered long-term unemployed persons, who are not eligible for the Youth Guarantee, within a period of 18 months from the date of registration as unemployed. The service includes information and professional advice; labour mediation; vocational training; assessment and certification of occupational skills acquired by means other than formal channels; advice and assistance for starting self-employment or starting a business. In addition, economic incentives are given to employers to hire long-term unemployed persons.

Anti-discrimination guarantees are laid down in Law No. 76/2002 'on the unemployment insurance system and the stimulation of employment'. These include the application of this law for job seekers who have obtained refugee status or other form of international protection, as well foreign citizens or stateless persons who have been employed or have earned income in Romania or who have the right to work in Romania (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#)).

ECSR interpretation (DIGEST)

⁶⁷ [Conclusions 2012, Serbia](#)

⁶⁸ [Conclusions XVI-2 \(2004\), Ireland](#)

⁶⁹ [4th Report on the non-accepted provisions of the Revised European Social Charter - Romania](#)

In accordance with Article 10§4, States Parties must fight long-term unemployment through retraining and reintegration measures.⁷⁰ A person who has been without work for 12 months or more is long-term unemployed.⁷¹

The main indicators of compliance with this provision are the types of training and retraining measures available on the labour market, the number of persons in this type of training, the special attention given to young long-term unemployed, and the impact of the measures on reducing long-term unemployment.⁷²

Equal treatment with respect to access to training and retraining for long-term unemployed persons must be guaranteed to non-nationals.⁷³ Access to financial assistance for studies shall be provided to nationals of other States Parties lawfully resident in any capacity, or having authority to reside by reason of their ties with persons lawfully residing in the territory of the Party concerned.⁷⁴

Students and trainees, who, without having the above-mentioned ties, entered the territory with the sole purpose of attending training are not covered by this provision of the Charter.⁷⁵ Therefore, Article 10§4 does not require the States Parties to grant financial aid to any foreign national who is not already resident in the State Party concerned, on an equal footing with its nationals.⁷⁶

However, it requires that nationals of other States Parties who already have a resident status in the State Party concerned, receive equal treatment with nationals in the matters of both access to vocational education (Article 10§1) and financial aid for education (Article 10§4).⁷⁷ Those States Parties who impose a permanent residence requirement or any length of residence requirement on nationals of other States Parties in order for those persons to be able apply for financial aid for vocational education and training are in breach of the Charter.⁷⁸

Opinion of the ECSR

In its previous examination, the ECSR held that there were no obstacles to the acceptance of Article 10§4 by Romania. The ECSR reiterates its previous finding and invites Romanian authorities to accept this provision without delay.

Article 10§5 - The right to vocational training

With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake:

- 5. to encourage the full utilisation of the facilities provided by appropriate measures such as:***
 - a) reducing or abolishing any fees or charges;***
 - b) granting financial assistance in appropriate cases;***
 - c) including in the normal working hours time spent on supplementary training taken by the worker, at the request of his employer, during employment;***
 - d) ensuring, through adequate supervision, in consultation with the employers' and workers' organisations, the efficiency of apprenticeship and other training***

⁷⁰ [Conclusions 2003, Italy](#)

⁷¹ [Conclusions 2003, Italy](#)

⁷² [Conclusions 2020, Cyprus](#)

⁷³ [Conclusions 2020, Ukraine](#)

⁷⁴ [Conclusions XXII-1 \(2020\), Luxembourg](#)

⁷⁵ [Conclusions XXII-1 \(2020\), Luxembourg](#)

⁷⁶ [Conclusions XXII-1 \(2020\), Luxembourg](#)

⁷⁷ [Conclusions XXII-1 \(2020\), Luxembourg](#)

⁷⁸ [Conclusions XXII-1 \(2020\), Luxembourg](#)

arrangements for young workers, and the adequate protection of young workers generally.

Situation in Romania

In its previous examination, the ECSR found that the situation in Romania fulfilled most of the requirements of Article 10§5. It, however, asked for further information on charges for vocational training in order to be able to fully assess whether there are obstacles in place for the acceptance of Article 10§5.

On the issue of charges for vocational training, the ECSR notes from the information submitted by Romania in the context of the current examination, that initial professional training is accessible to everyone, free of charge. In addition, students qualify for scholarships, like the professional scholarship, that can also be combined with additional scholarships.

Further, vocational training services are provided free of charge to the unemployed and persons belonging to certain disadvantaged categories, as well as to employed persons, at their request, with the employer's agreement or at the employer's request.

Finally, according to Law No. 279/2005, the financing of vocational training through apprenticeships is financed through employers' own resources; sponsorship by natural and/or legal persons; European structural and investment funds and national public funds; and other sources, such as taxation and donations (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#)).

ECSR interpretation (DIGEST)

i. reducing or abolishing any fees or charges;

States Parties must ensure that vocational training, as defined in paragraph 1, is provided free of charge or that fees are progressively reduced.⁷⁹ According to the Appendix to the Charter, equality of treatment shall be provided to nationals of other States Parties lawfully resident or regularly working on the territory of the State Party concerned.⁸⁰

This implies that no length of residence is required from students and trainees admitted to reside in any capacity other than being a student or a trainee, or having authority to reside by reason of their ties with persons lawfully residing, on the territory of the Party concerned before starting training.⁸¹ This does not apply to students and trainees who, without having the above-mentioned ties, entered the territory with the sole purpose of attending training.⁸²

The situation is not in conformity with Article 10§5 of the Charter where there is a length of residence requirement of three years for eligibility for financial aid for vocational training.⁸³

ii. granting financial assistance in appropriate cases;

The granting of financial assistance in appropriate cases means providing financial assistance to persons who would not otherwise be in a position to undergo apprenticeship or training.⁸⁴ It

⁷⁹ [Conclusions 2020, Malta](#)

⁸⁰ [Conclusions XVI-2 \(2004\), United Kingdom](#)

⁸¹ [Conclusions XVI-2 \(2004\), United Kingdom](#)

⁸² [Conclusions XVI-2 \(2004\), United Kingdom](#)

⁸³ [Conclusions 2020, Andorra](#)

⁸⁴ [Conclusions XIII-1 \(1993\), Turkey](#)

entails, in addition to free or low-cost training, the provision of assistance in the form of grants, allowances or other arrangements where necessary.⁸⁵

All issues relating to financial assistance are covered by Article 10§5, including allowances for training programmes in the context of the labour market policy.⁸⁶ States Parties must provide financial assistance either universally, or subject to a means-test, or awarded on the basis of the merit.⁸⁷

In any event, assistance should at least be available for those in need and shall be adequate.⁸⁸ It may consist of scholarships or loans at preferential interest rates.⁸⁹ The number of beneficiaries and the amount of financial assistance are also taken into consideration for assessing compliance with this provision.⁹⁰ Equal treatment with respect to financial assistance must be guaranteed to non-nationals on the basis of the conditions mentioned under paragraph 1.⁹¹

iii. including in the normal working hours time spent on supplementary training taken by the worker, at the request of his employer, during employment;

The time spent on supplementary training at the request of the employer must be included in the normal working-hours.⁹² Supplementary training means any kind of training that may be helpful in connection with the current occupation of the workers and aimed at increasing their skills.⁹³ It does not imply any previous training.⁹⁴ The term “during employment” means that the worker shall be currently under a working relationship with the employer requiring the training.⁹⁵

iv. ensuring, through adequate supervision, in consultation with the employers’ and workers’ organisations, the efficiency of apprenticeship and other training arrangements for young workers, and the adequate protection of young workers generally.

States Parties must evaluate their vocational training programmes for young workers, including the apprenticeships.⁹⁶ In particular, the participation of employers’ and workers’ organisations is required in supervising the effectiveness of training schemes.⁹⁷

Opinion of the ECSR

Based on its previous report and the additional information provided by Romanian authorities, the ECSR finds that there are no major obstacles to the acceptance of Article 10§5 and invites Romanian authorities to accept this provision without delay.

Article 13§4 - The right to social and medical assistance

With a view to ensuring the effective exercise of the right to social and medical assistance, the Parties undertake:

⁸⁵ [Conclusions XIII-1 \(1993\), Turkey](#)

⁸⁶ Conclusions 2016, Italy

⁸⁷ [Conclusions XIX-1 \(2008\), Turkey](#)

⁸⁸ [Conclusions XIX-1 \(2008\), Turkey](#)

⁸⁹ [Conclusions 2016, Italy](#)

⁹⁰ [Conclusions 2016, Italy](#); [Conclusions XIV-2 \(1998\), Ireland](#)

⁹¹ [Conclusions 2003, Slovenia](#)

⁹² [Conclusions 2020, Turkey](#)

⁹³ [Conclusions 2020, Turkey](#)

⁹⁴ [Conclusions 2020, Turkey](#)

⁹⁵ [Conclusions 2020, Turkey](#)

⁹⁶ [Conclusions 2020, Lithuania](#)

⁹⁷ [Conclusions XIV-2 \(1998\), United Kingdom](#)

4. to apply the provisions referred to in paragraphs 1, 2 and 3 of this article on an equal footing with their nationals to nationals of other Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at Paris on 11 December 1953.

Appendix: Governments not Parties to the European Convention on Social and Medical Assistance may ratify the Charter in respect of this paragraph provided that they grant to nationals of other Parties a treatment which is in conformity with the provisions of the said convention.⁹⁸

Situation in Romania

The ECSR notes from the written information submitted by Romania, that the provision of medical assistance to foreign citizens is fulfilled within the social health insurance system according to the provisions of Law no. 95/2006 on health reform, as subsequently amended. These provisions cover foreign citizens who have requested and obtained the extension of the right of temporary residence or have their domicile in Romania.

Insured status and insurance rights are lost with the loss of the right of residence in Romania as well as under the conditions laid down in Law No. 95/2006, art. 267 para. (2) - (2²). In addition, foreign nationals falling under protection according to Law No. 122/2006 regarding asylum in Romania, earn the status of insured in the social health insurance system under the conditions provided by law for Romanian citizens.

Further, the legal framework for social assistance states that all citizens of the Member States of the European Union, the European Economic Area and the Swiss Confederation, as well as foreign nationals and stateless persons domiciled or residing in Romania are entitled to social assistance, under the terms of Romanian law, as well as the regulations of the European Union and the agreements and treaties to which Romania is a party (Social Assistance Law No. 292/2011).

Last, assistance for the integration of foreign nationals is provided on the Romanian territory to foreign nationals, holders of the right of long-term residence who benefit, under the law, from equal treatment with Romanian citizens in terms of social security, social assistance and protection, public health assistance (Government Emergency Ordinance (G.E.O) No. 194/2002).

The ECSR notes the adoption of the National Strategy for Social Inclusion and Poverty Reduction for the period 2022-2027 (G.D. No. 440/2022), with the aim to ensure that all citizens, especially the most vulnerable, have access to essential health services and appropriate treatment, thus contributing to improving overall health and reducing health inequalities.

Finally, the report submitted by Romanian authorities states that *‘In order to effectively exercise the right to social and medical assistance, any person on the territory of Romania has the fundamental right to emergency social and medical assistance to non-resident foreign nationals who are in a situation of urgent and serious need. This assistance includes accommodation, food, emergency medical care, clothing and other immediate needs.’* (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#)).

ECSR case law (DIGEST)

Article 13§4 grants non-resident foreign nationals an entitlement to emergency social and medical assistance.

⁹⁸ Appendix to the 1961 Charter, European Treaty Series - No. 35; Appendix to the 1996 Charter, European Treaty Series – No. 163; Conclusions XIV-1 (1998), Statement of Interpretation on Article 13§4

Personal Scope of Article 13§4

The personal scope of Article 13§4 differs from that of other Charter provisions. In fact, Paragraph 1§1 of the Appendix, concerning its personal scope, states that Articles 1 to 17 and 20 to 31 apply to foreign nationals “only in so far as they are nationals of other Parties lawfully resident or working regularly within the territory of the Party concerned”, but adds that this rule is “without prejudice to Article 12§4, and Article 13§4”.

Article 13§4 therefore refers to “nationals of other States Parties lawfully within their territories”. Accordingly, the beneficiaries of this are foreign nationals who are lawfully present in a particular country but don’t have resident status. By definition, no condition of length of presence can be set on the right to emergency assistance.⁹⁹

Content of emergency assistance

States Parties are required to provide non-resident foreign nationals without resources – whether legally present or in an irregular situation - emergency social and medical assistance (accommodation, food, emergency care and clothing) to cope with an urgent and serious state of need (without interpreting too narrowly the “urgency” and “seriousness” criteria).¹⁰⁰ States Parties are not required to apply the guaranteed income arrangements under their social protection systems.¹⁰¹

The provision of free emergency medical care must be governed by the individual’s particular state of health.¹⁰² Migrant minors in an irregular situation in a country are entitled to receive health care extending beyond urgent medical assistance and including primary and secondary care, as well as psychological assistance.¹⁰³

Right of appeal

Emergency social assistance should be supported by a right to appeal to an independent body. There must be a functioning appeal mechanism before an independent judicial body in order to determine the proper administration of shelter distribution. This right must also be effective in practice.¹⁰⁴

Conditions governing repatriation – links with the 1953 Convention

The personal and material scope of Article 13§4 is defined by the text of the appendix and that of Article 13§4 itself. Accordingly, such scope is not affected by the reference to the 1953 Convention. The only link between Article 13§4 and the 1953 Convention concerns the conditions under which States Parties can repatriate non-resident foreigners without resources on the ground that they are in need of assistance, namely that the persons are in a fit state of health to be transported (Article 7.a.ii of the 1953 Convention).

This option may only be applied in the greatest moderation and then only where there is no objection on humanitarian grounds (Article 7.b of the 1953 Convention, see also Articles 8 to

⁹⁹ [European Federation of National Organisations working with the Homeless \(FEANTSA\) v. the Netherlands](#), complaint No. 86/2012, decision on the merits of 2 July 2014, §171

¹⁰⁰ [Conclusions XIV-1 \(1998\), The Netherlands; Médecins du Monde - International v. France](#), complaint No. 67/2011, decision on the merits of 11 September 2012: §178; [Conclusions XX-2 \(2013\), Czech Republic](#)

¹⁰¹ [Conclusions XIII-4 \(1996\), Statement of Interpretation on Article 13](#)

¹⁰² [Conclusions XX-2 \(2013\), Czech Republic; Conclusions 2013, Sweden; Conclusions XIV-1 \(1998\), Iceland](#)

¹⁰³ [Defence for Children International \(DCI\) v. Belgium](#), complaint No. 69/2011, decision on the merits of 23 October 2012, §128

¹⁰⁴ [European Federation of National Organisations working with the Homeless \(FEANTSA\) v. the Netherlands](#), complaint No. 86/2012, decision on the merits of 2 July 2014, §187

10).¹⁰⁵ The abovementioned conditions for repatriation of non-resident nationals of other States Parties in state of need apply also in respect of States Parties that have not ratified the 1953 Convention.¹⁰⁶

The other conditions set in Article 7 of the 1953 Convention do not apply, insofar as nationals of other States Parties who work regularly or reside legally within the territory of another State Party cannot be repatriated on the sole ground that they are in need of assistance. As long as their legal residence or regular work continues, they enjoy equal treatment laid down in the Appendix. Where such persons are migrant workers, they are also protected by Article 19§8, which would not permit expulsion on the ground of needing social assistance.¹⁰⁷

Opinion of the ECSR

In its previous examination, the ECSR did not give a positive assessment on the acceptance of Article 13§4. The ECSR recalls that the beneficiaries of Article 13§4 are non-resident foreign nationals. No condition of length of presence can be set on the right to emergency assistance. Emergency social and medical assistance should be provided to non-resident foreign nationals, including those in an irregular situation.

Migrant minors in an irregular situation in a country are entitled to receive health care extending beyond urgent medical assistance and including primary and secondary care, as well as psychological assistance. Finally, emergency social assistance should be supported by a right to appeal to an independent body.

While the present report submitted by Romanian authorities indicates that any person in the territory of Romania has the right to emergency medical and social assistance, this assertion is not established by relevant legal and policy sources, nor do Romanian authorities provide information regarding a right to appeal.

The ECSR requests further information, in particular regarding the right of non-resident persons, including those in irregular situation, to emergency medical and social assistance; the right of minors in an irregular situation to receive healthcare beyond emergency healthcare; and the right to appeal in this context. Without this information, the ECSR is unable to assess whether the situation is compatible with Article 13§4.

Article 14§1 – The right to benefit from social welfare services

With a view to ensuring the effective exercise of the right to benefit from social welfare services, the Parties undertake:

- 1. to promote or provide services which, by using methods of social work, would contribute to the welfare and development of both individuals and groups in the community, and to their adjustment to the social environment.***

Situation in Romania

The ECSR notes from its report in the context of the previous examination, as well as the written information submitted by Romania the legal framework regulating social welfare services (For more detailed information, see the 2020 [Report on the non-accepted provisions of the European Social Charter](#) and the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#)).

¹⁰⁵ Conclusions XIII-4 (1996), Statement of Interpretation on Article 13

¹⁰⁶ Conclusions XIV-1 (1998), Statement of Interpretation on Article 13§4

¹⁰⁷ Conclusions XIV-1 (1998), Statement of Interpretation on Article 13§4

In its previous examination of non-accepted provisions, the ECSR had found the legislation to satisfy the requirements of Article 14. In order to be able to assess, however, whether there are obstacles for the acceptance of the provision, it had requested information on implementation, in particular on effective access to a range of social services in different local areas, applicable fees, and public resources allocated for financing social services.

The report does not offer targeted and concise information on these points, besides on social services for victims of domestic and sexual violence (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#)).

ECSR interpretation (DIGEST)

The right to benefit from social welfare services provided for by Article 14§1 requires 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.¹⁰⁸

Article 14 provides for an individual right subject to an effective right of appeal.¹⁰⁹

Personal scope

Article 14§1 guarantees the right to general social welfare services. The right to benefit from social welfare services must potentially apply to the whole population.¹¹⁰ This distinguishes the right guaranteed by Article 14 from “the various articles of the Charter which require States Parties to provide social welfare services with a narrowly specialised objective”.¹¹¹

The provision of social welfare services concerns everybody who finds themselves in a situation of dependency, in particular the vulnerable groups and individuals who have a social problem.¹¹² Social services must therefore be available to all categories of the population who are likely to need them.¹¹³ Delivery of such services frequently involve and depend on in-person contact and where digital delivery becomes preferable or necessary in the current context, States Parties should ensure that users of social welfare services have effective access to the requisite technology.¹¹⁴

The ECSR has identified the following groups as particularly likely to need social services: children, the elderly, people with disabilities, young people in difficulty and young offenders, minorities (migrants, Roma, refugees, etc.), the homeless, alcoholics and drug addicts, female victims of violence and former detainees.¹¹⁵

The list is not exhaustive as the right to social welfare services must be available to all individuals and groups in the community.¹¹⁶ There must be a right to appeal to an independent body in urgent cases of discrimination and violation against human dignity.¹¹⁷

¹⁰⁸ [Conclusions 2005, Bulgaria](#)

¹⁰⁹ [International Federation for Human Rights \(FIDH\) v. Belgium](#), complaint No. 75/2011, decision on the merits of 18 March 2013, §108

¹¹⁰ [Conclusions 2009, Statement of Interpretation on Article 14§1](#)

¹¹¹ [Conclusions 2009, Statement of Interpretation on Article 14§1](#)

¹¹² [Conclusions 2009, Statement of Interpretation on Article 14§1](#)

¹¹³ [Conclusions 2009, Statement of Interpretation on Article 14§1](#)

¹¹⁴ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

¹¹⁵ [Conclusions 2009, Statement of Interpretation on Article 14§1](#)

¹¹⁶ [Conclusions 2009, Statement of Interpretation on Article 14§1](#)

¹¹⁷ [Conclusions 2017, Austria](#)

Eligibility criteria for foreigners legally residing and regularly working in the country to be entitled to receive social services assistance must not be too restrictive.¹¹⁸ A length of residence requirement of five years is excessive.¹¹⁹

“Temporary residents”, i.e. foreign nationals who are residing lawfully and working regularly on the territory of the country and who are not permanent residents, must have the same access to social services as nationals of a State Party.¹²⁰

The other provisions of the Charter dealing with social services (Articles 12 and 13, including those services falling within the scope of Article 13§3), concern – as noted above – services “with a narrowly specialised objective”. When these various provisions have not been accepted by a State Party the situation with regard to social services for the specific target groups concerned is examined under Article 14.¹²¹

Types of services

Social services include in particular: counselling, advice, rehabilitation and other forms of support from social workers; home help services (assistance in the running of the home, personal hygiene, social support, delivery of meals); residential care; and social emergency care (shelters).¹²²

It should be noted that matters such as childcare, child minding, domestic violence, family mediation, adoption, foster and residential childcare, services relating to child abuse, and services for the elderly are primarily covered by Articles 7§§ 10, 16, 17, 23 and 27.¹²³ Measures to fight poverty and social exclusion are dealt with under Article 30 of the Charter, while social housing services and measures to combat homelessness are dealt with under Article 31.¹²⁴

Quality of social services

Under Article 14§1 the ECSR reviews rules governing the eligibility conditions to benefit from the right to social welfare services (as an issue related to effective and equal access), the quality and supervision of the social services, and the rights of beneficiaries and their participation in the establishment and maintenance of social welfare services (Article 14§2). Persons applying for social welfare services should receive any necessary advice and counselling enabling them to benefit from the available services in accordance with their needs.¹²⁵

Effective and equal access to social services implies that:

- An individual right of access to counselling and advice from social services shall be guaranteed to everyone. Access to other kind of services can be organised according to eligibility criteria, which shall be not too restrictive and at any event ensure care in case of urgent need;¹²⁶
- Access to social services should be guaranteed to those who lack personal capabilities and means to cope. The goal of welfare services is the well-being, the capability to become self-sufficient and the adjustment of the relevant individual and groups to the social environment;¹²⁷

¹¹⁸ [Conclusions 2017, Azerbaijan](#)

¹¹⁹ [Conclusions 2017, Azerbaijan](#)

¹²⁰ [Conclusions 2017, Bulgaria](#)

¹²¹ [Conclusions 2009, Statement of Interpretation on Article 14§1](#)

¹²² [Conclusions 2005, Bulgaria](#)

¹²³ [Conclusions 2005, Bulgaria](#)

¹²⁴ [Conclusions 2005, Bulgaria](#)

¹²⁵ [Conclusions 2009, Statement of Interpretation on Article 14§1](#)

¹²⁶ [Conclusions 2005, Bulgaria](#)

¹²⁷ [Conclusions 2005, Bulgaria](#)

- The rights of the beneficiary shall be protected: any decision should be made in consultation with and not against the will of the client; remedies shall be available in terms of complaints and a right to appeal to an independent body in cases of discrimination and violation against human dignity;¹²⁸
- Social services may be provided subject to fees, fixed or variable, but they must not be so high as to prevent the effective access of these services. For persons lacking adequate financial resources in the terms of Article 13§1 such services should be provided free of charge;¹²⁹
- The geographical distribution of these services shall be sufficiently wide;¹³⁰
- Recourse to these services must not interfere with people's right to privacy, including protection of personal data.¹³¹

The right to social services must be guaranteed in law and in practice.¹³² Social services must have resources that correspond to their responsibilities and the changing needs of users.¹³³ This implies that:

- staff shall be qualified and in sufficient numbers;
- decision-making shall be as close to users as possible;
- there must be mechanisms for supervising the adequacy of services, public as well as private.¹³⁴

Opinion of the ECSR

Without sufficient information on the implementation of the legal framework relevant to Article 14§1, as requested by its previous report, the ECSR is not able to assess whether the situation in law and in practice is compatible with this provision. It therefore reiterates its request for relevant information.

