

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

March 2025

**Second report
on the non-accepted provisions of the revised European Social
Charter**

HUNGARY

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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 Hungary in the context of the non-accepted provisions of the European Social Charter

Hungary ratified the Revised European