Article 14§2 – The right to benefit from social welfare services

With a view to ensuring the effective exercise of the right to benefit from social welfare services, the Parties undertake:

- 2. to encourage the participation of individuals and voluntary or other organisations in the establishment and maintenance of such services.***

Situation in Romania

The ECSR notes from the written information submitted by Romania that legal provisions in force provide for subsidies to associations and foundations with legal personality that set up and manage social assistance units. Subsidies are financed from the state or local budgets (Law No. 34/1998).

Law also provides for the support of voluntary activities (Law No. 78/2014) and for cooperation between public and private sectors (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#)).

ECSR interpretation (DIGEST)

¹²⁸ [Conclusions 2005, Bulgaria](#)

¹²⁹ [Conclusions 2005, Bulgaria](#)

¹³⁰ [Conclusions 2005, Bulgaria](#)

¹³¹ [Conclusions 2005, Bulgaria](#)

¹³² [Conclusions 2005, Bulgaria](#)

¹³³ [Conclusions 2005, Bulgaria](#)

¹³⁴ [Conclusions 2005, Bulgaria](#)

Article 14§2 requires States Parties to provide support for voluntary associations seeking to establish social welfare services.¹³⁵ This does not imply a uniform model, and States Parties may achieve this goal in different ways: they may promote the establishment of social services jointly run by public bodies, private concerns and voluntary associations, or they may leave the provision of certain services entirely to the voluntary sector.

The “individuals and voluntary or other organisations” referred to in paragraph 2 include: the voluntary sector (non-governmental organisations and other associations); private individuals, and private firms.¹³⁶

The ECSR examines all forms of support and care mentioned under Article 14§1 as well as financial assistance or tax incentives for the same purpose. States Parties must ensure that private services are accessible on an equal footing to all and are effective, in conformity with the criteria mentioned in Article 14§1.

Specifically, States Parties must ensure that public and private services are properly coordinated, and that efficiency does not suffer because of the number of providers involved. In order to control the quality of services and ensure the rights of the users as well as the respect of human dignity and basic freedoms, effective preventive and reparative supervisory system is required.¹³⁷

Article 14§2 also requires States Parties to encourage individuals and organisations to play a part in maintaining services, for example by taking action to strengthen the dialogue with civil society in areas of welfare policy which affect the social welfare services.

This includes action to promote representation of specific user-groups in bodies where the public authorities are also represented, as well as action to promote consultation of users on questions concerning organisation of the various social services and the aid they provide.¹³⁸ A system of authorisation or accreditation must be set up and the standard of services provided by voluntary organisations must be monitored.¹³⁹

Opinion of the ECSR

In its previous examination of non-accepted provisions, the ECSR had found the legislation to satisfy most of the requirements of Article 14. In order to be able to assess, however, whether there are obstacles for the acceptance of the provision, it had requested information on implementation, in particular on effective access to a range of social services in different local areas, applicable fees, and public resources allocated for financing social services.

The report does not provide information on these aspects with regard to Article 14§2, for instance, on the implementation of support to organisations or associations, or the fees to access services by non-public entities. Without sufficient information, the ECSR is not able to assess whether the situation in law and in practice is compatible with this provision. It, therefore, reiterates its request for relevant information.

Article 15§3 – The right of persons with disabilities to independence, social integration and participation in the life of the community

With a view to ensuring the effective exercise of the right to benefit from social welfare services, the Parties undertake:

¹³⁵ [Conclusions 2005, Statement of Interpretation on Article 14§2](#)

¹³⁶ [Conclusions 2015, Turkey](#)

¹³⁷ [Conclusions 2005, Bulgaria](#)

¹³⁸ [Conclusions 2005, Bulgaria](#)

¹³⁹ [Conclusions 2017, Armenia](#)

3. to encourage the participation of individuals and voluntary or other organisations in the establishment and maintenance of such services.

Situation in Romania

The ECSR notes from the information submitted by Romanian authorities that, with the aim to implement its obligations under the UN Convention on the Rights of Persons with Disabilities (Law No. 221/2010), it has developed a national strategy titled 'A fair Romania 2022-2027' (G.D. No. 490/2022).

Priority areas in this strategy are: accessibility and mobility; effective protection of the rights of people with disabilities; occupation; social protection, including empowerment/rehabilitation; independent living and community integration, including access to public services; education; health; political and public participation; implementation of the UN Convention and monitoring of respect for the rights of persons with disabilities.

The ECSR also notes that, in 2023, a framework was adopted establishing that persons with disabilities benefit from free medical assistance, including medical devices (G.D. No. 521/2023, with subsequent amendments and additions).

In addition, the National Housing Strategy of Romania for the period 2022-2050 sets out specific measures pertaining to facilitating the access to housing based on equality of opportunity and independent living principles. These measures include integrating inclusive design principles into the authorization procedure for housing construction and modernization of neighborhoods by making residential buildings and public spaces accessible (G.D. No. 842/2022).

Finally, the ECSR notes the efforts in the field of sports to accommodate more participation and access of persons with disabilities to sports activities ("National Strategy for Sport, 2023-2032", G.D. No. 444/2023). (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

ECSR interpretation (DIGEST)

The right of persons with disabilities to social integration provided for by Article 15§3 implies that barriers to communication and mobility be removed in order to enable access to transport (land, rail, sea and air), housing (public, social and private), cultural activities and leisure (social and sporting activities).¹⁴⁰ Such measures, including technical aids, must not be pursued in isolation and should be programmed to complement each other, on a clear legislative basis.¹⁴¹

Relevant legal framework and remedies

To this purpose, Article 15§3 requires:

- the existence of comprehensive non-discrimination legislation covering both the public and private sphere in fields such as housing, transport, telecommunications and cultural and leisure activities and effective remedies for those who have been unlawfully treated.¹⁴² Such legislation may consist of general anti-discrimination legislation, specific legislation or a combination of the two;¹⁴³
- the adoption of a coherent policy in the disability context: positive action measures to achieve the goals of social integration and full participation of persons with disabilities.¹⁴⁴ Such measures should have a clear legal basis and be coordinated.¹⁴⁵

¹⁴⁰ [Conclusions 2005, Norway](#)

¹⁴¹ [Conclusions 2008, Statement of Interpretation on Article 15§3; Conclusions 2005, Norway](#)

¹⁴² [Conclusions 2005, Norway](#)

¹⁴³ [Conclusions 2012, Estonia](#)

¹⁴⁴ [Conclusions 2007, Slovenia](#)

¹⁴⁵ [Conclusions 2007, Slovenia](#)

To give meaningful effect to the promotion of the full social integration and participation in the life of the community of persons with disabilities:

- Mechanisms must be established to assess the barriers to communication and mobility faced by persons with disabilities and identify the support measures that are required to assist them in overcoming these barriers;¹⁴⁶
- Technical aids must be available either for free or subject to an appropriate contribution towards their cost and taking into account the beneficiary's means. Such aids may for example take the form of prostheses, walkers, wheelchairs, guide dogs and appropriate housing support arrangements;¹⁴⁷
- Support services, such as personal assistance and auxiliary aids, must be available, either for free or subject to an appropriate contribution towards their cost and taking into account the beneficiary's means.¹⁴⁸

Consultation

Article 15§3 requires that persons with disabilities and their representative organisations should be consulted in the design and ongoing review of positive action measures and that an appropriate forum should exist to enable this to happen.¹⁴⁹

Persons with disabilities and their organisations must be consulted and participate in the design, implementation and review of disability policies in the context of Covid-19.¹⁵⁰ Covid-19 must not result in increased institutionalisation of persons with disabilities.¹⁵¹

Measures to ensure the right of persons with disabilities to live independently in the community

Telecommunications and new information technology must be accessible and sign language must have an official status.¹⁵²

In the context of the Covid-19 pandemic, services for the population specifically set up to cope with the pandemic, including remote and online services, quarantine facilities, personal protective equipment, and public information and guidelines, should be accessible to persons with disabilities on an equal basis to other members of the community.¹⁵³ Amongst other things, public health information must be made available in sign language and accessible means, modes and formats.¹⁵⁴

Mobility and transport

Public transports (land, rail, sea and air), all newly constructed or renovated public buildings, facilities and buildings open to the public, and cultural and leisure activities should be physically accessible.¹⁵⁵

Housing

¹⁴⁶ [Conclusions 2008, Statement of Interpretation on Article 15§3](#)

¹⁴⁷ [Conclusions 2008, Statement of Interpretation on Article 15§3](#)

¹⁴⁸ [Conclusions 2008, Statement of Interpretation on Article 15§3](#)

¹⁴⁹ [Conclusions 2020, Serbia; Conclusions 2005, Norway](#)

¹⁵⁰ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

¹⁵¹ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

¹⁵² [Conclusions 2016, Austria, citing Conclusions 2005, Estonia and Conclusions 2003, Slovenia](#)

¹⁵³ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

¹⁵⁴ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

¹⁵⁵ [Conclusions 2016, Latvia, citing Conclusions 2003, Italy](#)

The needs of persons with disabilities must be taken into account in housing policies, including the construction of an adequate supply of suitable, public, social or private, housing.¹⁵⁶ Further, financial assistance should be provided for the adaptation of existing housing.¹⁵⁷

The prevalence of poverty amongst people with disabilities in a State Party, whether defined or measured in either monetary or multidimensional terms, is an important indicator of the effectiveness of State efforts to ensure the right of people with disabilities to enjoy independence, social integration and participation in the life of the community.¹⁵⁸

Financial and personal assistance

The obligation of States to take measures to promote persons with disabilities' full social integration and participation in the life of the community is strongly linked to measures directed towards the amelioration and eradication of poverty amongst people with disabilities.¹⁵⁹ Therefore, the ECSR takes poverty levels experienced by persons with disabilities into account when considering the State's obligations under Article 15§3 of the Charter.¹⁶⁰

Measures must also focus on combatting discrimination against, and promoting equal opportunities for, people with disabilities from particularly vulnerable groups such as ethnic minorities, Roma, asylum-seekers and migrants.¹⁶¹

Opinion of the ECSR

In its previous examination, the ECSR held that the legal framework on the protection of persons with disabilities adopted by Romania fulfilled the requirements of Article 15§3. However, it requested information on the situation in practice in order to be able to assess the effective implementation of this framework. In the context of the current examination, Romanian authorities have informed the ECSR of new strategies and policies adopted during the reference period.

While the ECSR welcomes these efforts, it considers that information on the practice is still missing, for example, on the outcomes of previous and current strategies and the poverty levels among persons with disabilities. The ECSR, therefore, reiterates its request for information on the situation in practice.

Article 18§1 – The right to engage in a gainful occupation in the territory of other parties

With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake:

- 1. to apply existing regulations in a spirit of liberality.***

Situation in Romania

Romanian legislation provides for equal to Romanian citizens' access to the labour market of foreign citizens with permanent residence and foreign nationals with temporary residency rights, both employed and unemployed (Law No. 76/2002, G.E.O. No. 194/2002). (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

¹⁵⁶ [Conclusions 2003, Italy](#)

¹⁵⁷ [Conclusions 2003, Italy](#)

¹⁵⁸ [Conclusions 2020, Andorra](#)

¹⁵⁹ [Conclusions 2020, Andorra](#)

¹⁶⁰ [Conclusions 2020, Andorra](#)

¹⁶¹ [Conclusions 2020, Andorra](#)

In its previous examination, the ECSR requested from Romanian authorities to provide information on the refusal rates for work permits. The report submitted by Romania contains no information on this point.

ECSR interpretation (DIGEST)

Article 18§1 applies to employees and the self-employed who are nationals of States which are party to the Charter.¹⁶² It also covers members of their family allowed into the country for the purposes of family reunion.¹⁶³

Article 18§1 is concerned with administrative practice rather than legal aspects.¹⁶⁴ A State Party may comply with this provision even where its legislation on the employment of aliens contains strict rules, provided that these rules allow some administrative discretion and are applied in a liberal spirit.¹⁶⁵

Regulations preventing nationals of another State Party from applying for work permit, due to the combined effects of the various rules on entry, length of stay, residence and the exercise of a gainful activity would not be in keeping with this provision of the Charter.¹⁶⁶

Neither restricting a wage-earner or salaried employee who is a national of a State Party to a specific activity under a specific employer, nor systematically refusing a work permit to a foreign national who had entered the territory of another State Party without having obtained a work permit beforehand could be regarded as displaying a “spirit of liberality” or proceeding from a flexible system of regulations.¹⁶⁷

Any regulation which *de jure* or *de facto* restricts an authorisation to engage in a gainful occupation to a specific post for a specific employer cannot be regarded as satisfactory.¹⁶⁸ To tie an employed person to an enterprise by the threat of being obliged to leave the host country if they lose that job in fact constitutes an infringement of their freedom such that it cannot be regarded as evidence of “a spirit of liberality” or of liberal regulations.¹⁶⁹

Economic or social reasons might justify restricting the employment of aliens to specific types of jobs in certain occupational and geographical sectors, but not the obligation to remain in the employment of a specific enterprise.¹⁷⁰

Limiting access of foreign workers to the national labour market may occur, for example, with a view to addressing the problem of national unemployment by means of favouring employment of national workers.¹⁷¹

However, the implementation of such policies limiting access of third-country nationals to the national labour market, should neither lead to a complete exclusion of nationals of non-EU (or non-EEA) States Parties to the Charter from the national labour market, nor substantially limit the possibility for them of acceding the national labour market.¹⁷²

¹⁶² [Conclusions 2012, Serbia](#)

¹⁶³ [Conclusions 2012, Serbia](#)

¹⁶⁴ [Conclusions 2012, Serbia](#)

¹⁶⁵ [Conclusions 2012, Serbia](#)

¹⁶⁶ [Conclusions 2012, Serbia](#), citing Conclusions XIII-1 (1993), Sweden

¹⁶⁷ [Conclusions III \(1973\), Statement of Interpretation on Article 18](#)

¹⁶⁸ [Conclusions II \(1971\), Statement of Interpretation on Article 18](#)

¹⁶⁹ [Conclusions II \(1971\), Statement of Interpretation on Article 18](#)

¹⁷⁰ [Conclusions II \(1971\), Statement of Interpretation on Article 18](#)

¹⁷¹ [Conclusions 2012, Statement of Interpretation on Article 18§1 and 18§3](#)

¹⁷² [Conclusions 2012, Statement of Interpretation on Article 18§1 and 18§3](#)

In order to assess the degree of liberality in applying existing regulations, the ECSR requires figures showing the rejection rates for work permits for both first-time and renewal applications.¹⁷³ A high percentage of successful applications by nationals of States Parties to the Charter for work permits and for renewal of work permits and a low percentage of refusals has been regarded by the ECSR as a clear sign that existing regulations are being applied in a spirit of liberality.¹⁷⁴

Opinion of the ECSR

In its previous examination, the ECSR held that the situation appeared to be overall in line with the requirements of Article 18§1 and considered that Romania could accept this article. In the meantime, the ECSR requested data on the refusal rates of work permits in order to complete the assessment. The ECSR reiterates its previous opinion and request.

Article 18§2 – The right to engage in a gainful occupation in the territory of other parties

With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake:

- 2. to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers.***

Situation in Romania

The ECSR notes from the written information submitted by Romania that charges for the residence permit amount to 259 lei (approximately € 53 in the period under consideration). In addition, the fee for issuing the employment notice is € 100, and in the case of a change by the employer, it is € 25. (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

ECSR interpretation (DIGEST)

Formalities and dues and other charges are one of the aspects of regulations governing the employment of workers also covered by Article 18§3 but are dealt with specifically under this provision.¹⁷⁵

With regard to the formalities to be completed, conformity with Article 18§2 presupposes the possibility of completing such formalities in the country of destination as well as in the country of origin and obtaining the residence and work permits at the same time and through a single application.¹⁷⁶ It also implies that the documents required (residence/work permits) will be delivered within a reasonable time.¹⁷⁷ An average time of two months for the granting of both work/residence visa for employees as well as self-employed is in compliance with Article 18§2.¹⁷⁸

Situations where work permits and residence permits are issued under two separate procedures, and foreign nationals are not allowed to submit their applications from within the country, thereby lengthening the time taken to obtain residence permits, are not in conformity with Article 18§2 of the Charter.¹⁷⁹

¹⁷³ [Conclusions XXII-1 \(2020\), Germany](#)

¹⁷⁴ [Conclusions 2012, Serbia](#)

¹⁷⁵ [Conclusions IX-1 \(1990\), United Kingdom](#)

¹⁷⁶ [Conclusions 2016, Armenia](#); [Conclusions XVII-2 \(2005\), Finland](#)

¹⁷⁷ [Conclusions XVII-2 \(2005\), Portugal](#)

¹⁷⁸ [Conclusions XVII-2 \(2005\), Portugal](#)

¹⁷⁹ [Conclusions XXII-1 \(2020\), Iceland](#); see also [Conclusions 2020, Ukraine](#)

States Parties are under an obligation to reduce or abolish chancery dues and other charges paid either by foreign workers or by their employers.¹⁸⁰ In order to comply with such an obligation, States must, first of all, not set an excessively high level for the dues and charges in question that is a level likely to prevent or discourage foreign workers from seeking to engage in a gainful occupation, and employers from seeking to employ foreign workers.¹⁸¹

Fees of €48 charged to employers for obtaining a work permit for a foreign worker, and of €108 for temporary residence or €264 for permanent residence, are considered excessive and therefore not in conformity with Article 18§2.¹⁸² Fees ranging from €266 to €1536 for work permits are also not in conformity with Article 18§2.¹⁸³

In addition, States Parties have to make concrete efforts to progressively reduce the level of fees and other charges payable by foreign workers or their employers.¹⁸⁴ States are required to demonstrate that they have taken measures towards achieving such a reduction.¹⁸⁵

Otherwise, they will have failed to demonstrate that they serve the goal of facilitating the effective exercise of the right of foreign workers to engage in a gainful occupation in their territory.¹⁸⁶ The ECSR considers, however, that increases in chancery dues or other charges can be in conformity with Article 18§2 of the Charter as long as they are made for a good reason (for example in order to cover increased processing costs or inflation) and they are not excessive.¹⁸⁷

Opinion of the ECSR

In its previous examination, the ECSR held that the situation fulfilled the requirements of Article 18§2 and invited Romanian authorities to consider acceptance of the provision. The ECSR reiterates its previous opinion and invites the Romanian authorities to accept this provision without delay.

Article 19§1 – The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

- 1. to maintain or to satisfy themselves that there are maintained adequate and free services to assist such workers, particularly in obtaining accurate information, and to take all appropriate steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration.***

Situation in Romania

The ECSR takes note of the National Strategy on Immigration on "raising the awareness of the responsible Romanian authorities as well as informing the citizens of third countries about the channels of legal migration". It also takes note of Law No. 156/2000 on the protection of Romanian citizens working abroad. (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

¹⁸⁰ [Conclusions 2012, Statement of Interpretation of Article 18§2](#)

¹⁸¹ [Conclusions 2012, Statement of Interpretation of Article 18§2](#)

¹⁸² [Conclusions 2020, Armenia](#)

¹⁸³ [Conclusions XXII-1 \(2020\), United Kingdom](#)

¹⁸⁴ [Conclusions 2012, Statement of Interpretation of Article 18§2](#)

¹⁸⁵ [Conclusions 2012, Statement of Interpretation of Article 18§2](#)

¹⁸⁶ [Conclusions 2012, Statement of Interpretation of Article 18§2](#)

¹⁸⁷ [Conclusions XXII-1 \(2020\), Iceland](#)

The ECSR notes from its previous report on non-accepted provisions that every public institution that has competences on the legal regime of foreign citizens, management of labour relations, access to services, education and health, social security etc., has the obligation to make public all the relevant information both online environments, on their own websites, as well as on time, at the express request of the interested person.

The information can also be provided during the information campaigns carried out by each institution, both on the national territory and through the diplomatic representatives of Romania abroad. In order to increase awareness among those responsible for the implementation of the law, professional training of civil servants engaged in activities with migrant workers is carried out.

The General Inspectorate for Immigration and the Labour Inspectorate organise information campaigns concerning foreigners and their workplaces. (For more detailed information, see the 2020 [Report on the non-accepted provisions of the European Social Charter](#))

ECSR interpretation (DIGEST)

This provision guarantees the right to free information and assistance to nationals wishing to emigrate and to nationals of other States Parties who wish to immigrate.¹⁸⁸ Information should be reliable and accurate, and cover issues such as formalities to be completed and the living and working conditions they may expect in the country of destination (such as vocational guidance and training, social security, trade union membership, housing, social services, education and health).¹⁸⁹

Free information and assistance services for migrants must be accessible in order to be effective.¹⁹⁰ While the provision of online resources is a valuable service, due to the potential restricted access to the Internet of migrants, other means of information are necessary, such as helplines and drop-in centres.¹⁹¹

Another obligation under this provision is that States Parties must take measures to prevent misleading propaganda relating to immigration and emigration.¹⁹² Such measures should prevent the communication of misleading information to nationals leaving the country and act against false information targeted at migrants seeking to enter.¹⁹³

To be effective, action against misleading propaganda should include legal and practical measures to tackle racism and xenophobia as well as women trafficking.¹⁹⁴ Such measures, which should be aimed at the whole population, are necessary *inter alia* to counter the spread of stereotyped assumptions that migrants are inclined to crime, violence, drug abuse or disease.¹⁹⁵ In order to combat misleading propaganda, there must be an effective system to monitor discriminatory, racist or hate-inciting speech, particularly in the public sphere.¹⁹⁶

States Parties must also take measures to raise awareness about misleading propaganda amongst law enforcement officials, such as awareness training of officials who are in first contact with migrants.¹⁹⁷

¹⁸⁸ [Conclusions I \(1969\), Statement of Interpretation on Article 19§1](#)

¹⁸⁹ [Conclusions III \(1973\), Cyprus; Conclusion XV-1 \(2000\), Austria](#)

¹⁹⁰ [Conclusions 2015, Armenia; Conclusions 2019, Albania](#)

¹⁹¹ [Conclusions 2015, Armenia; Conclusions 2019, Albania](#)

¹⁹² [Conclusions XIV-1 \(1998\), Greece](#)

¹⁹³ [Conclusions 2019, Estonia, citing Conclusions XIV-1 \(1998\), Greece](#)

¹⁹⁴ [Centre on Housing Rights and Evictions \(COHRE\) v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 138-140; Conclusions 2019, Albania](#)

¹⁹⁵ [Conclusion XV-1 \(2000\), Austria](#)

¹⁹⁶ [Conclusions 2019, Albania](#)

¹⁹⁷ [Conclusions 2019, Albania](#)

Opinion of the ECSR

In its previous examination, the ECSR invited Romanian authorities to consider accepting Article 19§1. Further, the ECSR recalls that an obligation under this provision is that States Parties must take measures to prevent misleading propaganda relating to immigration and emigration.

In order to combat misleading propaganda, there must be an effective system to monitor discriminatory, racist or hate-inciting speech, particularly in the public sphere. The ECSR requests the Romanian authorities to submit information on this point. The ECSR reiterates its previous opinion and invites Romanian authorities to consider accepting Article 19§1 without delay.

Article 19§2 – The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

- 2. to adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and to provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey.***

Situation in Romania

The ECSR notes from the information submitted by Romanian authorities that, according to art. 227 of Law No. 95/2006 on health reform, foreign nationals insured in states that have international agreements with Romania covering healthcare benefit from medical services and other benefits granted on the territory of Romania, under the conditions provided by the respective international agreements. Persons insured in EU and EEA countries, as well as Swiss Confederation benefit from services in Romania, in line with EU law.

In Romania applies Regulation (EC) No. 883/2004 and Regulation (EC) No. 987/2009 apply. The ECSR also notes from the information submitted for the examination of Article 13§4, that foreign citizens who have requested and obtained the extension of the right of temporary residence or have their domicile in Romania are covered by the provisions of Law No. 95/2006 on health reform. (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

ECSR interpretation ([DIGEST](#))

This provision obliges States Parties to adopt special measures for the benefit of migrant workers to facilitate their departure, journey and reception.¹⁹⁸ ‘Reception’ means the period of weeks which follows immediately from their arrival, during which migrant workers and their families most often find themselves in situations of particular difficulty.¹⁹⁹

Special measures must include not only assistance with regard to placement and integration in the workplace, but also assistance in overcoming problems, such as short-term accommodation, illness, shortage of money and adequate health measures.¹⁹²⁸

The obligation to “provide within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey” relates to migrant workers and their

¹⁹⁸ [Conclusions III \(1973\), Cyprus](#)

¹⁹⁹ [Conclusions IV \(1975\), Statement of interpretation on Article 19§2](#)

¹⁹²⁸ [Conclusions IV \(1975\), Germany](#)

families travelling either collectively or under the public or private arrangements for collective recruitment.²⁰⁰

The ECSR considers that this aspect of Article 19§2 does not apply to forms of individual migration for which the State is not responsible.²⁰¹ However, in that case, the need for reception facilities is all the greater.²⁰²

In assessing States Parties' compliance with Article 19§2, the ECSR takes into consideration the following information:

- specific steps are taken in the period following the arrival of any new migrants to assist them;
- the assistance, financial or otherwise, available to all migrants in emergency situations, in particular in response to their needs of food, clothing and shelter;
- limits or restrictions on the access of working migrants to state welfare provision;
- the rules governing the access to healthcare for all migrants, irrespective of their status, in particular in emergency.²⁰³

Opinion of the ECSR

In its previous examination, the ECSR held that Romania could accept Article 19§2. Since Romanian authorities do not report any new legal or policy developments for the examination of this provision, the ECSR reiterates its previous opinion.

Article 19§3 – The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

- 3. to promote co-operation, as appropriate, between social services, public and private, in emigration and immigration countries.***

Situation in Romania

Social Assistance Law No. 292/2011 (Art. 4 par. 1) stipulates that all Romanian citizens who are on the territory of Romania, citizens of EU Member States, the European Economic Area and the Swiss Confederation, as well as foreigners and stateless persons who reside in Romania, are entitled to social assistance, under the conditions of Romanian legislation, as well as the regulations of the European Union and the agreements and treaties to which Romania is a party.

The persons referred to in paragraph 1 have the right to be informed of the content and modalities of social assistance measures and actions. The right to social assistance shall be granted upon request or *ex officio*, in accordance with the provisions of the law. (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

The ECSR notes from its previous examination of non-accepted provisions that during the reference period Romanian authorities developed a National Strategy on migration (2019–2022), with the aim to promote cooperation between diplomatic missions of the countries which represent a high migratory potential for Romania, and their central authorities. (For more detailed information, see the 2020 [Report on the non-accepted provisions of the European Social Charter](#))

²⁰⁰ [Conclusions IV \(1975\), Statement of interpretation on Article 19§2](#)

²⁰¹ [Conclusions IV \(1975\), Statement of interpretation on Article 19§2](#)

²⁰² [Conclusions IV \(1975\), Statement of interpretation on Article 19§2](#)

²⁰³ [Conclusions 2019, Armenia](#)

ECSR interpretation (DIGEST)

The scope of this provision extends to migrant workers immigrating as well as migrant workers emigrating to the territory of any other State.

Contacts and information exchanges should be established between public and/or private social services in emigration and immigration countries, with a view to facilitating the life of emigrants and their families, their adjustment to the new environment and their relations with members of their families who remain in their country of origin.²⁰⁴

Formal arrangements are not always necessary, especially if there is little migratory movement in a given country.²⁰⁵ In such cases, the provision of practical co-operation on a need basis may be sufficient.²⁰⁶

Common situations in which such co-operation would be useful include where the migrant worker, who has left their family in the home country, fails to send money back or needs to be contacted for family reasons, or where the worker has returned to their country but needs to claim unpaid wages or benefits or must deal with various issues in the country in which they were employed.²⁰⁷

In order to assess States Parties' compliance with Article 19§3, the ECSR takes into consideration the following information:

- the form and nature of contacts and information exchanges established by social services in emigration and immigration countries;
- measures taken to establish such contacts and to promote the cooperation between social services in other countries;
- international agreements or networks, and specific examples of cooperation (whether formal or informal) which exist between the social services of the country and other origin and destination countries;
- whether the cooperation extends beyond social security alone (for example in family matters);
- examples of cooperation at a local level.²⁰⁸

Opinion of the ECSR

In its previous examination, the ECSR held that Article 19§3 could be accepted by Romania. The ECSR would like to be informed about the outcomes of efforts to develop cooperation between diplomatic missions of the countries which represent a high migratory potential for Romania, and their central authorities.

It would also like to be informed whether a similar strategy succeeded the National Strategy of 2019-2022. In the meantime, it invites Romanian authorities to consider accepting Article 19§3.

Article 19§4 – The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

- 4. to secure for such workers lawfully within their territories, insofar as such matters are regulated by law or regulations or are subject to the control of administrative***

²⁰⁴ [Conclusions XIV-1 \(1998\), Belgium](#)

²⁰⁵ [Conclusions 2019, Albania](#)

²⁰⁶ [Conclusions 2019, Albania](#)

²⁰⁷ [Conclusions XV-1 \(2000\), Finland](#)

²⁰⁸ [Conclusions 2019, Albania](#)

authorities, treatment not less favourable than that of their own nationals in respect of the following matters: (a) remuneration and other employment and working conditions, (b) trade union membership and the enjoyment of benefits of collective bargaining, and (c) accommodation.

Situation in Romania

The ECSR notes that G.E.O. No. 194/2002, foreign nationals holding a right of temporary residence, employed, registered unemployed or researchers, benefit, enjoy equal treatment with Romanian citizens with regard to:

- working conditions, including the remuneration and protection measures against dismissal or other unfavourable treatment by the employer, overdue payments to be made by employers, regarding any overdue remuneration, as well as security requirements and occupational health;
- access to all forms and levels of education and professional training, including the scholarships granting;
- the equivalence of studies and the recognition of diplomas, certificates, certificates of competence and professional qualifications, in accordance with the regulations in force;
- social security; assistance and social protection; public health assistance;
- global income tax deductions and tax exemptions;
- access to public goods and services, including obtaining housing;
- freedom of association, affiliation and membership in a trade union or professional organization, including regarding the rights and advantages conferred by such organizations; services offered by employment agencies.

In addition, the Labour Code emphasizes the principle of equal payment for equal work. Further, within employment relationships, the principle of equal treatment for all employees and employers shall apply and any employee who performs work shall benefit from adequate work conditions for the activity carried out, social protection, labour safety and health, as well as the observance of their dignity and conscience, with no discrimination.

Also, all employees providing labour are entitled to collective negotiations, protection or personal data, as well as protection against illegal dismissal. Any direct or indirect discrimination against an employee based on national affiliation, race, colour, ethnicity, shall be prohibited and relevant remedies are available in cases of discriminatory treatment.

In addition, G.O. No. 137/2000 on preventing and punishing all forms of discrimination forbids discrimination on the grounds of, among others, nationality, ethnic origin, and political opinion and provides for equal rights in a wide range of areas such as employment, access to public services, health care, education, residence and the right to personal dignity.

Finally, regarding trade union associations and collective bargaining, these rights are guaranteed by the Romanian Constitution to all citizens, without discrimination, including foreign citizens legally residing in Romania (Articles 16-18 and Articles 40-41).

At the same time, the Labour Code provides that the right of trade union association and free exercise of trade union activity is guaranteed to persons in an employment relationship, without discrimination and at the level of all employers (Articles 6-7, Articles 9, 39 and 217). (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

ECSR interpretation ([DIGEST](#))

Scope

States Parties are required to prove the absence of discrimination, whether direct or indirect, in terms of law and practice, and should inform of any practical measures taken to remedy cases of discrimination.²⁰⁹ Equality in law does not always and necessarily ensure equality in practice.²¹⁰

Hence, additional action becomes necessary owing to the different situation of migrant workers as compared with nationals.²¹¹ States Parties should pursue a positive and continuous course of action providing for more favourable treatment of migrant workers.²¹²

Article 19§4 also applies to posted workers, i.e. workers who, for a limited period, carry out their work in the territory of a State Party other than the State in which they usually work.²¹³ States must respect the principles of non-discrimination laid down by the Charter in respect of all persons subject to their jurisdiction.²¹⁴

Accordingly, any restrictions on the right to equal treatment for posted workers, which are imposed due to the nature of their sojourn, must be objectively justified by reference to the specific situations and status of posted workers, having regard to the principles of Article G of the revised Charter (Article 31 of the 1961 Charter).²¹⁵

States Parties are also responsible for the regulation in national law of the conditions and rights of workers in cross-border postings.²¹⁶

Remuneration and other employment and working conditions

Under Article 19§4(a), States Parties are obliged to eliminate all legal and de facto discrimination concerning remuneration and other employment and working conditions, including in-service training and promotion as well as vocational training.²¹⁷

Membership of trade unions and enjoyment of the benefits of collective bargaining

Article 19§4(b) requires States Parties to eliminate all legal and de facto discrimination concerning trade union membership and as regards the enjoyment of the benefits of collective bargaining, including the right to be founding member and access to administrative and managerial posts in trade unions.²¹⁸

Applying the principle of non-discrimination, as set out in Article 19§4(b) of the Charter, to the context of collective bargaining, requires States Parties to take action to ensure that migrant workers enjoy equal treatment when it comes to benefiting from collective agreements aimed at implementing the principle of equal pay for equal work for all workers in the workplace, or from legitimate collective action in support of such an agreement, in accordance with domestic laws or practice.²¹⁹

²⁰⁹ [Conclusions III \(1973\), Statement of Interpretation on Article 19§4; European Federation of national organisations working with the Homeless \(FEANSA\) v. the Netherlands, Complaint No. 86/2012, decision on the merits of 2 July 2014, §§ 202-203.](#)

²¹⁰ [Conclusions V \(1977\), Statement of Interpretation on Article 19](#)

²¹¹ [Conclusions V \(1977\), Statement of Interpretation on Article 19](#)

²¹² [Swedish Trade Union Confederation \(LO\) and Swedish Confederation of Professional Employees \(TCO\) v. Sweden, Complaint No. 85/2012, decision on the merits of 3 July 2013, §133](#)

²¹³ [Conclusions 2015, Statement of interpretation on Article 19§4](#)

²¹⁴ [Conclusions 2015, Statement of interpretation on Article 19§4](#)

²¹⁵ [Conclusions 2015, Statement of interpretation on Article 19§4](#)

²¹⁶ [Conclusions 2015, Statement of interpretation on Article 19§4](#)

²¹⁷ [Conclusions VII \(1981\), United Kingdom; Conclusions 2019, Albania](#)

²¹⁸ [Conclusions XIII-3 \(1995\), Turkey; Conclusions 2011, Statement of interpretation on Article 19§4b; Conclusions XIX-4 \(2011\), Luxembourg](#)

²¹⁹ [Swedish Trade Union Confederation \(LO\) and Swedish Confederation of Professional Employees \(TCO\) v. Sweden, Complaint No. 85/2012, decision on the merits, 3 July 2013, §140](#)

Excluding or limiting the right to collective bargaining or action with respect to foreign undertakings, for the sake of enhancing free cross border movement of services and advantages in terms of competition within a common market zone, constitutes discriminatory treatment on the ground of nationality of the workers.²²⁰

This is because it determines, in the host State, lower protection and more limited economic and social rights for posted foreign workers, in comparison with the protection and rights guaranteed to all other workers.²²¹

Accommodation

The undertaking of States Parties under this sub-heading is to eliminate all legal and de facto discrimination concerning access to public and private housing.²²² Irregularly present immigrants, however, do not fall within the scope of Article 19§4(c).²²³

There must be no legal or de facto restrictions on home-buying,²²⁴ access to subsidised housing or housing aids, such as loans or other allowances.²²⁵

The right to equal treatment provided in Article 19§4(c) can only be effective if there is a right of appeal before an independent body against the relevant administrative decisions.²²⁶

The economic obstacles to achieving full provision of social housing to those eligible do not provide a valid reason to discriminate against nationals of non-EU States.²²⁷

Monitoring and judicial review

It is not enough for a government to demonstrate that no discrimination exists in law alone; it is obliged to demonstrate that it has taken adequate practical steps to eliminate all legal and de facto discrimination concerning the rights secured by Article 19§4 of the Charter.²²⁸

In order to monitor and ensure that no discrimination occurs in practice, States Parties should have in place sufficient effective monitoring procedures or bodies to collect information, for example disaggregated data on remuneration or information on cases in employment tribunals.²²⁹

Under Article 19§4(c), equal treatment can only be effective if there is a right of appeal before an independent body against the relevant administrative decision.²³⁰ The ECSR considers that existence of such review is important for all aspects covered by Article 19§4.²³¹

²²⁰ [Swedish Trade Union Confederation \(LO\) and Swedish Confederation of Professional Employees \(TCO\) v. Sweden](#), Complaint No. 85/2012, decision on the merits, 3 July 2013, §141

²²¹ [Swedish Trade Union Confederation \(LO\) and Swedish Confederation of Professional Employees \(TCO\) v. Sweden](#), Complaint No. 85/2012, decision on the merits, 3 July 2013, §141

²²² [European Roma Rights Centre \(ERRC\) v. France](#), Complaint No. 51/2008, decision on the merits of 19 October 2009, §§ 111-113; [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 145 147 (finding of violation of Article E taken in conjunction with Article 19§4c).

²²³ [European Roma Rights Centre \(ERRC\) v. France](#), Complaint No. 51/2008, decision on the merits of 19 October 2009, §§ 111-113; [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 145 147 (finding of violation of Article E taken in conjunction with Article 19§4c).

²²⁴ [Conclusions IV \(1975\), Norway](#); [Conclusions 2019, Albania](#)

²²⁵ [Conclusions III \(1973\), Italy](#); [Conclusions 2019, Albania](#)

²²⁶ [European Federation of national organisations working with the Homeless \(FEANSA\) v. the Netherlands](#), Complaint No. 86/2012, decision on the merits of 2 July 2014, §204, citing [Conclusions XV-1 \(2000\), Finland](#)

²²⁷ [Conclusions 2015, Slovenia](#)

²²⁸ [Conclusions III \(1973\), Statement of interpretation on Article 19§4](#); [Conclusions 2019, Albania](#)

²²⁹ [Conclusions XX-4 \(2015\), Germany](#); [Conclusions 2019, Albania](#)

²³⁰ [Conclusions XV-1 \(2000\), Finland](#)

²³¹ [Conclusions 2019, Albania](#)

Opinion of the ECSR

In its previous examination, the ECSR held that Romania could consider accepting Article 19§4, subject, however, to the provision of information on the implementation of the legal framework, in particular on the monitoring system and any judicial remedies available to migrant workers.

This information is essential for the assessment of the situation in practice, since for the satisfaction of the requirements of Article 19§4 states are obliged to tackle not only legal, but also practical discrimination. The report submitted by Romanian authorities provides no information on this aspect of the provision. The ECSR, therefore, is unable to assess whether the situation is compatible with Article 19§4.

Article 19§5 – The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

- 5. to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals with regard to employment taxes, dues or contributions payable in respect of employed persons.***

Situation in Romania

The ECSR notes that, according to Article 80 of the G.E.O. No. 194/2002, regarding the regime of foreigners in Romania, equal treatment of foreign residents also covers social security, global income tax deductions and tax exemptions. (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

ECSR interpretation (DIGEST)

This provision recognises the right of migrant workers to equal treatment in law and in practice in respect of the payment of employment taxes, dues or contributions.²³²

Opinion of the ECSR

The ECSR considers that there are no obstacles to the acceptance of Article 19§5 and invites Romanian authorities to accept this provision without delay.

Article 19§6 – The right of migrant workers and their families to protection and assistance
With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

- 6. to facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory.***

Appendix: For the purpose of applying this provision, the term “family of a foreign worker” is understood to mean at least the worker’s spouse and unmarried children, as long as the latter are considered to be minors by the receiving State and are dependent on the migrant worker.²³³

²³² [Conclusions 2019, Albania](#), citing [Conclusions XIX-4 \(2011\), Greece](#)

²³³ [Appendix to the Revised European Social Charter, European Treaty Series - No. 163](#)

Situation in Romania

The report submitted by Romania reiterates information already considered in the previous examination of non-accepted provisions. (For more detailed information, see the 2020 [Report on the non-accepted provisions of the European Social Charter](#) and the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

In its previous examination, the ECSR considered that Article 19§6 could be accepted by Romania, however, updated information on refusals would be required to assess the situation in practice. On this point, the report submitted by Romanian authorities states that entry to the territory of Romania is denied to nationals of third countries, who do not meet all the entry conditions provided for in Article 6, para. 1 of EU Regulation No. 2016/399 (Schengen Borders Code).

On the basis of the latter, entry can be denied when a person is considered as a threat to public order, internal security, public health or international relations of one of the member states. The decision to refuse the extension of the right of residence, as well as the reasons that were the basis for it, are communicated to the applicant through the return decision.

The return decision can be appealed, as a rule, within 10 days from the date of communication to the appeal court in whose territorial competence the structure of the General Inspectorate for Immigration that issued the return decision is located. The court resolves the appeal within 30 days from the date of its receipt. The court decision is final.

ECSR interpretation (DIGEST)

Scope

This provision obliges States Parties to allow the families of migrants legally established in State Party territory to join them.²³⁴ The worker's children entitled to family reunion are those who are dependent, unmarried, and who fall under the legal age of majority in the receiving State.²³⁵

“Dependent” children are understood as being those who have no independent existence outside the family group, particularly for economic or health reasons, or because they are pursuing unpaid studies.²³⁶

Where the national legislation prescribes a lower age, it suffices in practice that applications for reunion in respect of children up to 21 years of age should be generally accepted.²³⁷

Where children aged 18 to 21 are not only disqualified in law from family reunion but also denied it in practice, the ECSR assesses the proportion of children aged 18 to 21 refused family reunion.²³⁸ A high proportion of children aged 18 to 21 refused family reunion leads to a finding of non-conformity with Article 19§6 in this respect.²³⁹

Conditions governing family reunion

²³⁴ [Conclusions 2019, Albania](#)

²³⁵ [Appendix to the Revised European Social Charter, European Treaty Series - No. 163](#)

²³⁶ [Conclusions VIII \(1984\) Statement of Interpretation on Article 19§6](#)

²³⁷ [Conclusions XVI-1 \(2002\), The Netherlands](#)

²³⁸ [Conclusions XVI-1 \(2002\), The Netherlands](#)

²³⁹ [Conclusions XVI-1 \(2002\), The Netherlands](#)

States Parties should not adopt a blanket approach to the application of relevant requirements, so as to preclude the possibility of exemptions being made in respect of particular categories of cases, or for consideration of individual circumstances.²⁴⁰

The Covid-19 pandemic has in some cases led to the separation of migrant workers and their families for extended periods, for example due to closure of borders, travel restrictions and quarantine requirements or due to fear of job loss in case of travel.²⁴¹

Article 19§6 requires States Parties to facilitate family reunion as far as possible and refers to the possibility for the States Parties to take extraordinary measures to avoid separation of families during the pandemic.²⁴²

i. Refusal on health grounds

States Parties may not deny entry to their territory for the purpose of family reunion to a family member of a migrant worker for health reasons. A refusal on this ground may only be admitted for specific illnesses which are so serious as to endanger public health.²⁴³

These are the diseases requiring quarantine which are stipulated in the World Health Organisation's International Health Regulations of 1969, or other serious contagious or infectious diseases such as tuberculosis or syphilis.²⁴⁴

Very serious drug addiction or mental illness may justify refusal of family reunion, but only where the authorities establish, on a case-by-case basis, that the illness or condition constitutes a threat to public order or security.²⁴⁵

ii. Length of residence

States Parties may require a certain length of residence of migrant workers before their family can join them. A period of one year is acceptable under the Charter, but a longer period is considered excessive.²⁴⁶ Thus, for example, a period of eighteen months or more is not in conformity with this provision of the Charter.²⁴⁷

iii. Housing condition

The requirement of having sufficient or suitable accommodation to house the family or certain family members as a precondition for its admission to a State Party should not be so restrictive as to prevent family reunion.²⁴⁸ States are entitled to impose such accommodation requirements in a proportionate manner so as to protect the interests of the family.²⁴⁹

Nevertheless, taking into account the obligation to facilitate family reunion as far as possible under Article 19§6, States Parties should not apply such requirements in a blanket manner which precludes the possibility for exemptions to be made in respect of particular categories of cases, or for consideration of individual circumstances.²⁵⁰

²⁴⁰ [Conclusions 2019, Albania, citing Conclusions 2015, Statement of Interpretation on Article 19§6 – housing requirements](#)

²⁴¹ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

²⁴² [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

²⁴³ [Conclusions XVI-1 \(2002\), Greece](#)

²⁴⁴ [Conclusions XV-1 \(2000\), Finland](#)

²⁴⁵ [Conclusions XV-1 \(2000\), Finland](#)

²⁴⁶ [Conclusion 2011, Statement of Interpretation on Article 19§6](#)

²⁴⁷ [Conclusions I \(1969\), Germany; Conclusions 2011, France; Conclusions 2011, Cyprus](#)

²⁴⁸ [Conclusions IV \(1975\), Norway](#)

²⁴⁹ [Conclusions 2015, Statement of interpretation on Article 19§6 – housing requirements](#)

²⁵⁰ [Conclusions 2015, Statement of interpretation on Article 19§6 – housing requirements](#)

iv. Means requirement

The level of means required by States Parties to bring in a migrant worker's family or certain family members should not be so restrictive as to prevent any family reunion.²⁵¹ Social benefits shall not be excluded from the calculation of the income of a migrant worker who has applied for family reunion.²⁵²

v. Language and/or integration tests

States may take measures to encourage the integration of migrant workers and their family members, such measures being important in promoting economic and social cohesion.²⁵³

However, requirements that family members pass language and/or integration tests or complete compulsory courses, whether imposed prior to or after entry to the State, may impede rather than facilitate family reunion.²⁵⁴ They are therefore contrary to Article 19§6 of the Charter where they:

- have the potential effect of denying entry or the right to remain to family members of a migrant worker, or
- otherwise deprive the right guaranteed under Article 19§6 of its substance, for example by imposing prohibitive fees, or by failing to consider specific individual circumstances such as age, level of education or family or work commitments.²⁵⁵

Independent right to stay

Even where the requirements for the expulsion of a migrant worker are met under Article 19§8, the members of the worker's family who are in the territory of the receiving State should not be deported as consequence of the migrant worker's expulsion.²⁵⁶

The right to family reunion provided for in Article 19§6 must be regarded as conferring on each of its beneficiaries a personal right of residence distinct from the original right held by the migrant worker.²⁵⁷

The conformity of the expulsion of family members of a migrant worker with the Charter is assessed under Article 19§6.²⁵⁸

Remedies

Restrictions on the exercise of the right to family reunion should be subject to an effective mechanism of appeal or review, which provides an opportunity for consideration of the individual merits of the case consistent with the principles of proportionality and reasonableness.²⁵⁹

Opinion of the ECSR

The ECSR recalls that in the context of the examination of Article 19§6, it assesses the proportion of children aged 18 to 21 refused family reunion. A high proportion of children aged 18 to 21 refused family reunion leads to a finding of non-conformity with Article 19§6 in this respect.

²⁵¹ [Conclusions XVII-1 \(2004\), The Netherlands](#)

²⁵² [Conclusions 2011, Statement of Interpretation on Article 19§6](#)

²⁵³ [Conclusions 2015, Statement of Interpretation on Article 19§6 – language and integration tests](#)

²⁵⁴ [Conclusions 2015, Statement of Interpretation on Article 19§6 – language and integration tests](#)

²⁵⁵ [Conclusions 2015, Statement of Interpretation on Article 19§6 – language and integration tests](#)

²⁵⁶ [Conclusions XVI-1 \(2002\), The Netherlands, Article 19§8](#)

²⁵⁷ [Conclusions XVI-1 \(2002\), The Netherlands, Article 19§8](#)

²⁵⁸ [Conclusions 2015, Statement of interpretation on Article 19§6 and 19§8](#)

²⁵⁹ [Conclusions 2015, Statement of interpretation on Article 19§6 – housing requirements](#)

While the report provides information on the grounds that entry into the country, including for the purpose of family reunion, might be denied, it does not offer concrete information on the number and proportion of children refused family reunion. The ECSR, therefore, reiterates its request for updated information on refusals. This information is essential in assessing whether the situation is compatible with Article 19§6.

Article 19§9 – The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

9. to permit, within legal limits, the transfer of such parts of the earnings and savings of such workers as they may desire.

Situation in Romania

The ECSR notes that the situation has remained unchanged since its previous examination of non-accepted provisions. In line with the National Bank of Romania Regulation No. 4/2005 on the foreign exchange regime, there are no restrictions on the transfer of funds by migrants. According to Article 2 of the Regulation, transactions are performed freely and without restrictions between residents and non-residents, in foreign currency and Romanian currency (RON).

Non-residents may open and hold accounts in foreign currency and in Romanian currency (RON) with credit institutions and may repatriate and transfer financial assets held. (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

ECSR interpretation (DIGEST)

This provision obliges States Parties not to place excessive restrictions on the right of migrants to transfer earnings and savings, either during their stay or when they leave their host country.²⁶⁰ The right to transfer earnings and savings includes the right to transfer movable property (including money).²⁶¹

Opinion of the ECSR

The ECSR considers that there are no major obstacles for the ratification of Article 19§9 and invites Romanian authorities to accept this provision without delay.

Article 19§10 – The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

10. to extend the protection and assistance provided for in this article to self-employed migrants insofar as such measures apply.

Situation in Romania

²⁶⁰ [Conclusions XIII-1 \(1993\), Greece](#)

²⁶¹ [Conclusions 2011, Statement of Interpretation on Article 19§9](#)

The report submitted by Romanian authorities provides no information on the situation regarding Article 19§10. (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

In its previous examination, the ECSR considered that there were obstacles to the ratification of Article 19§10 by Romania, because the right to carry out activities as self-employed persons was limited to nationals of EU/EEA countries and Swiss nationals, and did not extend to nationals of all States Parties to the Charter. (For more detailed information, see the 2020 [Report on the non-accepted provisions of the European Social Charter](#))

ECSR interpretation (DIGEST)

Under this provision, States Parties must extend the rights provided for in paragraphs 1 to 9, 11 and 12 to self-employed migrant workers and their families.²⁶²

States Parties must ensure that there is no unjustified treatment which amounts to discrimination, in law or in practice between wage-earners and self-employed migrants.²⁶³ In addition equal treatment between self-employed migrants and self-employed nationals must be guaranteed in the areas covered by this provision.²⁶⁴

A finding of non-conformity with regard to any of the other paragraphs of Article 19 ordinarily leads to a finding of non-conformity under Article 19§10, because the same grounds for non-conformity also apply to self-employed workers.²⁶⁵ Such finding of non-conformity prevents discrimination or difference in treatment.²⁶⁶

Opinion of the ECSR

Since Romanian authorities do not report any new information that would suggest that the obstacles identified in the previous examination have been addressed, the ECSR is unable to consider that the situation is compatible with Article 19§10.

Article 19§11 – The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

11. to promote and facilitate the teaching of the national language of the receiving state or, if there are several, one of these languages, to migrant workers and members of their families;

Situation in Romania

The report submitted by Romanian authorities cites a series of legal sources adopted in 2022 on the organization and provision of teaching of Romanian as a foreign language:

- Order No. 5807/2022 'for approval of the Special Methodology for attesting pre-university studies for foreign students who have obtained international protection in Romania and who lack official study documentation or who, for other reasons, do not fall under the current legal

²⁶² [Conclusions I \(1969\), Norway](#)

²⁶³ [Conclusions 2002, France](#)

²⁶⁴ [Conclusions XVIII-1 \(2006\) Luxembourg](#)

²⁶⁵ [Conclusions 2019, Albania](#)

²⁶⁶ [Conclusions 2019, Albania 2012](#)
[Conclusions 2002, France](#)

provisions regarding the recognition and attestation of foreign pupils' studies in Romania in order to facilitate their access to the labour market or to pursue their education'.

- Order No. 6127/2022 'for the approval of the Methodology on education and the organization and conduct of the Romanian language initiation course for the minors who have acquired an international protection form or the right to reside in Romania, as well as for the minor citizens of the member states of the European Union and the European Economic Area and of the Swiss Confederation' and its Annexes (Annex 1 to the Order No. 6127/2022 and Annex 2 to the Order No. 6127/2022)
- Order No. 6129/2022 'for the approval of the Methodology on the organization and conduct of the initiation course in Romanian language for adult foreigners who have acquired a form of international protection or a right of residence in Romania, as well as for the citizens of the Member States of the European Union and the European Economic Area, and for the nationals of the Swiss Confederation' and its Annexes (Annex 1 to the Order No. 6125/2022 and Annex 2 to Order No. 612/2022).

In its previous examination, the ECSR held that there were obstacles to the ratification of Article 19§11 by Romanian authorities, because of fees imposed for Romanian language courses.

The report states that in the context of vocational training programmes, provided under Law No. 76/2002 on the unemployment insurance system and employment stimulation, employment agencies periodically provide free Romanian language courses to Ukrainian refugees who reside in Romania. (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

ECSR interpretation (DIGEST)

Under this provision, States Parties should promote and facilitate the teaching of the national language to children of school age, as well as to the migrants themselves and to members of their families who are no longer of school age.

The teaching of the national language of the receiving state is the main means by which migrants and their families can integrate into normal employment and society at large.²⁶⁷ A requirement to pay substantial fees is not in conformity with the Charter: States Parties are required to provide national language classes free of charge, otherwise for many migrants such classes would not be accessible.²⁶⁸

Teaching the language of the host country to primary and secondary school students throughout the school curriculum is not enough to satisfy the obligations laid down by Article 19§11.²⁶⁹ States Parties must make special efforts to set up additional assistance for children of immigrants who have not attended primary school right from the beginning and who therefore lag behind their fellow students who are nationals of the country.²⁷⁰

States Parties shall encourage the teaching of the national language in the workplace, in the voluntary sector or in public establishments such as universities.²⁷¹ Such services shall be free of charge so as not to exacerbate the disadvantaged position of migrant workers in the labour market.²⁷²

²⁶⁷ [Conclusions 2002, France](#)

²⁶⁸ [Conclusions 2011, Norway](#)

²⁶⁹ [Conclusions 2002, France](#)

²⁷⁰ [Conclusions 2002, France](#)

²⁷¹ [Conclusions 2002, France](#)

²⁷² [Conclusions 2002, France](#)

Opinion of the ECSR

It is not established by the information submitted by Romanian authorities that the previously identified obstacles relating to fees for Romanian language courses have been addressed and the ECSR is therefore unable to consider that the situation is compatible with Article 19§11.

Article 19§12 – The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

12. to promote and facilitate, as far as practicable, the teaching of the migrant worker's mother tongue to the children of the migrant worker.

Situation in Romania

The report provides no information regarding the situation under Article 19§12. The ECSR notes from its previous report that, according to the Law No. 1/2011 on national education, education in Romania is carried out in Romanian, as well as in the languages of national minorities and international languages (Article 10).

Any Romanian citizen or citizen of the EU or Swiss Confederation may enrol and study, irrespective of their mother tongue and of the language in which they have previously studied, in all forms of education in the Romanian language, in the languages of the national minorities, or in international languages (Article 45 (1)). (For more detailed information, see the 2020 [Report on the non-accepted provisions of the European Social Charter](#))

ECSR interpretation (DIGEST)

States Parties should promote and facilitate the teaching of the languages most represented among the migrants present on their territories within their school systems or in other contexts such as voluntary associations or non-governmental organisations.²⁷³

For a comprehensive assessment of the situation under this provision, the ECSR takes into consideration, in particular, the following detailed information:

- statistics on major migrant groups,²⁷⁴
- whether any measures or projects have been put in place in the framework of the school system or other structures to provide education of migrants' mother tongue,²⁷⁵
- whether the children of migrants have access to multilingual education and on what basis; what steps that government has taken to facilitate the access of migrants' children to these schools,²⁷⁶
- whether any non-governmental organisations or other bodies, such as local associations, cultural centres or private initiatives that teach migrant workers' children the language of their country of origin, and whether they receive support.²⁷⁷

Opinion of the ECSR

In its previous examination the ECSR held that there were no major obstacles to the ratification of Article 19§12 by Romania and invited the state authorities to accept the provision. There is no information suggesting that the situation has changed since the previous examination. The ECSR,

²⁷³ [Conclusions 2002, Italy; Conclusions 2011, Armenia; Conclusions 2011, Statement of Interpretation on Article 19§12](#)

²⁷⁴ [Conclusions 2019, Albania](#)

²⁷⁵ [Conclusions 2019, Albania](#)

²⁷⁶ [Conclusions 2019, Albania](#)

²⁷⁷ [Conclusions 2019, Albania](#)

therefore, reiterates its opinion and again invites the authorities to accept this provision without delay.

Article 22 – The right to take part in the determination and improvement of the working conditions and working environment

With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:

- a) to the determination and the improvement of the working conditions, work organisation and working environment;*
- b) to the protection of health and safety within the undertaking;*
- c) to the organisation of social and socio-cultural services and facilities within the undertaking;*
- d) to the supervision of the observance of regulations on these matters.*

Appendix (Articles 21 and 22):

- 1. For the purpose of the application of these articles, the term “workers” representatives” means persons who are recognised as such under national legislation or practice.*
- 2. The terms “national legislation and practice” embrace as the case may be, in addition to laws and regulations, collective agreements, other agreements between employers and workers’ representatives, customs as well as relevant case law.*
- 3. For the purpose of the application of these articles, the term “undertaking” is understood as referring to a set of tangible and intangible components, with or without legal personality, formed to produce goods or services for financial gain and with power to determine its own market policy.*
- 4. It is understood that religious communities and their institutions may be excluded from the application of these articles, even if these institutions are “undertakings” within the meaning of paragraph 3. Establishments pursuing activities which are inspired by certain ideals or guided by certain moral concepts, ideals and concepts which are protected by national legislation, may be excluded from the application of these articles to such an extent as is necessary to protect the orientation of the undertaking.*
- 5. It is understood that where in a state the rights set out in these articles are exercised in the various establishments of the undertaking, the Party concerned is to be considered as fulfilling the obligations deriving from these provisions.*
- 6. The Parties may exclude from the field of application of these articles, those undertakings employing less than a certain number of workers, to be determined by national legislation or practice.²⁷⁸*

Appendix (Article 22):

- 1. This provision affects neither the powers and obligations of states as regards the adoption of health and safety regulations for workplaces, nor the powers and responsibilities of bodies in charge of monitoring their application.*
- 2. The terms « social and socio-cultural services and facilities » are understood as referring to the social and/or cultural facilities for workers provided by some undertakings such as welfare assistance, sports fields, rooms for nursing mothers, libraries, children’s holiday camps, etc.²⁷⁹*

Situation in Romania

²⁷⁸ [Appendix to the European Social Charter \(Revised\) – European Treaty Series - No. 163](#)

²⁷⁹ [Appendix to the European Social Charter \(Revised\) – European Treaty Series - No. 163](#)

The report submitted by Romania reiterates information on information and consultation already captured in the ECSR's previous report (For more detailed information, see the 2020 [Report on the non-accepted provisions of the European Social Charter](#)).

During the reference period, Romania adopted Law No. 367/2022 on social dialogue, with subsequent amendments and additions. This law stipulates the obligation of collective bargaining in units with more than 10 workers, on any topic of interest to the parties (Article 97).

In line with the new law, employers invite the representative union to participate in the board of directors or another body similar to it, including in the case of public administration, to discuss issues of professional, economic and social interest (Article 30). The same law provides for the possibility for trade unions to offer members socio-cultural services.

Social services and socio-cultural facilities are not mandatory conditions in the framework of employee information and consultation and/or collective bargaining. The law of social dialogue gives unions the right and possibility to organize socio-cultural services, but this is an independent decision in accordance with the union statute and only concerns union members.

Sanctions are provided in case of non-compliance with the legal obligations on information and consultation (Article 9 of Law No. 467/2006) and/or for the violation of trade union rights and/or the refusal to start collective bargaining at unit level [Article 175 of Law No. 367/2022 (1000-25,000 lei) (30,000-50,000, respectively 15,000-20,000 lei)].

According to the report submitted by Romania, complaints can be addressed to the Labor Inspectorate, the National Council for Combating Discrimination and the courts, while amicable ways of resolving individual and collective labour conflicts are also provided (Independent mediation, conciliation of collective conflicts through labour inspectorates, mediation and arbitration).

ECSR interpretation (DIGEST)

The workers' right to take part in the determination and improvement of the working conditions and working environment implies that workers may contribute, to a certain extent, to the employer's decision-making process.²⁸⁰ The great majority of workers (at least 80 %) must be granted a right to participate in the determination and improvement of the working conditions and working environment within the undertaking.²⁸¹ This provision applies to all undertakings, whether private or public.²⁸²

Even though Article 22 may apply to workers in state-owned enterprises, public employees are as a whole not covered by this provision.²⁸³ It follows that the right of police staff to participation in the determination and improvement of their working conditions and working environment does not fall within the scope of application of Article 22 of the revised Charter.²⁸⁴

States Parties may exclude from the scope of this provision those undertakings employing less than a certain number of workers, to be determined by national legislation or practice and tendency undertakings.²⁸⁵

Protection of health and safety

²⁸⁰ [Conclusions 2005, Estonia](#)

²⁸¹ [Conclusions 2007, Italy](#)

²⁸² [Conclusions 2018, Latvia](#)

²⁸³ [European Council of Police Trade Unions \(CESP\) v. Portugal](#), Complaint No. 60/2010, decision on the merits of 17 October 2011, §36

²⁸⁴ [European Council of Police Trade Unions \(CESP\) v. Portugal](#), Complaint No. 60/2010, decision on the merits of 17 October 2011, §36

²⁸⁵ [Conclusions 2018, Latvia](#); see also [Conclusions 2005, Estonia](#)

Workers and/or their representatives (trade unions, worker's delegates, health and safety representatives, works councils) must be granted an effective right to participate in the decision-making process and the supervision of the observance of regulations regarding the protection of health and safety within the undertaking.²⁸⁶

The practical means of informing and consulting employers' and workers' organisations about labour inspectorate activities is examined under Article 22 of the revised Charter.

The organisation of social and socio-cultural services and facilities

The right to take part in the organisation of social and socio-cultural services and facilities only applies in undertakings where such services and facilities are planned or have already been established.²⁸⁷

Article 22 of the Charter does not require that employers offer social and socio-cultural services and facilities to their employees but requires that workers may participate in their organisation, where such services and facilities have been established.²⁸⁸

Enforcement

Workers must have legal remedies when these rights are not respected.²⁸⁹ There must also be sanctions for employers which fail to fulfil their obligations under this Article.²⁹⁰

Opinion of the ECSR

The ECSR recalls that Article 22 of the Charter does not require that employers offer social and socio-cultural services and facilities to their employees, but it requires that workers may participate in their organisation, where such services and facilities have been established.

In light of this, the exclusion of social services and socio-cultural facilities as a mandatory element in the new framework of information and consultation cannot be regarded as compatible with Article 22.

Article 23 – The rights of elderly persons to social protection

With a view to ensuring the effective exercise of the right of elderly persons to social protection, the Parties undertake to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular:

- **to enable elderly persons to remain full members of society for as long as possible, by means of:**
 - a **adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life;**
 - b **provision of information about services and facilities available for elderly persons and their opportunities to make use of them;**
- **to enable elderly persons to choose their life-style freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of:**
 - a. **provision of housing suited to their needs and their state of health or of adequate support for adapting their housing;**
 - b. **the health care and the services necessitated by their state;**

²⁸⁶ [Conclusions 2018, Latvia](#)

²⁸⁷ [Conclusions 2018, Latvia](#)

²⁸⁸ [Conclusions 2018, Latvia; Conclusions 2007, Italy; Conclusions 2007, Armenia](#)

²⁸⁹ [Conclusions 2003, Bulgaria](#)

²⁹⁰ [Conclusions 2003, Bulgaria, Slovenia](#)

- to guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in the institution.

Appendix: For the purpose of the application of this paragraph, the term « for as long as possible » refers to the elderly person's physical, psychological and intellectual capacities.²⁹¹

Situation in Romania

Much of the information regarding the legal framework applicable to the protection of the elderly has been considered in the previous examination of non-accepted provisions and is reflected in the ECSR's previous report. (For more detailed information, see the 2020 [Report on the non-accepted provisions of the European Social Charter](#) and the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

With regard to developments during the reference period, the ECSR notes the adoption of the National Strategy on Long-Term Care and Active Ageing for the period 2023-2030, which aims to provide guidelines and concrete actions to improve care for older people and promote active and healthy ageing in Romania (G.D. No. 1492/2022).

The ECSR also notes the updating of the medical services packages and the adaptation of the service packages (Annex no. 1 to G.D. No. 521/2023, *with subsequent amendments and additions*). It also notes the implementation of the minimum inclusion income programme, in the context of the National Recovery and Resilience Plan and the measures granted for vulnerable customers in the energy system (Law No. 226/2021). (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

In its previous report on non-accepted provisions, the ECSR considered that the situation in practice is of particular importance in order to assess the extent to which the effective exercise of the right of elderly persons to social protection is ensured. The ECSR also invited the Government to ensure that there is a system for monitoring the quality of services provided to the elderly persons and a procedure for complaining about the standard of services or about the treatment and care in institutions.

The report submitted by Romanian authorities does not provide information on these points, nor on the outcomes for the situation in practice of previous measures, like the National Strategy for promoting active aging and elderly protection for the period 2015–2020. (For more detailed information, see the 2020 [Report on the non-accepted provisions of the European Social Charter](#))

ECSR interpretation (DIGEST)

Article 23 of the Charter is the first human rights treaty provision to specifically protect the rights of older persons.²⁹² The measures envisaged by this provision, by their objectives as much as by the means of implementing them, point towards a new and progressive notion of what life should be for older persons, obliging States Parties to devise and carry out coherent actions in the different areas covered.²⁹³

One of the primary objectives of Article 23 is to enable older persons to remain full members of society. The expression “full members” means that older persons must suffer no ostracism on

²⁹¹ [Appendix to the European Social Charter \(Revised\), European Treaty Series - No. 163](#)

²⁹² [Conclusions XIII-3 \(1995\), Statement of Interpretation on Article 4 of the Additional Protocol \(Article 23\)](#)

²⁹³ [Conclusions XIII-3 \(1995\), Statement of Interpretation on Article 4 of the Additional Protocol \(Article 23\)](#)

account of their age.²⁹⁴ The right to take part in society's various fields of activity should be granted to everyone active or retired, living in an institution or not.²⁹⁵

The Covid-19 crisis has exposed examples of a lack of equal treatment of older persons, such as in medical care where rationing of scarce resources (e.g. ventilators) has sometimes been based on stereotyped perceptions of vulnerability and decline in old age.²⁹⁶

Too much space was allowed for implicit judgments about the 'quality of life' or 'worth' of lives of older persons when setting the boundaries for such triage policies.²⁹⁷ Equal treatment calls for an approach based on the equal recognition of the value of older persons' lives.²⁹⁸

Article 23 overlaps with other provisions of the Charter which protect older persons as members of the general population, such as Article 11 (Right to protection of health),²⁹⁹ Article 12 (Right to social security),³⁰⁰ Article 13 (Right to social and medical assistance) and Article 30 (Right to protection against poverty and social exclusion).³⁰¹

Article 23 requires States Parties to make focused and planned provision in accordance with the specific needs of older persons. The focus of Article 23 is on social protection of older persons outside the employment field.³⁰²

Questions of age discrimination in employment are primarily examined under Articles 1§2 (non-discrimination in employment) and 24 (right to protection in cases of termination of employment) of the Charter.³⁰³ Non-discrimination legislation should exist at least in certain domains protecting persons against discrimination on grounds of age.³⁰⁴

Legislative framework

Article 23 requires States Parties to combat age discrimination in a range of areas beyond employment, namely in access to goods, facilities and services.³⁰⁵ Pervasive age discrimination persists in many areas of society throughout Europe, including healthcare, education, services such as insurance and banking products, participation in policy making/civil dialogue, allocation of resources and facilities.³⁰⁶

Therefore, an adequate legal framework is a fundamental measure to combat age discrimination in these areas.³⁰⁷ Article 23 must be fully respected during the Covid-19 crisis.³⁰⁸ Article 23 requires the States Parties to make sure that they have appropriate legislation to, firstly, combat age discrimination outside employment and to, secondly, provide for a procedure of assisted decision making.³⁰⁹

²⁹⁴ [Fellesforbundet for Sjøfolk \(FFFS\) v. Norway](#), Complaint No. 74/2011, decision on the merits of 2 July 2013, §116

²⁹⁵ [Fellesforbundet for Sjøfolk \(FFFS\) v. Norway](#), Complaint No. 74/2011, decision on the merits of 2 July 2013, §116, citing [Conclusions XIII-5, Finland](#)

²⁹⁶ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

²⁹⁷ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

²⁹⁸ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

²⁹⁹ [Statement of Interpretation on the right to protection of health in times of pandemic](#), 20 April 2020

³⁰⁰ [General Introduction to Conclusions 2017](#)

³⁰¹ [Conclusions 2017, Ukraine](#)

³⁰² [Conclusions 2009, Andorra](#)

³⁰³ [Conclusions 2009, Andorra](#)

³⁰⁴ [Fellesforbundet for Sjøfolk \(FFFS\) v. Norway](#), Complaint No. 74/2011, decision on the merits of 2 July 2013, §115

³⁰⁵ [Conclusions 2009, Andorra](#)

³⁰⁶ [Conclusions 2009, Andorra](#)

³⁰⁷ [Conclusions 2009, Andorra](#)

³⁰⁸ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

³⁰⁹ [Conclusions 2017, Andorra](#)

Legislation allowing practices leading to a part of the older population being denied access to informal care allowances or other alternative support constitutes a violation of Article 23.³¹⁰ Older persons at times may have reduced capacity-making powers or no such powers or capacity at all.³¹¹

Therefore, there should be a national legal framework related to assisted decision making for older persons guaranteeing their right to make decisions for themselves.³¹² This means that older persons cannot be assumed to be incapable of making their own decision just because they have a particular medical condition or disability, or lack legal capacity.³¹³

An older person's capacity to make a particular decision should be established in relation to the nature of the decision, its purpose and the state of health of the elderly person at the time of making it.³¹⁴

Older persons may need assistance to express their will and preferences, therefore all possible ways of communicating, including words, pictures and signs, should be used before concluding that they cannot make the particular decision on their own.³¹⁵

In this connection, the national legal framework must provide appropriate safeguards to prevent the arbitrary deprivation of autonomous decision making by older persons, including in instances of reduced decision-making capacity.³¹⁶ It must be ensured that any person acting on behalf of older persons interferes to the least possible degree with their wishes and rights.³¹⁷

Article 23 also requires States Parties to take appropriate measures against the abuse of older persons.³¹⁸ Abuse can take various forms: physical, psychological or emotional, sexual, financial or simply reflect intentional or unintentional neglect.³¹⁹ States Parties must therefore take measures to evaluate the extent of the problem, to raise awareness on the need to eradicate abuse and neglect of older persons, and to adopt legislative or other measures.³²⁰

- to enable elderly persons to remain full members of society for as long as possible, by means of:

a. adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life;

The primary focus of the right to adequate resources is on pensions. Pensions and other state benefits must be sufficient in order to allow older persons to lead a 'decent life' and play an active part in public, social and cultural life.³²¹

However when assessing the adequacy of resources of older persons under Article 23, all social protection measures guaranteed to older persons and aimed at maintaining an income level allowing them to lead a decent life and participate actively in public, social and cultural life are taken into account.³²²

³¹⁰ [Conclusions 2003, France](#)

³¹¹ [Conclusions 2003, France](#)

³¹² [Conclusions 2013, Statement of Interpretation Article 23 – assisted decision-making](#)

³¹³ [Conclusions 2013, Statement of Interpretation Article 23 – assisted decision-making](#)

³¹⁴ [Conclusions 2013, Statement of Interpretation Article 23 – assisted decision-making](#)

³¹⁵ [Conclusions 2013, Statement of Interpretation Article 23 – assisted decision-making](#)

³¹⁶ [Conclusions 2013, Statement of Interpretation Article 23 – assisted decision-making](#)

³¹⁷ [Conclusions 2013, Statement of Interpretation Article 23 – assisted decision-making](#)

³¹⁸ [Conclusions 2009, Andorra](#)

³¹⁹ [Conclusions 2009, Andorra](#)

³²⁰ [Conclusions 2009, Andorra](#)

³²¹ [Conclusions 2013, Statement of Interpretation Article 23 – adequate resources for the elderly](#)

³²² [Conclusions 2013, Statement of Interpretation Article 23 – adequate resources for the elderly](#)

In particular, pensions, contributory or non-contributory, and other complementary cash benefits available to older persons are examined.³²³ These resources are then compared with the median equivalised income.³²⁴ The ECSR also takes into consideration relevant indicators relating to at-risk-of-poverty rates for persons aged 65 and over.³²⁵

b. provision of information about services and facilities available for elderly persons and their opportunities to make use of them;

Although Article 23 only refers to the provision of information about services and facilities, paragraph 1b presupposes the existence of services and facilities.³²⁶ Therefore, it is not only information relating to the provision of information about these services and facilities that is examined but also the services and facilities themselves.³²⁷

In doing so, the ECSR examines the existence, extent and cost of home help services; community-based services; specialised day care provision for persons with dementia and related illnesses; and services such as information, training and respite care for families caring for elderly persons, in particular, highly dependent persons; as well as cultural leisure and educational facilities available to older persons.³²⁸

Furthermore, States Parties must have a system for monitoring the quality of services and a procedure for complaining about the standard of services.³²⁹ Insufficient regulation of fees for service housing and service housing with 24-hour assistance may amount to a violation of Article 23.³³⁰

- to enable elderly persons to choose their lifestyle freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of:

a. provision of housing suited to their needs and their state of health or of adequate support for adapting their housing;

The needs of older persons must be taken into account in national or local housing policies.³³¹ The supply of adequate housing for older persons must be sufficient.³³² Policies should help older persons to remain in their own homes for as long as possible through the provision of sheltered/supported housing and assistance for the adaptation of homes.³³³

The improvement of housing conditions of older persons requires considerable public funding as the average older person usually cannot afford the costs of modernisation of their apartment or purchasing a new apartment of higher standard.³³⁴ Improvement of housing conditions by moving elsewhere is often not a viable option in that it uproots the older person from their “natural” environment.³³⁵

b. the health care and the services necessitated by their state;

³²³ [Conclusions 2013, Statement of Interpretation Article 23 – adequate resources for the elderly](#)

³²⁴ [Conclusions 2013, Statement of Interpretation Article 23 – adequate resources for the elderly](#)

³²⁵ [Conclusions 2013, Statement of Interpretation Article 23 – adequate resources for the elderly](#)

³²⁶ [Conclusions 2003, France](#)

³²⁷ [Conclusions 2003, France](#)

³²⁸ [Conclusions 2003, France](#)

³²⁹ [Conclusions 2009, Andorra](#)

³³⁰ [The Central Association of Carers in Finland v. Finland](#), Complaint No 71/2011, decision on the merits of 4 December 2012, §53

³³¹ [Conclusions 2003, France](#)

³³² [Conclusions 2003, France](#)

³³³ [Conclusions 2013, Andorra; International Federation of Associations of the Elderly \(FIAPA\) v. France](#), Complaint No. 145/2017, decision on the merits of 25 May 2019, §45

³³⁴ [Conclusions 2009, Andorra](#)

³³⁵ [Conclusions 2017, Bosnia and Herzegovina](#)

In the context of the right to adequate health care for older persons Article 23 requires that health care programmes and services (in particular primary health care services including domiciliary nursing/health care services) specifically aimed at the elderly must exist, together with guidelines on healthcare for older persons.³³⁶

In addition, there should be mental health programmes for any psychological problems in respect of older persons, and adequate palliative care services.³³⁷

- to guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in their institution.

The final part of Article 23 deals with the rights of older persons living in institutions. In this context, it provides that the following rights must be guaranteed: the right to appropriate care and adequate services, the right to privacy, the right to personal dignity, the right to participate in decisions concerning the living conditions in the institution, the protection of property, the right to maintain personal contact with persons close to the older person, and the right to complain about treatment and care in institutions.³³⁸

There should be a sufficient supply of institutional facilities for older persons (public or private), care in such institutions should be affordable and assistance must be available to cover the cost. All institutions should be licensed, and subject to an independent inspection body.³³⁹ Older persons of foreign origin in institutional care who unable to communicate in the national language must benefit from measures ensuring that they can express themselves, communicate and be consulted in an appropriate manner.³⁴⁰

Due to the specific Covid-19 related risks and needs in nursing homes, States Parties must urgently allocate sufficient additional financial means towards them, organise and resource necessary personal protective equipment and ensure that nursing homes have at their disposal sufficient additional qualified staff in terms of qualified health and social workers and other staff in order to be able to adequately respond to Covid-19 and to ensure that the above mentioned rights of older people in nursing homes are fully respected.³⁴¹

Older persons and their organisations must be consulted on policies and measures that concern them directly, including on ad hoc measures taken with regard to the current crisis.³⁴² Planning for the recovery after the pandemic must take into account the views and specific needs of older persons and be firmly based on the evidence and experience gathered in the pandemic so far.³⁴³

Issues such as the requirements of staff qualifications, staff training and the wage levels of staff, compulsory placement, social and cultural amenities and the use of physical restraints and sedatives are also examined under this provision.³⁴⁴

Opinion of the ECSR

The ECSR reiterates its previous request for information on the situation in practice. It also reiterates its invitation to Romanian authorities to ensure a system for monitoring the quality of

³³⁶ [Conclusions 2003, France; Conclusions 2017, Ukraine](#)

³³⁷ [Conclusions 2003, France](#)

³³⁸ [Conclusions 2017, Malta; Portugal](#)

³³⁹ [Conclusions 2005, Slovenia; Conclusions XX-2 \(2013\), Czech Republic](#)

³⁴⁰ [Conclusions 2005, Slovenia](#)

³⁴¹ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

³⁴² [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

³⁴³ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

³⁴⁴ [Conclusions 2005, Slovenia; Conclusions 2003, France](#)

services provided to the elderly and a procedure for complaining about the standard of services or about the treatment and care in institutions. In the meantime, it considers that the situation is not entirely compatible with Article 23 of the Charter.

Article 26§1 – The right to dignity at work

With a view to ensuring the effective exercise of the right of all workers to protection of their dignity at work, the Parties undertake:

1. in consultation with employers' and workers' organisations, to promote awareness, information and prevention of sexual harassment in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct.

Appendix: It is understood that this article does not require that legislation be enacted by the Parties.³⁴⁵

Situation in Romania

The ECSR notes from the written information submitted by Romania that protection from sexual harassment is envisaged in various legal sources. Sexual harassment constitutes a criminal offence (Article 223 Criminal Code). In addition, Law No. 202/2002 on equal opportunities and treatment between women and men provides the definition of sexual harassment (Article 11) and prohibits sexual harassment and all forms of gender-based discrimination (Article 6).

Further, G.D. No. 970/2023 'for the approval of the methodology on preventing and combating harassment on the basis of sex', frames intervention measures to prevent and combat moral harassment at work and mainstream the principle of gender equality in public policies. Last, during the reference period, Romania ratified ILO Convention No. 190 on the elimination of violence and harassment in the world of work (Law No. 69/2024). (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

While Romanian authorities inform the ECSR of remedies and the shift of the burden of proof in cases of moral harassment (see Article 26§2), it is unclear whether the same remedies and rules apply to cases of sexual harassment. In addition, written information includes the number of decisions issued by the National Council for Combating Discrimination, but it is unclear whether these include, besides cases of moral harassment, also cases of sexual harassment.

ECSR interpretation (DIGEST)

Sexual harassment is not necessarily a form of discrimination based on gender but always qualifies as a breach of equal treatment manifested mainly by an insistent preferential or retaliatory attitude, directed towards one or more persons, or by an insistent attitude of other nature, which may undermine those persons' dignity or harm their career.³⁴⁶

Irrespective of admitted or perceived grounds, harassment creating a hostile working environment shall be prohibited and repressed in the same way as acts of discrimination, independently from the fact that not all harassment behaviours are acts of discrimination, except when this is explicitly presumed by law.³⁴⁷

The Appendix to Article 26§1 specifies that States Parties have no obligation to enact legislation relating specifically to harassment, provided that the legal framework, as interpreted by the

³⁴⁵ [Appendix to the European Social Charter \(Revised\) - European Treaty Series - No. 163](#)

³⁴⁶ [Conclusions 2003, Bulgaria; Conclusions 2005, Republic of Moldova](#)

³⁴⁷ [Conclusions 2014, Georgia](#)

relevant national authorities ensures an effective protection in law and in practice against harassment in the workplace or in relation to work.³⁴⁸

The effectiveness of legal protection against sexual harassment depends on how the domestic courts interpret the law as it stands.³⁴⁹

Prevention

Article 26§1 requires States Parties to take appropriate preventive measures (information, awareness raising and prevention campaigns in the workplace or in relation to work) against sexual harassment.³⁵⁰ In particular, they should inform workers about the nature of the behaviour in question and the available remedies.³⁵¹

Social partners should be consulted on measures to promote awareness, knowledge and prevention measures vis-à-vis sexual harassment in the workplace.³⁵²

Liability of employers and remedies

There is no need for a State's legislation to make express reference to harassment where that State's law encompasses measures making it possible to afford employees effective protection against the various forms of discrimination.³⁵³

This protection must include the right to appeal to an independent body in the event of harassment, the right to obtain adequate compensation and the right not to be retaliated against for upholding these rights.³⁵⁴

Employers may be held liable towards persons working for them who are not their employees, such as subcontractors, self-employed persons, customers and visitors, and who have suffered sexual harassment committed on their business premises or by employees answerable to them.³⁵⁵

The situation is not in conformity with Article 26§1 of the Charter where it has not been established that, in relation to the employer's responsibility, there are sufficient and effective remedies against sexual harassment in relation to work.³⁵⁶

Burden of proof

Under civil law, effective protection of employees requires a shift in the burden of proof, making it possible for a court to find in favour of the victim on the basis of sufficient *prima facie* evidence and the personal conviction of the judge or judges.³⁵⁷ The situation will not be in conformity with Article 26§1 of the Charter where there is no shift in the burden of proof in sexual harassment cases.³⁵⁸

Damages

³⁴⁸ [Conclusions 2014, Georgia](#)

³⁴⁹ [Conclusions 2007, Slovenia](#)

³⁵⁰ [Conclusions 2018, Lithuania; Conclusions 2005, Republic of Moldova](#)

³⁵¹ [Conclusions 2005, Lithuania; Conclusions 2003, Italy](#)

³⁵² [Conclusions 2018, Ukraine](#)

³⁵³ [Conclusions 2003, Bulgaria; Conclusions 2005, Republic of Moldova](#)

³⁵⁴ [Conclusions 2007, Statement of Interpretation on Article 26§2](#)

³⁵⁵ [Conclusions 2014, Finland](#)

³⁵⁶ [Conclusions 2018, Lithuania; Conclusions 2018, Georgia](#)

³⁵⁷ [Conclusions 2018, Azerbaijan; Conclusions 2014, Azerbaijan](#)

³⁵⁸ [Conclusions 2018, Azerbaijan](#)

Victims of sexual harassment must have effective judicial remedies to seek reparation for pecuniary and non-pecuniary damage.³⁵⁹ These remedies must, in particular, allow for appropriate compensation of a sufficient amount to make good the victim's pecuniary and non-pecuniary damage and act as a deterrent to the employer.³⁶⁰

In addition, the right to reinstatement should be guaranteed to employees who have been unfairly dismissed or have been pressured to resign due to the unfriendly environment determined by the sexual harassment.³⁶¹

A lack of appropriate and effective redress (compensation and reinstatement) in cases of sexual harassment is not in conformity with Article 26§1.³⁶²

³⁵⁹ [Conclusions 2018, Turkey](#); [Conclusions 2005, Republic of Moldova](#)

³⁶⁰ [Conclusions 2018, Turkey](#); [Conclusions 2007, Slovenia](#)

³⁶¹ [Conclusions 2018, Turkey](#); [Conclusions 2003, Bulgaria](#)

³⁶² [Conclusions 2018, Ukraine](#)

Opinion of the ECSR

The ECSR asks the Romanian authorities whether remedies, sanctions and the shift of the burden of proof, that apply in cases of moral harassment, apply also in cases of sexual harassment.

Like in its previous examination of the non-accepted provisions, the ECSR also asks for updated information on the implementation of the legislation, in particular on the case law of the courts and the National Council for Combating Discrimination with regard to sexual harassment in the workplace or in relation to work.

This information is necessary to be able to assess whether the situation is compatible with Article 26§1.

Article 26§2 – The right to dignity at work

With a view to ensuring the effective exercise of the right of all workers to protection of their dignity at work, the Parties undertake:

2. in consultation with employers' and workers' organisations to promote awareness, information and prevention of recurrent reprehensible or distinctly negative and offensive actions directed against individual workers in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct.

Appendix: It is understood that this article does not require that legislation be enacted by the Parties.³⁶³ It is understood that paragraph 2 does not cover sexual harassment.³⁶⁴

Situation in Romania

The ECSR notes that, during the reference period, Romania ratified ILO Convention no. 190 on the elimination of violence and harassment in the world of work (Law No. 69/2024). In 2020, Law No. 167/2020 was adopted, introducing changes to G.O. No. 137/2000 'on the prevention and sanctioning of all forms of discrimination defines harassment'.

Following these amendments, moral harassment in the workplace includes behaviours that lead to the deterioration of working conditions by injuring the rights or dignity of an employee, by affecting their physical or mental health or by compromising their professional future. Behaviours that constitute moral harassment may be expressed in the form hostile or unwanted conduct; verbal comments; actions or gestures. Stress and physical exhaustion fall under the scope of moral harassment at the workplace.

Victims of moral harassment have the right to lodge a complaint before the National Council for Combating Discrimination (NCCD) and before courts. In cases that are heard before courts, the NCCD issues advisory opinions, that are not binding for judges. In response to complaints before NCCD, where an act of discrimination is established, the latter can apply financial sanctions.

Where the perpetrator is an employee, their employer might be sanctioned when failing to fulfil their obligations. NCCD also has the competence to order an employer to stop acts of harassment and to oblige them to pay the amount necessary for psychological counseling, if necessary.

Failure by the employer to comply with the measures ordered also constitutes a contravention and is sanctioned. In cases of remedies exercised before courts, the latter can, among others,

³⁶³ [Appendix to the European Social Charter \(Revised\) - European Treaty Series - No. 163](#)

³⁶⁴ [Appendix to the European Social Charter \(Revised\) - European Treaty Series - No. 163](#)

award compensation in an amount equal to the equivalent of the wages lost as well as compensation for moral damage and financial coverage of fees for counselling.

In addition, courts can order the reinstatement of the employee. Laws also provide for protection from retaliation in case of an employee exercising remedies for moral harassment, as well as for the shift of the burden of proof (art. 2 of the G.O. No. 137/2000). (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

In response to the ECSR's previous question regarding the implementation of legislation in practice, Romanian authorities report that between 2017-2023, NCCD ordered warnings in 48 cases and fines in 55 cases. The report does not specify whether these cases concerned moral harassment or both moral and sexual harassment. On this point, the ECSR reiterates the request for updated information on case law relevant to Article 26§2.

ECSR interpretation (DIGEST)

Article 26§2 of the Charter establishes a right to protection of human dignity against harassment creating a hostile working environment related to a specific characteristic of a person.³⁶⁵ States Parties are required to take all necessary preventive and compensatory measures to protect individual workers against recurrent reprehensible or distinctly negative and offensive actions directed against them at the workplace or in relation to their work, since these acts constitute humiliating behaviour.³⁶⁶

Irrespective of admitted or perceived grounds, harassment creating a hostile working environment characterized by the adoption towards one or more persons of persistent behaviours which may undermine their dignity or harm their career shall be prohibited and repressed in the same way as acts of discrimination.³⁶⁷ Harassment should be prohibited and repressed even when the harassing behaviour does not amount to discrimination.³⁶⁸

The Appendix to Article 26§2 specifies that States Parties have no obligation to enact legislation relating specifically to harassment.³⁶⁹ However, States Parties to the revised Charter having accepted Article 26§2 shall ensure an adequate legal protection of employees against distinctly negative and offensive actions or conduct at work.³⁷⁰

This protection shall include the right to challenge the offensive behaviour before an independent body, the right to obtain adequate compensation and the right not to be discriminated for having pursued the respect of these rights.³⁷¹

Prevention

As far as awareness raising is concerned, the requirements are the same as under Article 26§1.³⁷² Article 26§2 imposes positive obligations on States Parties to take appropriate preventive measures (information, awareness-raising and prevention campaigns in the workplace or in relation to work) in order to combat moral harassment, in particular in situations where

³⁶⁵ [Conclusions 2003, Bulgaria](#)

³⁶⁶ [Conclusions 2003, Bulgaria](#)

³⁶⁷ [Conclusions 2007, Statement of Interpretation on Article 26§2](#)

³⁶⁸ [Conclusions 2007, Statement of Interpretation on Article 26§2](#)

³⁶⁹ [Appendix to the European Social Charter \(Revised\) - European Treaty Series - No. 163](#)

³⁷⁰ [Conclusions 2005, Republic of Moldova](#)

³⁷¹ [Conclusions 2005, Republic of Moldova](#)

³⁷² [Conclusions 2018, Andorra; Conclusions 2003, Slovenia](#)

harassment is likely to occur.³⁷³ In particular, they should inform workers about the nature of the behaviour in question and the available remedies.³⁷⁴

Specific measures to raise awareness about harassment in the workplace may include public education programmes, campaigns, cooperation with NGO's and employers' organisations, provision of online sources of information on harassment, etc.³⁷⁵ A failure to take any preventative action, training or awareness-raising in such situations may amount to a violation of Article 26§2.³⁷⁶

Liability of employers and remedies

It must be possible for employers to be held liable in case of harassment involving employees under their responsibility, or on premises under their responsibility, when a person not employed by them (independent contractor, self-employed worker, visitor, client, etc.) is the victim or the perpetrator.³⁷⁷

The situation is not in conformity with Article 26§2 of the Charter where employers cannot be held liable in case of harassment involving employees under their responsibility, or on premises under their responsibility, when a person not employed by them is the victim or the perpetrator.³⁷⁸

Burden of proof

Under civil law, effective protection of employees requires a shift in the burden of proof, making it possible for a court to find in favour of the victim on the basis of sufficient *prima facie* evidence and the personal conviction of the judge or judges.³⁷⁹

Damages

Under Article 26§2, victims of harassment must have effective judicial remedies to seek reparation for pecuniary and non-pecuniary damage.³⁸⁰ These remedies must, in particular, allow for appropriate compensation of a sufficient amount to make good the victim's pecuniary and non-pecuniary damage and act as a deterrent to the employer.³⁸¹

In addition, the persons concerned must have a right to be reinstated in their post when they have been unfairly dismissed or pressured to resign for reasons linked to moral harassment.³⁸²

Opinion of the ECSR

In its previous examination, the ECSR considered that Romania could consider accepting Article 26§2, subject to further and updated information of the implementation of legislation in practice and case law.

The ECSR reiterates its request for updated information on the practical application of the legal framework, as well as relevant case law, where relevant information provided addressed clearly and separately moral and sexual harassment. In the meantime, it defers its assessment.

³⁷³ [Conclusions 2014, Azerbaijan; Conclusions 2005, Republic of Moldova](#)

³⁷⁴ [Conclusions 2005, Republic of Moldova 2289](#)

[Conclusions 2018, Serbia](#)

³⁷⁵ [Conclusions 2018, Serbia](#)

³⁷⁶ [Confederazione Generale Italiana del Lavoro \(CGIL\) v. Italy](#), Complaint No 91/2013, decision on the merits of 12 October 2015, §295

³⁷⁷ [Conclusions 2014, Finland](#)

³⁷⁸ [Conclusions 2014, Finland](#)

³⁷⁹ [Conclusions 2007, Statement of Interpretation on Article 26§2](#)

³⁸⁰ [Conclusions 2014, Azerbaijan](#)

³⁸¹ [Conclusions 2014, Azerbaijan](#)

³⁸² [Conclusions 2014, Azerbaijan](#)

Article 27§1 – The right of workers with family responsibilities to equal opportunities and equal treatment

With a view to ensuring the exercise of the right to equality of opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake:

1 to take appropriate measures:

- a. to enable workers with family responsibilities to enter and remain in employment, as well as to reenter employment after an absence due to those responsibilities, including measures in the field of vocational guidance and training;***
- b. to take account of their needs in terms of conditions of employment and social security;***
- c. to develop or promote services, public or private, in particular child daycare services and other childcare arrangements.***

Situation in Romania

The report provides written information on the framework regulating parental leave and other measures of protection for employees with family responsibilities. Information on parental leave is assessed under Article 27§2, that Romania has accepted. The ECSR, therefore, will only consider information on other types of protection of workers with family responsibilities that fall under the ambit of Article 27§1.

According to the Labor Code (Law No. 53/2003), employees have the right to request the suspension of individual labour contracts in order to benefit from parental leave, following maternity or paternity leave. During parental leave to care for a child under 2 years old (or 3 years old for children with disabilities), parents are entitled to a child raising benefit, paid from the state budget.

After parental leave, they are entitled to return to work and to receive a monthly insertion incentive (back to work bonus) which can be accumulated with their wage. Employees who are entitled to receive the child raising benefit, but still work, earning professional incomes subject to income taxation, are also entitled to receive a monthly incentive insertion, under criteria and for a duration further specified in law.

Further, during parental leave and while their employment contract is suspended, parents who benefit from the child raising benefit are allowed to gain incomes from work, however, with a ceiling. (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

During parental leave, parents are insured in the social health insurance system, without paying contributions. The period of parental leave is assimilated to the contribution period in order to establish: the social health insurance allowances; pension rights in the public system; the rights within the unemployment insurance system; seniority in work. In addition, parents resuming employment after parental leave can benefit from free vocational training or professional reintegration programs.

During the reference period, Romania adopted Law No. 283/2022 ‘for the amendment and completion of the Labour Code and G.E.O. No. 57/2019 regarding the Administrative Code’. This law introduced carer’s leave and the right to absence from the workplace in unforeseen situations.

Leave for care is provided in case the employee needs to provide care or personal support to a relative or to a person who lives in the same household as the employee and who needs care or support as a result of a serious medical problem. Leave for care can be granted for 5 days per calendar year, but a longer duration can be established through collective agreement or by special laws.

Leave for unforeseen situations is granted in case of a family emergency caused by illness or accident, which makes indispensable the immediate presence of the employee. However, the employee must recover the period of absence (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#)).

The report provides no information concerning Article 27§1(c). The ECSR notes from its Conclusions 2023, that the situation in Romania regarding childcare facilities had been found to not be in conformity with the Charter, due to the failure of Romanian authorities to provide requested information on the adequacy between childcare demand and offer, also in terms of geographical coverage and ratio of staff to children.³⁸³

ECSR interpretation (DIGEST)

a. to enable workers with family responsibilities to enter and remain in employment, as well as to re- enter employment after an absence due to those responsibilities, including measures in the field of vocational guidance and training;

Under Article 27§1a of the Charter, States Parties should provide people with family responsibilities with equal opportunities in respect of entering, remaining and re-entering employment since these persons may face difficulties on the labour market due to their family responsibilities.³⁸⁴

Therefore, measures need to be taken by States Parties to ensure that workers with family responsibilities are not discriminated against due to these responsibilities and to assist them to remain, enter and re-enter the labour market, in particular by means of vocational guidance, training and re-training.³⁸⁵

However, when the quality of standard employment services available to everyone is adequate, there is no need to provide extra services for people with family responsibilities.³⁸⁶

b. to take account of their needs in terms of conditions of employment and social security;

The aim of Article 27§1b is to take into account the needs of workers with family responsibilities in terms of conditions of employment and social security.³⁸⁷

Measures need to be taken concerning the length and organisation of working time.³⁸⁸ Furthermore, workers with family responsibilities should be allowed to work part-time or to return to full-time employment.³⁸⁹ These measures should apply equally to men and women.³⁹⁰

³⁸³ [Conclusions 2023, Romania, Article 16](#)

³⁸⁴ [Conclusions 2005, Sweden](#)

³⁸⁵ [Conclusions 2005, Estonia](#)

³⁸⁶ [Conclusions 2003, Sweden](#)

³⁸⁷ [Conclusions 2005, Statement of Interpretation on Article 27§1b](#); see e.g. [Conclusions 2005, Estonia](#)

³⁸⁸ [Conclusions 2005, Statement of Interpretation on Article 27§1b](#); see e.g. [Conclusions 2005, Estonia](#)

³⁸⁹ [Conclusions 2005, Estonia](#)

³⁹⁰ [Conclusions 2005, Lithuania](#)

The type of measures to be taken cannot be defined unilaterally by the employer but should be provided by a binding text (legislation or collective agreement).³⁹¹

Periods of unemployment due to family responsibilities should be taken into account in the calculation of pension schemes or in the determination of pension rights.³⁹²

c. to develop or promote services, public or private, in particular child day care services and other childcare arrangements.

The aim of Article 27§1c is to develop or promote services, in particular child day care services and other childcare arrangements, that are available and accessible to workers with family responsibilities.³⁹³ Preschool education should be free of charge and, if it is not, measures must be taken to make it financially accessible for vulnerable families.³⁹⁴

Where a State has accepted Article 16, childcare arrangements are dealt with under that provision.³⁹⁵

In any event, under Article 27§1 parents should be allowed to reduce or cease work because of the serious illness of a child.³⁹⁶

Opinion of the ECSR

The ECSR recalls that where a State has accepted Article 16, childcare arrangements are dealt with under that provision. In that sense, it does not assess in detail the efficiency and effectiveness of childcare services under the examination of Article 27§1. At the same time, however, a finding of non-conformity with Article 16, would be inconsistent with a positive assessment under Article 27§1, due to their overlapping content.

The ECSR also notes that the finding of non-conformity with Article 16 was based on the failure of Romanian authorities to fulfil their reporting obligations, in particular to provide information previously requested by the ECSR. However, this means that the ECSR is unable to consider that the situation is compatible with Article 27§1.

Article 27§3 – The right of workers with family responsibilities to equal opportunities and equal treatment

With a view to ensuring the exercise of the right to equality of opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake:

3 to ensure that family responsibilities shall not, as such, constitute a valid reason for termination of employment.

Situation in Romania

Termination of employment cannot take place while: the employee is pregnant or on maternity leave; the employee is on leave to raise children aged up to 2 years, respectively 3 years in the case of a child with disabilities; the employee is on paternity leave; the employee is on carer's leave to take care of a child (Article 60 Labour Code).

³⁹¹ [Conclusions 2019, Belgium](#)

³⁹² [Conclusions 2003, Sweden](#)

³⁹³ [Conclusions 2005, Statement of Interpretation on Article 27§1c; see e.g. Conclusions 2005, Estonia](#)

³⁹⁴ [Conclusions 2019, Armenia](#)

³⁹⁵ [Conclusions 2003, Italy](#)

³⁹⁶ [Conclusions 2003, Italy](#)

In case of unlawful dismissal, a court may cancel the termination of employment and order compensation and, upon the employee's request, reinstatement of the worker. The amount of compensation is equal to the indexed, increased and updated wages and to the other rights the employee would have otherwise benefited from. (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

ECSR interpretation (DIGEST)

Family responsibilities must not constitute a valid ground for termination of employment. In this context, the notion of "family responsibilities" is to be understood as obligations in relation to dependent children as well as other members of the immediate family who need care and support (for instance elderly parents).³⁹⁷ The purpose of Article 27§3 is to prevent these obligations from restricting preparation for and access to working life, exercise of an occupation and career advancement for works with family responsibilities.³⁹⁸

Workers dismissed on such illegal grounds must be afforded the same level of protection as that afforded in other cases of discriminatory dismissal under Article 1§2 of the Charter. In particular, courts or other competent bodies should be able to order reinstatement of an employee unlawfully dismissed and/or to award a level of compensation that is sufficient both to deter the employer and proportionate the damage suffered by the victim.³⁹⁹

Any ceiling on compensation that may preclude damages from being commensurate with the loss suffered and sufficiently dissuasive are proscribed.⁴⁰⁰ If there is a ceiling on compensation for pecuniary damage, the victim must be able to seek unlimited compensation for non-pecuniary damage through other legal avenues (e.g. anti-discrimination legislation), and the courts competent for awarding compensation for pecuniary and non-pecuniary damage must decide within a reasonable time.⁴⁰¹

Opinion of the ECSR

In the previous examination in 2019, the ECSR considered that in the light of its case law and the law and practice in Romania, there were no obstacles to the immediate acceptance of this provision. Nevertheless, the ECSR asks Romanian authorities to provide updated information on whether protection from dismissal during leave for care also covers situations where care is given to other members of the family, in light also of the recently introduced carer's leave. In the meantime, it reiterates its previous opinion and considers that Romania could consider accepting Article 27§3.

Article 30 – The right to protection against poverty and social exclusion

With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake:

- a. to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance;***
- b. to review these measures with a view to their adaptation if necessary.***

Situation in Romania

³⁹⁷ Conclusions 2003, Statement of Interpretation on Article 27§3; see e.g. [Conclusions 2003, Bulgaria](#)

³⁹⁸ Conclusions 2003, Statement of Interpretation on Article 27§3; see e.g. Conclusions 2003, Bulgaria.

³⁹⁹ [Conclusions 2007, Finland](#)

⁴⁰⁰ [Conclusions 2011, Statement of Interpretation on Articles 8§2 and 27§3](#)

⁴⁰¹ [Conclusions 2011, Statement of Interpretation on Articles 8§2 and 27§3](#), see also [Confederazione Generale Italiana del Lavoro \(CGIL\) v. Italy](#), Complaint No.158/2017, decision on the merits of 11 September 2019, §96

Much of the information regarding the legal framework applicable to the protection from poverty and social exclusion has been considered in the previous examination of non-accepted provisions and is reflected in the ECSR's previous report. (For more detailed information, see the [2020 Report on the non-accepted provisions of the European Social Charter](#) and the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

The ECSR notes that, during the reference period, Romanian authorities have adopted a series of measures relevant to the application of Article 30 of the Charter. In this regard, the ECSR notes the adoption of the National Strategy for Social Inclusion and Poverty Reduction 2021-2027, the Operational Programme Inclusion, the Social Dignity 2021-2027 and the National Local Development Programme 2021-2027.

In addition, it notes the implementation of the minimum inclusion income (MII) programme in 2024 (Law No. 196/2016), the measures granted for vulnerable customers in the energy system in response to the energy crisis (Law No. 226/2021) and emergency aids, granted to families and people in need, as a result of natural disasters, fires, accidents or any other special situations which may lead to the risk of social exclusion.

Further, the ECSR notes the adoption of the pilot programme for school meals (National Programme "Healthy Meal"), the adoption of Law Nos. 198/2023 and 199/2023 guaranteeing free local public transport services to students and a 90% discount on transport to doctoral students, as well as the expansion of subsidies for computer purchasing by students (Euro 200 programme) and the increase in the value of school scholarships for the school year 2023-2024 (Article 108 of Law No. 198/2023).

Romanian authorities report that programmes currently implemented are financed from the state budget and EU funding. Periodic review of the social assistance benefits legislation and its modification takes place when necessary, taking into account the provisions of the Government Programme and the changes proposed and approved by the Romanian Parliament. However, the report provides no information on the level of resources, including any increase in the resources, that have been allocated for the purposes of protection from poverty and social exclusion.

Finally, Romanian authorities report that, in order to monitor progress and evaluate the effectiveness of measures, Romania has adopted monitoring and evaluation mechanisms involving relevant actors, including civil society and people affected by poverty and exclusion. These mechanisms allow the government to identify areas for improvement and adjust policies and measures accordingly.

However, the report provides no further information on specific indicators and reliable data and statistics, nor on poverty levels. (For more detailed information, see the [2024 Report on Application of Non-ratified Articles of the Revised European Social Charter](#) provided by Romania)

In its previous examination of non-accepted provisions, the ECSR considered the high share of population living at risk of poverty or social exclusion in Romania (32.5% in 2018 by Eurostat) and stressed its case law whereby the measures taken and resources allocated to attain the objectives of relevant strategies shall correspond to the nature and extent of poverty and social exclusion in the country (For more detailed information, see the [2020 Report on the non-accepted provisions of the European Social Charter](#)).

The information submitted by Romanian authorities does not show progress made in this regard. According to Eurostat data, the share of population living at risk of poverty or social exclusion has not been reduced during the reference period (32% in 2023).⁴⁰²

ECSR interpretation (DIGEST)

⁴⁰² Eurostat, [Persons at risk of poverty or social exclusion by age and sex](#)

Living in a situation of poverty and social exclusion violates the dignity of human beings.⁴⁰³

Personal scope

States Parties are not obliged to apply to migrants in an irregular situation the range of economic, social and cultural measures that are to be taken in order to secure the right to protection against poverty and social exclusion.⁴⁰⁴

The co-ordinated approach required by Article 30 involves the adoption of positive measures, most of which cannot be regarded as being applicable to groups not covered by the personal scope of the Charter. Article 30 is thus not applicable with regard to migrants in an irregular situation.⁴⁰⁵ Nor does it apply to unlawfully present foreign minors.⁴⁰⁶

An overall and coordinated approach

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,⁴⁰⁷ a set of priorities and corresponding measures to prevent and remove obstacles to access to social rights, in particular employment, housing, training, education, culture and social and medical assistance.⁴⁰⁸

It must link and integrate public policies in a consistent way, embedding the fight against poverty and social exclusion in all strands of policy and moving beyond a purely sectoral or target group approach.⁴⁰⁹ Effective coordination mechanisms should exist at all levels, including at the level of delivery of assistance and services to the end users.⁴¹⁰

Adequate resources must be made available for the implementation of the measures taken in the context of the overall and coordinated approach under Article 30.⁴¹¹ In many instances, a significant and enduring expansionary fiscal policy effort by the States Parties will be necessary to prevent an increase in poverty and social exclusion.⁴¹²

Adequate resources are one of the main elements of the overall strategy to fight social exclusion and poverty, and should consequently be allocated to attain the objectives of the strategy.⁴¹³ The measures should be adequate in their quality and quantity to the nature and extent of poverty and social exclusion in the country concerned.⁴¹⁴ As long as poverty and social exclusion persist they should also represent an increase in the resources deployed to realise social rights.⁴¹⁵

i. Measures to prevent and remove obstacles to access fundamental social rights

⁴⁰³ Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#)

⁴⁰⁴ [European Federation of National Organisations working with the Homeless \(FEANTSA\) v. the Netherlands](#), Complaint No. 86/2012, decision on the merits of 2 July 2014, para. 211, citing [DCI v. Belgium](#), Complaint No. 69/2011, decision on the merits of 23 October 2012, §§ 145-147

⁴⁰⁵ [European Federation of National Organisations working with the Homeless \(FEANTSA\) v. the Netherlands](#), Complaint No. 86/2012, decision on the merits of 2 July 2014, para. 211, citing [DCI v. Belgium](#), Complaint No. 69/2011, decision on the merits of 23 October 2012, §§ 145-147

⁴⁰⁶ [Defence for Children International \(DCI\) v. Belgium](#), Complaint No. 69/2011, decision on the merits of 23 October 2012, §145

⁴⁰⁷ Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#)

⁴⁰⁸ [Conclusions 2013, Statement of interpretation on Article 30](#)

⁴⁰⁹ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁴¹⁰ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁴¹¹ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁴¹² [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁴¹³ [Conclusions 2005, Slovenia](#)

⁴¹⁴ Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#)

⁴¹⁵ Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#)

The measures should strengthen access to social rights, their monitoring and enforcement, improve the procedures and management of benefits and services, improve information about social rights and related benefits and services, combat psychological and socio-cultural obstacles to accessing rights and where necessary specifically target the most vulnerable groups and regions.⁴¹⁶

ii. monitoring mechanisms involving all relevant actors

States Parties must also adopt monitoring mechanisms involving all relevant actors, including civil society and persons affected by poverty and exclusion.⁴¹⁷

Further, States' failure to collect reliable data and statistics in respect of groups generally acknowledged to be socially excluded or disadvantaged, including highly dependent adults with disabilities deprived of access to care and accommodation centres, prevents an "overall and co-ordinated approach" to the social protection of these persons and constitutes an obstacle to the development of targeted policies concerning them.⁴¹⁸

Assessing the effectiveness of policies

When assessing compliance with the Charter, definitions of poverty and social exclusion and measuring methodologies applied at the national level and the main data made available are *systematically* reviewed.⁴¹⁹

The ECSR also takes into account a set of indicators in order to assess in a more precise way the effectiveness of policies, measures and actions undertaken by States Parties within the framework of this overall and co-ordinated approach.⁴²⁰ In doing so, it has made clear that its consideration of state practice in terms of Article 30 reflects an understanding of both income and multi-dimensional understandings of poverty.⁴²¹

i. Resources

One of the key indicators in this respect is the level of resources (including any increase in this level) that have been allocated to attain the objectives of the strategy,⁴²² in so far as "adequate resources are an essential element to enable people to become self-sufficient".⁴²³

ii. Relative poverty rate

In addition, the main indicator used to measure poverty is the relative poverty rate (this corresponds to the percentage of people living under the poverty threshold, which is set at 60% of the equivalised median income).⁴²⁴

iii. At-risk-of-poverty-rate

Furthermore, the at-risk-of-poverty rate before and after social transfers (Eurostat) is also used as a comparative value to assess national situations.

⁴¹⁶ Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#)

⁴¹⁷ Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#)

⁴¹⁸ [International Federation of Human Rights \(FIDH\) v. Belgium](#), Complaint No. 75/2011, decision of 18 March 2013, §§ 193, 197

⁴¹⁹ Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#)

⁴²⁰ Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#); [Conclusions 2013, Statement of interpretation on Article 30](#)

⁴²¹ See, e.g., the Committee description of 'the multidimensional poverty and exclusion phenomena' in its [Conclusions 2005, Norway](#) and [Conclusions 2007, Belgium](#)

⁴²² Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#)

⁴²³ Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#)

⁴²⁴ [Conclusions 2013, Statement of interpretation on Article 30](#)

These resource-related and income-based indicators are employed without prejudice to the use of other suitable parameters that are taken into account by national anti-poverty strategies or plans (e.g. indicators relating to the fight against the ‘feminization’ of poverty, the multidimensional phenomena of poverty and social exclusion, the extent of ‘inherited’ poverty, etc.).⁴²⁵

The absence of decisive progress in combating poverty and social exclusion in a context of economic growth is a ground for non-conformity under Article 30.⁴²⁶

Poverty and social exclusion in times of crisis

Concerning the repercussions of the economic crisis on social rights, the ECSR held that, by acceding to the Charter, the Parties have accepted to pursue by all appropriate means, the attainment of conditions in which inter alia the right to health, the right to social security, the right to social and medical assistance and the right to benefit from social welfare services may be effectively realised.⁴²⁷

Accordingly, it has concluded that “the economic crisis should not have as a consequence the reduction of the protection of the rights recognised by the Charter. Hence, the governments are bound to take all necessary steps to ensure that the rights of the Charter are effectively guaranteed at a period of time when beneficiaries need the protection most”.⁴²⁸

The human rights approach of poverty has been reaffirmed by the Guiding Principles on extreme poverty and human rights (submitted by the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona and adopted by the United Nations Human Rights Council on 27 September 2012) and which the ECSR takes into consideration.⁴²⁹

Social exclusion

In particular, the ECSR has interpreted the scope of Article 30 as relating both to protection against poverty (understood as involving situations of social precarity) and protection against social exclusion (understood as involving obstacles to inclusion and citizen participation), in an autonomous manner or in combination with other connecting provisions of the Charter.⁴³⁰

Concerning social exclusion, States have the positive obligation to encourage citizen participation in order to overcome obstacles deriving from the lack of representation of minorities in the general culture, media or the different levels of government, so that these groups perceive that there are real incentives or opportunities for engagement to counter the lack of representation.⁴³¹

Further, the reference to the social rights enshrined in Article 30 should not be understood too narrowly. In fact, the fight against social exclusion is one area where the notion of the indivisibility of fundamental rights takes on a special importance.⁴³²

In this regard, the right to vote, as with other rights relating to civic and citizen participation, constitutes a necessary dimension in social integration and inclusion and is thus covered by

⁴²⁵ [Conclusions 2013, Statement of interpretation on Article 30](#)

⁴²⁶ See, e.g., [Conclusions 2017, Ireland](#)

⁴²⁷ [General Introduction to Conclusions XIX-2 \(2009\)](#)

⁴²⁸ [General Introduction to Conclusions XIX-2 \(2009\)](#)

⁴²⁹ [Defence for Children International \(DCI\) v. Belgium](#), Complaint No. 69/2011, decision on the merits of 23 October 2013, §81; [Conclusions 2013, Statement of interpretation on Article 30](#) 2406 [Conclusions 2013, Statement of interpretation on Article 30](#)

⁴³⁰ [Conclusions 2013, Statement of interpretation on Article 30](#)

⁴³¹ [Conclusions 2013, Statement of interpretation on Article 30](#) citing [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §107

⁴³² [Conclusions 2013, Statement of interpretation on Article 30](#)

Article 30.⁴³³ Therefore, States must also facilitate access to identification documents that are fundamental to obtaining residency and citizenship in order to exercise civil and political participation.⁴³⁴

These two dimensions of Article 30, poverty and social exclusion, constitute an expression of the principle of indivisibility which is also contained in other provisions of the Charter (for example, enjoyment of social assistance without suffering from a diminution of political or social rights, Article 13).⁴³⁵

The relationship between Article 30 and other Charter rights

The ECSR has emphasized the very close link between the effectiveness of the right recognized by Article 30 of the Charter and the enjoyment of the rights recognized 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), 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.⁴³⁶

Consequently, together with the indicators mentioned above, when assessing state compliance with Article 30, the ECSR also takes into consideration the national measures or practices which fall within the scope of other substantive provisions of the Charter in the framework of both monitoring systems (the reporting procedure and the collective complaint procedure).⁴³⁷

This approach does not mean that a conclusion of non-conformity or a decision of violation of one or several of these provisions automatically or necessarily lead to a violation of Article 30; but such a conclusion or decision may, depending on the circumstances, be relevant in assessing conformity with Article 30.⁴³⁸

Opinion of the ECSR

The ECSR welcomes the measures adopted by Romanian authorities with the aim of reducing poverty and social exclusion. However, based on the persistent high levels of the population living at risk of poverty and social exclusion, in combination with the fact that it has not been established that specific indicators and reliable data and statistics are collected and applied, nor that levels of resources allocated are adequate, the ECSR considers that the situation is not entirely compatible with Article 30 of the Charter.

Article 31§1 – The right to housing

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

1 to promote access to housing of an adequate standard;

⁴³³ [Conclusions 2013, Statement of interpretation on Article 30](#) citing [European Roma Rights Centre \(ERRC\) v. France](#), Complaint No. 51/2008, decision on the merits of 19 October 2009, §99

⁴³⁴ [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 103 and 108

⁴³⁵ [Conclusions 2013, Statement of interpretation on Article 30](#)

⁴³⁶ [Conclusions 2013, Statement of interpretation on Article 30](#)

⁴³⁷ [Conclusions 2013, Statement of interpretation on Article 30](#)

⁴³⁸ [Conclusions 2013, Statement of interpretation on Article 30](#), citing [EUROCEF v. France](#), Complaint No. 82/2012, decision on the merits of 19 March 2013, §59

Situation in Romania

Housing Law No. 114/1996, with subsequent amendments, provides the general legal framework for housing, including the standards that housing must meet. Under the same law, social houses are defined as houses that are assigned with subsidized rent to individuals or families, whose economic situation does not allow them to access the housing market.

Amendments to the housing law were introduced in 2023, with the aim to instill principles in the allocation of social housing, like transparency, prevention of poverty, social exclusion and segregation, and non-discrimination (G.D. No. 388/2023).

Social criteria considered in the allocation of social housing by local administration include: the living conditions of the applicants; the number of children and other persons who live together with the applicants; the state of health of the applicants or some members of their families; whether applicants belong to a vulnerable group. (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

The ECSR notes from the information submitted by Romanian authorities that they are currently implementing the National Housing Strategy for the period 2022—2050 (G.D. No. 842/2022). This strategy provides the institutional, regulatory and financing framework to support inclusive housing and improve access to adequate, safe, sustainable and affordable housing and living conditions for all.

One of the pillars of the National Housing Strategy includes specific objectives and lines of action to improve access to affordable housing and quality public services. Romanian authorities refer to the measures promoted under this strategy. In addition, the National Strategy regarding Social Inclusion and Poverty Reduction for the period 2022-2027 focuses on social housing and improving accessibility and quality of the existing housing stock, with the aim to address both the risks of homelessness and housing exclusion.

This strategy includes measures to address the needs of migrants and promote their social inclusion, such as insuring shelter (G.D. No. 440/2022). (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

The written information further refers to the legal framework on informal settlements (Law No. 151/2019 on informal settlements and art. 381 of the Norms to Law no. 350/2001 on urban and territorial planning, with subsequent amendments and additions).

The ECSR notes from its 2023 Conclusion on Article 16 for Romania, that the situation was found not to be in conformity with the Charter, inter alia on the basis of failure to establish conformity through adequate information:

- on figures on the availability of social housing units (number of applicants for social housing and number of beneficiaries of social housing) in cities with high poverty rates;
- other types of housing benefits (than heating allowances during the cold months for low-income families) available to vulnerable or low-income families with no access to social housing;
- up-to-date figures on the adequacy of housing (water, heating, sanitary facilities, electricity, living size of dwelling/overcrowding).⁴³⁹

ECSR interpretation (DIGEST)

⁴³⁹ Conclusions 2023 - Romania - Article 16

Personal scope

Refugees come under the personal scope of Article 31 and should be treated as favourably as possible and, in any event, not less favourably than the treatment accorded to aliens generally in the same circumstances.⁴⁴⁰

States are not obliged to provide alternative accommodation in the form of permanent housing within the meaning of Article 31§1 for migrants in an irregular situation. However, Article 31§2 applies to migrants in an irregular situation.⁴⁴¹ The right to shelter should be guaranteed to persons present in an irregular manner, including children, for as long as they are within the jurisdiction of the State.⁴⁴²

Material scope

The ECSR has previously stated that Article 31 cannot be interpreted as imposing on States Parties an obligation of “results”,⁴⁴³ rather it concerns an “obligation of means” (namely, the taking of suitable measures).⁴⁴⁴

The rights recognised in the Social Charter must take a practical and effective, rather than purely theoretical, form.⁴⁴⁵ This implies that, for the situation to be in conformity with Article 31, States Parties must:

- a) adopt the necessary legal, financial and operational means of ensuring steady progress towards achieving the goals laid down by the Charter;⁴⁴⁶
- b) maintain meaningful statistics on needs, resources and results;⁴⁴⁷
- c) undertake regular reviews of the impact of the strategies adopted;⁴⁴⁸
- d) establish a timetable and not defer indefinitely the deadline for achieving the objectives of each stage;⁴⁴⁹
- e) pay close attention to the impact of the policies adopted on each of the categories of persons concerned, particularly the most vulnerable.⁴⁵⁰

⁴⁴⁰ [Conclusions 2015, Statement on Interpretation on the Rights of Refugees](#)

⁴⁴¹ [European Federation of National Organisations working with the Homeless \(FEANTSA\) v. the Netherlands](#), Complaint No. 86/2012, decision on the merits of 2 July 2014, §61

⁴⁴² [European Federation of National Organisations working with the Homeless \(FEANTSA\) v. the Netherlands](#), Complaint No. 86/2012, decision on the merits of 2 July 2014, §61

⁴⁴³ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 58-60; [European Federation of National Organisations Working with the Homeless \(FEANTSA\) v. France](#), Complaint No 39/2006, decision on the merits of 5 December 2007 §§ 52-53; [Médecins du Monde - International v. France](#), Complaint No. 67/2011, decision on the merits 11 September 2012, §55 citing [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §59

⁴⁴⁴ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007 §58; [European Federation of National Organisations Working with the Homeless \(FEANTSA\) v. France](#), Complaint No 39/2006, decision on the merits of 5 December 2007 §52

⁴⁴⁵ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §59; [European Federation of National Organisations Working with the Homeless \(FEANTSA\) v. France](#), Complaint No 39/2006, decision on the merits of 5 December 2007 §53; [Médecins du Monde - International v. France](#), Complaint No. 67/2011, decision on the merits 11 September 2012, §55 citing [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §59

⁴⁴⁶ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 58-60

⁴⁴⁷ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 58-60

⁴⁴⁸ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 58-60

⁴⁴⁹ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 58-60

⁴⁵⁰ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 58-60

As concerns the means of ensuring steady progress towards achieving the goals laid down by the Charter, implementation of the Charter requires States Parties not merely to take legal action but also to make available the resources and introduce the operational procedures necessary to give full effect to the rights specified therein.⁴⁵¹

When one of the rights in question is exceptionally complex and particularly expensive to implement, States Parties must take steps to achieve the objectives of the Charter within a reasonable time, with measurable progress and making maximum use of available resources.⁴⁵²

The requirement to maintain statistics is particularly important in the case of the right to housing because of the range of policy responses involved, the interaction between them and the unwanted side-effects that may occur as a result of this complexity.⁴⁵³ However statistics are only useful if resources made available and results achieved or progress made can be compared with identified needs.⁴⁵⁴

The authorities must also pay particular attention to the impact of their housing policy choices on the most vulnerable groups, in this case individuals and families suffering exclusion and poverty.⁴⁵⁵

Article 31 must be considered in the light of relevant international instruments that served as inspiration for its authors or in conjunction with which it needs to be applied: the European Convention on Human Rights and the United Nations Covenant on Economic, Social and Cultural Rights.⁴⁵⁶

The fact that the right to housing is stipulated under Article 31 of the Charter does not preclude a consideration of relevant housing issues arising under Article 16, which addresses housing in the context of securing the right of families to social, legal and economic protection.⁴⁵⁷ The notions of adequate housing and forced eviction are identical under Articles 16 and 31.⁴⁵⁸

Under Article 31§1 of the Charter, States Parties shall guarantee to everyone the right to housing and shall promote access to adequate housing.⁴⁵⁹ States must take the legal and practical measures which are necessary and adequate for the effective protection of the right in question.⁴⁶⁰

⁴⁵¹ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §61

⁴⁵² [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §62; [European Roma and Travellers Forum \(ERTF\) v. France](#), Complaint No. 64/2011, decision on the merits of 24 January 2012, §96

⁴⁵³ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §63

⁴⁵⁴ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §63

⁴⁵⁵ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §67, citing [International Association Autism Europe v. France](#), Complaint No. 13/2002, decision on the merits of 4 November 2003,

§53; [European Roma and Travellers Forum \(ERTF\) v. France](#), Complaint No. 64/2011, decision on the merits of 24 January 2012, §96

⁴⁵⁶ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 68-71

⁴⁵⁷ [European Roma Rights Center \(ERRC\) v. Bulgaria](#), Complaint No. 31/2005, decision on admissibility of 10 October 2005, §9

⁴⁵⁸ [European Roma Rights Center \(ERRC\) v. Bulgaria](#), Complaint No. 31/2005, decision on the merits of 18 October 2006, §17

⁴⁵⁹ [European Roma and Travellers Forum \(ERTF\) v. France](#), Complaint No. 64/2011, decision on the merits of 24 January 2012, §95

⁴⁶⁰ [European Roma and Travellers Forum \(ERTF\) v. France](#), Complaint No. 64/2011, decision on the merits of 24 January 2012, §95

States enjoy a margin of appreciation in determining the steps to be taken to ensure compliance with the Charter, in particular as regards the balance to be struck between the general interest and the interest of a specific group and the choices which must be made in terms of priorities and resources.⁴⁶¹

States Parties must guarantee to everyone the right to adequate housing.⁴⁶² They should promote access to housing in particular to different groups of vulnerable persons, such as low-income persons, unemployed persons, single parent households, young persons, persons with *disabilities* including those with mental health problems.⁴⁶³

Adequate housing

The notion of adequate housing must be defined in law. “Adequate housing” means:

1. a dwelling which is safe from a sanitary and health point of view, i.e. that possesses all basic amenities, such as water, heating, waste disposal, sanitation facilities, electricity, etc and where specific dangers such as the presence of lead or asbestos are under control;⁴⁶⁴
2. a dwelling which is not over-crowded, that the size of the dwelling must be suitable in light of the number of persons and the composition of the household in residence;⁴⁶⁵
3. a dwelling with secure tenure supported by the law. This issue is covered by Article 31§2.⁴⁶⁶

The definition of adequate housing must be applied not only to new constructions, but also gradually to the existing housing stock.⁴⁶⁷ It must also be applied to housing available for rent as well as to housing owner occupied housing.⁴⁶⁸

Positive measures in the field of housing must be adopted in respect of vulnerable persons, paying particular attention to the situation of Roma and Travellers. As a result of their history, the Roma have become a specific type of disadvantaged group and vulnerable minority.⁴⁶⁹

They, therefore, require special protection.⁴⁷⁰ Special consideration should be given to their needs and their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular cases.⁴⁷¹

The failure to provide a sufficient number of halting sites for travellers as well as the poor living conditions and operational failures on such sites have led to findings of non-conformity under this provision.⁴⁷²

Likewise, housing policies which have resulted in the spatial and social segregation of Roma (poorly built housing, on the outskirts of towns, segregated from the rest of the population), have also led to breaches of the Charter.⁴⁷³

⁴⁶¹ European Roma and Travellers Forum (ERTF) v. France, Complaint No. 64/2011, decision on the merits of 24 January 2012, §95.

⁴⁶² Conclusions 2003, France

⁴⁶³ [Conclusions 2003, Italy](#)

⁴⁶⁴ [Conclusions 2003, France](#)

⁴⁶⁵ [Conclusions 2003, France](#)

⁴⁶⁶ [Conclusions 2003, France](#)

⁴⁶⁷ [Conclusions 2003, France](#)

⁴⁶⁸ [Conclusions 2003, France](#)

⁴⁶⁹ [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 39-40

⁴⁷⁰ [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 39-40

⁴⁷¹ [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 39-40

⁴⁷² [European Roma Rights Centre \(ERRC\) v. France](#), Complaint No. 51/2008, decision on the merits of 19 October 2009, §§ 38, 39, 49; Conclusions 2019, France

The fact that some refugee and asylum-seeking unaccompanied children may remain for lengthy periods of time in temporary accommodation facilities (emergency hotels and Safe zones) does not satisfy the requirements of long-term accommodation suited to their specific circumstances, needs and extreme vulnerability and violates Article 31§1.⁴⁷⁴ These facilities do not offer the quality standards necessary for the long-term accommodation of unaccompanied children.⁴⁷⁵

Effectiveness

It is incumbent on the public authorities to ensure that housing is adequate through different measures such as, in particular, an inventory of the housing stock, injunctions against owners who disregard obligations, urban development rules and maintenance obligations for landlords.⁴⁷⁶

States Parties are expected to demonstrate how the adequacy of the existing housing stock (whether rented or not, privately or publicly owned) is checked, whether regular inspections are carried out and what follow-up is given to decisions finding that a dwelling does not comply with the relevant regulation.⁴⁷⁷ Public authorities must also limit against the interruption of essential services such as water, electricity and telephone.⁴⁷⁸

Even if under domestic law, local or regional authorities, trade unions or professional organisations are responsible for exercising a particular function, States Parties to the Charter are responsible, in terms of their international obligations to ensure that such responsibilities are properly exercised.⁴⁷⁹

Thus, ultimate responsibility for policy implementation, involving at a minimum supervision and regulation of local action, lies with the Government which must be able to show that both local authorities and itself have taken practical steps to ensure that local action is effective.⁴⁸⁰

Legal protection

The effectiveness of the right to adequate housing requires its legal protection through adequate procedural safeguards. Occupiers must have access to affordable and impartial judicial or other remedies.⁴⁸¹ Any appeal procedure must be effective.⁴⁸²

Opinion of the ECSR

The ECSR takes note of the national strategies in place adopted during the reference period. The ECSR recalls that in its assessment of the situation under Article 31, consideration is also given to its findings under Article 16, because of the overlapping content of these provisions.

⁴⁷³ [European Roma Rights Center \(ERRC\) v. Portugal](#), Complaint No. 61/2010, decision on the merits of 30 June 2011, §48

⁴⁷⁴ [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, §145

⁴⁷⁵ [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, §145

⁴⁷⁶ [Conclusions 2003, France](#)

⁴⁷⁷ [Conclusions 2019, Turkey, Ukraine](#)

⁴⁷⁸ [Conclusions 2003, France](#)

⁴⁷⁹ [European Roma Rights Center \(ERRC\) v. Italy](#), Complaint No. 27/2004, decision on the merits of 7 December 2005, §26, citing [European Roma Rights Centre \(ERRC\) v. Greece](#), Complaint No. 15/2003, decision on the merits of 8 December 2004, §29

⁴⁸⁰ [European Roma Rights Center \(ERRC\) v. Italy](#), Complaint No. 27/2004, decision on the merits of 7 December 2005, §26; [European Federation of National Organisations Working with the Homeless \(FEANTSA\) v. France](#), Complaint No. 39/2006, decision on the merits of 5 December 2007, §79

⁴⁸¹ [Conclusions 2003, France](#)

⁴⁸² [Conclusions 2015, Austria, Article 16](#)

Considering its recent findings of non-conformity under Article 16, in combination with the fact that there is no information to suggest the improvement of the situation in practice since its previous examination of non-accepted provisions, the ECSR considers that the situation is not entirely compatible with Article 31§1.

Article 31§2 – The right to housing

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

2 to prevent and reduce homelessness with a view to its gradual elimination;

Situation in Romania

The ECSR notes from the information submitted by Romania, that evictions from buildings used or occupied without right, are regulated by the Code of Civil Procedure and evictions of tenants by the Civil Code. Law prohibits any form of discrimination, including based on ethnicity. (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

The ECSR notes from its 2023 Conclusion on Article 16 for Romania, that the situation was found to not be in conformity with the Charter on the grounds that:

- the notice period before eviction is too short;
- families can be evicted during the winter.

In addition, the situation was found to not be in conformity with the Charter on the basis of, among others, failure to establish conformity through adequate information on:

- the legal prohibition of evictions at night;
- compensation in case of illegal eviction;
- proposals for alternative accommodation in the event of an eviction order;
- a proportionality assessment of the effects of eviction on the particular circumstances of the persons or families concerned in the context of judicial proceedings, and examples of any existing case law in this respect;
- any procedural safeguards that apply to the demolition of informal settlements of Roma families.⁴⁸³

ECSR interpretation (DIGEST)

Definition

Homeless persons are those persons who legally do not have at their disposal a dwelling or other form of adequate housing in the terms of Article 31§1.⁴⁸⁴

Article 31§2 obliges States Parties to gradually reduce homelessness with a view to its elimination.⁴⁸⁵ Reducing homelessness implies the introduction of measures such as provision of immediate shelter and care for the homeless and measures to help such people overcome their difficulties and prevent a return to homelessness.⁴⁸⁶

Preventing homelessness

⁴⁸³ [Conclusions 2023, Romania, Article 16](#)

⁴⁸⁴ [Conclusions 2003, Italy; Conference of European Churches \(CEC\) v. the Netherlands, Complaint No. 90/2013, decision on the merits of 1 July 2014, §135](#)

⁴⁸⁵ [Conclusions 2003, Sweden](#)

⁴⁸⁶ [Conclusions 2003, Sweden](#)

States Parties must take action to prevent categories of vulnerable people from becoming homeless. This requires States Parties to introduce a housing policy for all disadvantaged groups of people to ensure access to social housing and housing allowances. (cf. Article 31§3).⁴⁸⁷

Though State authorities enjoy a wide margin of discretion in measures to be taken concerning town planning, they must strike a balance between the general interest and the fundamental rights of the individuals, in particular the right to housing and its corollary of ensuring individuals do not become homeless.⁴⁸⁸

Protection from evictions

Forced eviction can be understood to cover situations involving deprivation of housing which a person occupied due to insolvency or wrongful occupation.⁴⁸⁹

States Parties must set up procedural safeguards to limit the risk of eviction.⁴⁹⁰

Illegal occupation of a site or dwelling may justify the eviction of the illegal occupants.⁴⁹¹ However, the criteria of illegal occupation must not be unduly wide, and evictions should be governed by rules of procedure sufficiently protective of the rights of the persons concerned and should be carried out according to these rules.⁴⁹²

Legal protection for persons threatened by eviction must include, in particular, an obligation to consult the parties affected in order to find alternative solutions to eviction and the obligation to fix a reasonable notice period before eviction.⁴⁹³ A notice period of one month in case of eviction due to insolvency or wrongful occupation is not reasonable.⁴⁹⁴

When evictions do take place, they must be carried out under conditions that respect the dignity of the persons concerned.⁴⁹⁵ The law must prohibit evictions carried out at night or during the winter period.⁴⁹⁶ When an eviction is justified by the public interest, authorities must adopt measures to re-house or financially assist the persons concerned.⁴⁹⁷

Domestic law must provide legal remedies and offer legal aid to those who are in need of seeking redress from the courts. Compensation for illegal evictions must also be provided.⁴⁹⁸

Right to shelter

According to Article 31§2, homeless persons must be offered shelter as an emergency solution.⁴⁹⁹ To ensure that the dignity of the persons sheltered is respected, shelters must meet health, safety and hygiene standards and, in particular, be equipped with basic amenities such as access to clean water and heating and sufficient lighting.⁵⁰⁰

⁴⁸⁷ [Conclusions 2003, Sweden](#); [Conclusions 2005, Lithuania](#); [Conference of European Churches \(CEC\) v. the Netherlands](#), Complaint No. 90/2013, decision on the merits of 1 July 2014, §136

⁴⁸⁸ [Conclusions 2007, Italy](#)

⁴⁸⁹ [Conclusions 2003, Sweden](#); [Conclusions 2019, Ukraine](#)

⁴⁹⁰ [Conclusions 2005, Lithuania](#)

⁴⁹¹ [European Roma Rights Centre \(ERRC\) v. Greece](#), Complaint No. 15/2003, decision on the merits of 8 December 2004, §51

⁴⁹² [European Roma Rights Centre \(ERRC\) v. Greece](#), Complaint No. 15/2003, decision on the merits of 8 December 2004, §51

⁴⁹³ [Conclusions 2003, Sweden](#)

⁴⁹⁴ [Conclusions 2019, Ukraine](#)

⁴⁹⁵ [Conclusions 2003, Sweden](#)

⁴⁹⁶ [Conclusions 2003, Sweden](#)

⁴⁹⁷ [Conclusions 2003, Sweden](#)

⁴⁹⁸ [Conclusions 2003, Sweden](#)

⁴⁹⁹ [Defence for Children International \(DCI\) v. the Netherlands](#), Complaint No. 47/2008, decision on the merits of 20 October 2009, §46

⁵⁰⁰ [Defence for Children International \(DCI\) v. the Netherlands](#), Complaint No. 47/2008, decision on the merits of 20 October 2009, §62

Another basic requirement is the security of the immediate surroundings.⁵⁰¹ Nevertheless, temporary housing need not be subject to the same requirements of privacy, family life and suitability as are required from more permanent forms of standard housing, once the minimum requirements are met.⁵⁰²

States Parties shall foresee sufficient places in emergency shelters⁵⁰³ and the conditions in the shelters should be such as to enable living in keeping with human dignity.⁵⁰⁴

The temporary supply of shelter, however adequate, cannot be considered satisfactory.⁵⁰⁵ Individuals who are homeless should be provided with adequate housing within a reasonable period.⁵⁰⁶ In addition, measures should be taken to help such people overcome their difficulties and to prevent them from returning to a situation of homelessness.⁵⁰⁷

The right to shelter should be adequately guaranteed for migrants, including unaccompanied migrant children, and asylum-seekers.⁵⁰⁸ States Parties are required to provide adequate shelter to children unlawfully present in their territory for as long as they are within their jurisdiction.⁵⁰⁹ As the scope of Articles 31§2 and 17 overlap to a large extent, the ECSR assesses the issue of the right to a shelter of unaccompanied foreign minors under the scope of Article 31§2 when States Parties have accepted both provisions.⁵¹⁰

The housing of people in reception camps and temporary shelters which do not satisfy the standards of human dignity is in violation of the aforementioned requirements.⁵¹¹ States should develop detailed guidelines on standards of reception facilities, assuring adequate space and privacy for children and their families.⁵¹²

The exceptional nature of the situation resulting from an increasing influx of migrants and refugees and the difficulties for a State in managing the situation at its borders cannot absolve that State of its obligations under Article 31§2 of the Charter to provide shelter to migrant and refugee children, in view of their specific needs and extreme vulnerability, or otherwise limit or dilute its responsibility under the Charter.⁵¹³

⁵⁰¹ [Defence for Children International \(DCI\) v. the Netherlands](#), Complaint No. 47/2008, decision on the merits of 20 October 2009, §62

⁵⁰² [Defence for Children International \(DCI\) v. the Netherlands](#), Complaint No. 47/2008, decision on the merits of 20 October 2009, §62

⁵⁰³ [European Federation of National Organisations Working with the Homeless \(FEANTSA\) v. France](#), Complaint No 39/2006, decision on the merits of 5 December 2007, §107

⁵⁰⁴ [European Federation of National Organisations Working with the Homeless \(FEANTSA\) v. France](#), Complaint No 39/2006, decision on the merits of 5 December 2007, §§ 108-109

⁵⁰⁵ [European Federation of National Organisations Working with the Homeless \(FEANTSA\) v. France](#), Complaint No 39/2006, decision on the merits of 5 December 2007, §106

⁵⁰⁶ [European Federation of National Organisations Working with the Homeless \(FEANTSA\) v. France](#), Complaint No 39/2006, decision on the merits of 5 December 2007, §106

⁵⁰⁷ [Conclusions 2003, Italy](#)

⁵⁰⁸ [Conclusions 2019, Greece](#)

⁵⁰⁹ [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, §117

⁵¹⁰ [European Committee for Home-Based Priority Action for the Child and the Family \(EUROCEF\) v. France](#), Complaint No. 114/2015, decision on the merits of 24 January 2018, §173

⁵¹¹ [Defence for Children International \(DCI\) v. the Netherlands](#), Complaint No. 47/2008, decision on the merits of 20 October 2009, §62

⁵¹² [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, §121

⁵¹³ [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, §133

The ECSR considers that eviction from shelters without the provision of alternative accommodation must be prohibited.⁵¹⁴ Eviction from shelter of persons irregularly present within the territory of a State Party should be prohibited as it would place the persons concerned, particularly children, in a situation of extreme helplessness, which is contrary to the respect for their human dignity.⁵¹⁵

States Parties are not obliged to provide alternative accommodation in the form of permanent housing within the meaning of Article 31§1 for migrants in an irregular situation.⁵¹⁶

Opinion of the ECSR

The ECSR recalls that for the assessment of the situation under Article 31, consideration is also given to its findings under Article 16, because of the overlapping content of these provisions. Considering its recent findings of non-conformity under Article 16, in combination with the fact that there is no information to suggest the improvement of the situation in practice since its previous examination of non-accepted provisions, the ECSR considers that the situation is not entirely compatible with Article 31§2.

Article 31§3 – The right to housing

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

3 to make the price of housing accessible to those without adequate resources.

Situation in Romania

The ECSR notes that Romanian authorities have developed a National Housing Strategy for the period 2022-2050. Within this strategy, the housing of currently homeless people is a priority. Measures proposed within this Strategy include: building social housing for people from vulnerable groups, exposed to the risk of social exclusion and marginalization; ensuring access to housing services for homeless people through Housing First interventions; and increasing the supply of social housing for homeless people.

In addition, the National Strategy regarding the Social Inclusion of Homeless People for the period 2022-2027 designs and implements measures acknowledging the problems of homeless people and addressing these problems by facilitating the process of social inclusion for this vulnerable group and promoting access to housing (G.D. No. 1491/2022)). (For more detailed information, see the [2024 National Report on the Non-Accepted Provisions of the Revised European Social Charter provided by Romania](#))

ECSR interpretation (DIGEST)

An adequate supply of affordable housing must be ensured for persons with limited resources.⁵¹⁷

Social housing

Housing is affordable if the household can afford to pay initial costs (deposit, advance rent), current rent and/or other housing-related costs (e.g. utility, maintenance and management

⁵¹⁴ [Conclusions 2015, Statement of Interpretation on Article 31§2](#)

⁵¹⁵ [European Federation of National Organisations working with the Homeless \(FEANTSA\) v. the Netherlands, Complaint No. 86/2012, decision on the merits of 2 July 2014, §110](#)

⁵¹⁶ [European Federation of National Organisations working with the Homeless \(FEANTSA\) v. the Netherlands, Complaint No. 86/2012, decision on the merits of 2 July 2014, §60](#)

⁵¹⁷ [Conclusions 2003, Sweden](#)

charges) on a long-term basis while still being able to maintain a minimum standard of living, according to the standards defined by the society in which the household is located.⁵¹⁸

In order to establish that measures are being taken to make the price of housing accessible to those without adequate resources, States Parties to the Charter must show that the affordability ratio of the poorest applicants for housing is compatible with their level of income.⁵¹⁹

States Parties must:

- adopt appropriate measures for the provision of housing, in particular social housing.⁵²⁰ Social housing should target, in particular, the most disadvantaged;⁵²¹
- adopt measures to ensure that waiting periods for the allocation of housing are not excessive;⁵²² judicial or other remedies must be available when waiting periods are excessive;⁵²³

All the rights thus provided must be guaranteed without discrimination, in particular as in respect of Roma or Travellers wishing to live in mobile homes.⁵²⁴

Housing benefits

Under Article 31§3, States Parties are required to adopt comprehensive housing benefit systems to protect low income and disadvantaged sections of the population.⁵²⁵ Housing benefit is an individual right: all qualifying households must receive it in practice; legal remedies must be available in case of refusal.⁵²⁶

The right to affordable housing must not be subject to any kind of discrimination on any grounds mentioned by Article E of the Charter.⁵²⁷

Opinion of the ECSR

The ECSR takes note of the strategies developed during the reference period to address homelessness. However, no information has been submitted by Romanian authorities to suggest an improvement of the situation in practice since the previous examination of the situation regarding non-accepted provisions.

The ECSR wishes to receive information on the outcomes of the strategies for housing in place, as well as on housing benefits. In the meantime, it considers that the situation is not entirely compatible with Article 31§3.

⁵¹⁸ [Conclusions 2003, Sweden](#)

⁵¹⁹ [FEANTSA v. Slovenia](#), Complaint No. 53/2008, decision on the merits of 8 September 2009, §72.

⁵²⁰ [Conclusions 2003, Sweden](#)

⁵²¹ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 98-100

⁵²² [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §131

⁵²³ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §131

⁵²⁴ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 149-155; [Conclusions 2019, France](#)

⁵²⁵ [Conclusions 2003, Sweden](#); [Conclusions 2019, Greece](#)

⁵²⁶ [Conclusions 2003, Sweden](#)

⁵²⁷ [Conclusions 2019, Turkey](#)

Appendix I



European
Social
Charter

Charte
sociale
européenne



— Romania and the European Social Charter —

Signatures, ratifications and accepted provisions

Romania ratified the Revised European Social Charter on 07/05/1999 and has accepted 65 of the revised Charter's 98 paragraphs.

Romania has not accepted the system of collective complaints.

The Charter in domestic law

Automatic standing incorporation based on the Constitution, Article 11: "1. The Romanian State pledges to fulfill as such and in good faith its obligations as deriving from the treaties it is a party to. 2. Treaties ratified by Parliament, according to the law, are part of national law. 3. If a treaty Romania is to become a party to, contains provisions contrary to the Constitution, its ratification shall only take place after the revision of the Constitution".

Table of accepted provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22
23	24	25	26.1	26.2	27.1	27.2	27.3	28	29	30	31.1
31.2	31.3							Grey = Accepted provisions			

Reports on non-accepted provisions

The ECSR examines the situation of non-accepted provisions of the revised Charter every 5 years after the ratification. It adopted [reports concerning Romania](#) in 2004, 2009, 2015 and 2020.

The ECSR considers that there are no obstacles to the immediate acceptance of Articles 2§3, 10§1, 10§2, 10§3, 10§4, 18§2, 19§1, 19§2, 19§3, 19§5, 19§9, 27§1 and 27§3.

Further information on the reports on non-accepted provisions is available on the [relevant webpage](#).

Monitoring the implementation of the European Social Charter ⁵²⁸

I. Reporting system ⁵²⁹

Reports submitted by Romania

Between 2001 and 2023, Romania has submitted 22 reports on the application of the revised Charter.

The 21st report, submitted on 21/03/2022, concerns the accepted provisions relating to thematic group 3 "Labour Rights" (Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29).

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

The [22th report](#), which was submitted on 12/04/2023, covers the accepted provisions of the Social Charter relating to thematic group 4 "Health, social security and social protection", namely:

- the right of children and young persons to protection (Article 7);
- the right of employed women to protection of maternity (Article 8);
- the right of the family to social, legal and economic protection (Article 16);
- the right of children and young persons to social, legal and economic protection (Article 17);
- the right of migrant workers and their families to protection and assistance (Article 19);
- the right of workers with family responsibilities to equal opportunities and equal treatment (Article 27);
- the right to housing (Article 31).

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

⁵²⁸ The ECSR monitors compliance with the Charter under two procedures, the reporting system and the collective complaints procedure, according to Rule 2 of the Committee's rules: « 1. The ECSR rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure ».

Further information on the [procedures](#) may be found on the [HUDOC database](#) and in the [Digest of the case law of the Committee](#).

⁵²⁹ Detailed information on the Reporting System is available on the [relevant webpage](#). The reports submitted by States Parties may be consulted in the [relevant section](#).

Situations of non-conformity ⁵³⁰

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

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

It has not been established that the national authorities have fulfilled their obligations to prevent labour exploitation of domestic workers.

► *Article 153 – Right to work – Free placement services*

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

► *Article 154 – Right to work – Vocational guidance, training and rehabilitation*

- It has not been established that the right of employed persons to vocational training is effectively guaranteed;
- It has not been established that the right of persons with disabilities to mainstream training was effectively guaranteed.

► *Article 1551 – Right of persons with disabilities to independence, social integration and participation in the life of the community – Vocational training for persons with disabilities*

The right of children with disabilities to mainstream education and training is not effectively guaranteed.

► *Article 1552 – Right of persons with disabilities to independence, social integration and participation in the life of the community – Employment of persons with disabilities*

Persons with disabilities are not guaranteed effective access to employment.

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

It has not been established that workers’ claims in case of insolvency of the employer are adequately protected in practice.

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

► *Article 352 – Right to safe and healthy working conditions – Safety and health regulations*

It has not been established that domestic workers are protected by occupational health and safety regulations.

► *Article 353 – Right to safe and healthy working conditions – Enforcement of safety and health regulations*

Measures taken to reduce the high rate of fatal accidents at work are not sufficient.

► *Article 1151 – Right to protection of health – Removal of the causes of ill-health*

- The measures taken to reduce infant and maternal mortality rates have been insufficient;
- Transgender people have to undergo sterilisation in order to receive legal recognition.

► *Article 1153 - Right to protection of health - Prevention of diseases and accidents*

Efficient immunisation and epidemiological monitoring programmes are not in place.

► *Article 1251 – Right to social security – Existence of social security system*

The minimum level of unemployment benefit is inadequate.

⁵³⁰ Further information on the situations of non-conformity is available on the [HUDOC database](#).

► *Article 12§3 – Right to social security – Development of the social security system*

Efforts made to progressively raise the system of social security to a higher level are inadequate.

► *Article 12§4 – Right to social security – Social security of persons moving between states*

Maintenance of accruing rights is not ensured with all States Parties.

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

- Uninsured persons without resources are not entitled to adequate medical assistance;
- The level of social assistance paid to a single person without resources is inadequate;
- Foreign nationals unlawfully present who cannot apply for international protection are not entitled to social assistance rights.

Thematic Group 3 “Labour rights” – Conclusions 2022

► *Article 4§1 – Right to a fair remuneration - Decent remuneration – Conclusions 2014*

The national minimum wage is not sufficient to ensure a decent standard of living.

► *Article 4§3 - Right to a fair remuneration - Non-discrimination between women and men with respect to remuneration*

- It has not been established that the obligation to ensure access to effective remedies in cases of pay discrimination is fulfilled;
- It has not been established that in equal pay cases domestic law allows for pay comparisons to be made across companies.

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

- The notice period for dismissal for physical or mental incapacity or for professional inadequacy or as a result of the removal of positions is manifestly unreasonable;
- The legislation makes no provision for notice periods (i) during probationary periods, and (ii) in the event of the liquidation of an employer's business (legal person).

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

The promotion of collective bargaining is not sufficient.

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

- A trade union can only take collective action if it meets representativeness criteria and if the strike is approved by at least half of the respective trade union's members;
- The police are denied the right to strike.

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

- The protection against dismissal granted to workers’ and trade union representatives does not extend beyond the end of their mandate;
- Facilities afforded to workers’ representatives are not adequate.

Thematic Group 4 “Children, families, migrants” - Conclusions 2019

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

Prohibition of working under the age of 15 is not effectively enforced.

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

- Children who are still subject to compulsory education are not guaranteed an uninterrupted rest period of at least two weeks during summer holiday;
- The protection against employment of children subject to compulsory education is not effectively guaranteed.

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

Young workers and apprentices' wages are not fair.

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

There are no clear indications on the intervention of the labour inspectorate on the time spent on vocational training during the normal working time and the remuneration for young workers.

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

The Labour Code does not provide sanctions for the employers that do not respect paid annual leave.

► *Article 7§8 – Right of children and young persons to protection - Prohibition of night work*

Data are not provided on the findings of the Labour Inspectorate in relation to prohibition of night work for young persons under 18, including the nature and number of violations detected and sanctions imposed.

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

- The measures taken do not ensure an adequate protection of women against domestic violence;
- It has not been established that affordable and good quality childcare is ensured for families;
- The notice period before eviction is too short;
- Families can be evicted during winter;
- The protection of Roma families with respect to housing, including in terms of eviction conditions, is inadequate.

► *Article 17§2 – Right of children and young persons to social, legal and economic protection – Free primary and secondary education; regular attendance at school*

The net enrolment rate in primary education is too low.

► *Article 19§8 - Right of migrant workers and their families to protection and assistance - Guarantees concerning deportation*

A migrant worker may be considered as a threat to public order and therefore expelled where he/she has been convicted for a minor crime.

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

Thematic Group 1 “Employment, training and equal opportunities”

-

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

- ▶ Article 11§2 - Conclusions 2021

Thematic Group 3 “Labour rights”

- ▶ Article 4§5 - Conclusions 2022
- ▶ Article 5 - Conclusions 2022

Thematic Group 4 “Children, families, migrants”

- ▶ Article 7§2 - Conclusions 2019
- ▶ Article 7§4 - Conclusions 2019
- ▶ Article 7§10 - Conclusions 2019
- ▶ Article 17§1 - Conclusions 2019

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

Thematic Group 1 "Employment, training and equal opportunities"

- ▶ Prohibition of all forms of discrimination on grounds of sex in access to social security benefits (Act No. 76/2002).
- ▶ Prohibition of all forms of discrimination on grounds of sex in all aspects of working life and right to equal pay for a work of equal value (Act No. 202/2002).
- ▶ In April 2014 the Department for Equality of Opportunities between Women and Men (DEOWM) was established to monitor the enforcement of the Gender Equality Law.
- ▶ Prohibition of all forms of discrimination in employment (Ordinance No. 137/2000 as modified by Act No. 48/2002).
- ▶ The requirement of the Romanian nationality for the representation within the Economic and Social Council was removed (Article 94 of Law No. 62/2011 on Social Dialogue).
- ▶ Exemption of all persons with disabilities working on individual employment contracts from tax on their wages (Governmental Emergency Ordinance No. 102/1999 approved by Act No. 519/2002).
- ▶ Prohibition of discrimination in employment on the grounds of disability (Decree No. 77/2003 and Labour Code as revised).
- ▶ Adoption of an antidiscriminatory legislation to promote an equal and free access to any form of education for people with disabilities (Act No. 448/2006 on the protection and promotion of the rights of people with disabilities).
- ▶ Phasing out of compulsory military service (Act No. 395/2005).

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

- ▶ Adoption of the Law on Safety and Health at Work No. 319/2006 which entered into force on 1 October 2006.
- ▶ Adoption of the Law no 95/2006 on the reform in the field of health care.
- ▶ Adoption of the Law no. 47 of 16 June 2005 on the national system of social assistance.
- ▶ Restrictions on tobacco advertising and sale (Act No. 148/2000).
- ▶ Measures preventing and combating the effects of the tobacco products (Act No. 90/2004).

Thematic Group 3 "Labour rights"

-

Thematic Group 4 "Children, families, migrants"

- ▶ Right of female employees to a compulsory 42 days postnatal leave (Article 16 of Government Emergency Ordinance No 96/2003).
- ▶ Adoption of a comprehensive framework on the protection and promotion of the rights of the child and setting up of the National Authority for the Protection of the Rights of the Child (Act No. 272/2004 on the Protection of the Rights of the Child).
- ▶ National action plan to eliminate child labour approved by Government decision No. 1769/2004.
- ▶ Prohibition of trafficking of children for any kind of exploitation, including sexual (Act No. 678/2001 on the Prevention and Combat of Trafficking in Human Beings).
- ▶ Adoption of measures to prevent and protect children and young persons against domestic violence (Act No. 217/2003).
- ▶ Section 28 of Act No. 272/2004 on the Protection and Promotion of the Rights of the Child, promulgated through Decree No. 481/2004 (in force in 2005), provides that a child has the right to be shown respect for his or her personality and individuality and may not be made subject to physical punishment or to other humiliating or degrading treatment.

APPENDIX II



PRESIDENCY OF LITHUANIA
Council of Europe
May – November 2024
PRÉSIDENCE DE LA LITUANIE
Conseil de l'Europe
Mai – Novembre 2024



High-Level Conference on the European Social Charter
“a step by member States to take further commitments under the Charter”
3-4 July 2024, Vilnius, Lithuania

VILNIUS DECLARATION

1. In the Reykjavik Declaration (May 2023), the Heads of State and Government of the Council of Europe confirmed that “[s]ocial justice is crucial for democratic stability and security” and “reaffirm[ed] their] full commitment to the protection and implementation of social rights as guaranteed by the European Social Charter system”. They proposed the holding of a high-level conference on the European Social Charter (ETS No. 35, (revised) ETS No. 163, “the Charter”) “as a step to take further commitments under the Charter where possible”.
2. At the 133rd Ministerial Session on 17 May 2024, the Committee of Ministers reiterated that social justice and the Council of Europe’s action on social rights play a crucial role for democratic stability and security. The Ministers restated their commitment to the European Social Charter system and, in their decisions, underlined the importance of the Charter and its monitoring procedures, and welcomed the organisation of a high-level conference.
3. Following the principles set out in the Vienna Declaration and Programme of Action (adopted in 1993 at the World Conference on Human Rights), all “human rights are universal, indivisible, interdependent and interrelated”. These rights include social rights, such as rights related to work, education, housing, social protection, health and well-being, and the human rights aspects of the environment. Combating inequality and social exclusion is vital for all, especially for disadvantaged individuals. It is also crucial for the implementation of the Sustainable Development Goals as defined by the United Nations 2030 Agenda for Sustainable Development.
4. The Council of Europe was established in the belief “that the pursuit of peace based upon justice and international co-operation is vital for the preservation of human society and civilisation”. Social progress was enshrined in the Statute of the Council of Europe (ETS No. 1) as a cornerstone of lasting peace. The Russian Federation’s ongoing war of aggression against Ukraine has had both immediate and lasting fallout as regards the enjoyment of human rights, including social rights for Ukrainians and all persons affected, and, very significantly, for women and children. The repercussions were and continue to be felt across Europe and throughout the world, including on the global economy and trade, particularly with increases in the cost of living and worsening food insecurity.

5. Social justice and the respect for, and the protection and implementation of social rights, as guaranteed in particular by the European Social Charter system, are crucial for promoting democratic security and stability. It is also very important to respond to new or emerging challenges and avoid the risk of further erosion of social rights protection and increasing inequalities, in order to maintain social cohesion in our societies.
6. Through its monitoring, reporting and collective complaints mechanisms, the Charter provides effective governance inputs, through both the European Committee of Social Rights and the Governmental Committee of the European Social Charter and European Code of Social Security (“the Governmental Committee”), in the pursuit of social justice and the protection of social rights.
7. On the occasion of this High-Level Conference, which coincides with the 25th anniversary of the entry into force of the revised European Social Charter and the 75th anniversary of the Council of Europe, the representatives of Council of Europe member States:
 - a. underline the importance of having a robust and responsive social rights framework across Europe, underpinned in particular by relevant treaty law, including the European Social Charter system. It is the collective duty of member States to promote respect for, and the continuing development of, social rights, both as human rights and also as vectors of economic growth, social progress and social cohesion, peace, security and stability;
 - b. affirm that military aggression and breaches of peace are incompatible with States’ human rights obligations in general, and, in particular, with their social rights obligations; in this context, welcome the solidarity shown towards the people of Ukraine and the social protection offered by Council of Europe member States to those who are temporarily displaced;
 - c. acknowledge the possibility offered by the Charter for States Parties to increase progressively their commitments aimed at respecting, protecting and implementing social rights, a process that can and should be further strengthened through constructive and enhanced dialogue between the competent national authorities and the organs of the Charter, together with social partners;
 - d. welcome the commitment of member States of the Council of Europe to promote social justice and, in particular, the efforts made by member States to accept a high level of commitment to social rights, and the effective action taken by the States Parties to the European Social Charter to address the findings and conclusions of the European Committee of Social Rights when necessary;
 - e. recall that the Council of Europe Development Bank, in line with its unique social mandate, contributes to strengthening social cohesion through projects with social value in its member countries;
 - f. welcome the decisions adopted by the Council of Europe Committee of Ministers to improve the implementation of the Charter system and its monitoring arrangements. This includes an invitation to the European Committee of Social Rights to apply, where possible, the existing Charter provisions to new and emerging social policy challenges and to strengthen the role of the Governmental Committee in respect of follow-up and reflection;
 - g. acknowledge the crucial role of national executives and legislatures in strengthening the protection of social rights through legislative action, in particular the part parliaments play in the ratification process of international treaties, and the acceptance of additional commitments under the Charter.
8. Consequently, the representatives of Council of Europe member States:
 - a. commit to respect, protect and implement social rights in general and, for the States Parties to the Charter, to pay continued attention to the challenges and opportunities to implement the Charter’s requirements and, to this end, encourage States Parties to make full use of all available possibilities for enhanced dialogue between the organs of the Charter, States Parties and social partners;

- b. encourage member States to consider ratifying the revised European Social Charter (1996) in an effort, alongside the policy approaches of member States, to support the Council of Europe's stated aim of facilitating economic and social progress;
- c. propose to keep under review the possibilities for acceptance of additional commitments under the Charter, including the collective complaints procedure;
- d. invite the Committee of Ministers of the Council of Europe to:
 - i. enable further discussions with national as well as competent local and regional authorities, and social partners, in order to promote a rights-based approach to social policy and the sharing of knowledge and good practice in responding to persistent and emerging common problems and challenges. The following areas might be covered:
 - inequalities, low incomes and social exclusion, housing and demographic change;
 - any form of discrimination having an impact on the full enjoyment of social rights;
 - the social rights dimension related to the Reykjavik Declaration commitment "to [strengthen the] work on the human rights aspects of the environment";
 - persistent and emerging challenges in the area of work, with the necessary attention being paid to freedom of association and collective bargaining, new forms of employment, the transition to a green economy, digitalisation, including the advent of artificial intelligence, technological change, work-life balance and, very significantly, the questions of participation and dignity (such as the protection against all forms of harassment, including sexual harassment) in the workplace;
 - ii. give increased priority to co-operation activities in the field of social rights with a view to improving the implementation of the Charter in the light of the monitoring outcomes of the European Committee of Social Rights and related Committee of Ministers recommendations. The "social rights" component of the Council of Europe Action Plan for Ukraine "Resilience, Recovery and Reconstruction" 2023-2026, is an inspiring example of such activities;
 - iii. ensure co-operation among Council of Europe entities and committees in the area of social rights, and continue to work together while exploring possibilities to increase co-operation with other international organisations as well as with the European Union in promoting social rights as guaranteed by the European Social Charter and its protocols;
 - iv. remain open to considering possible measures for further optimising the Charter system;
 - v. explore regularly the need to convene this High-Level Conference to address contemporary social policy challenges, also taking into account the expected outcomes.

APPENDIX III: Digest of the case law of the ECSR

Link: [DIGEST OF THE CASE LAW OF THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS](#)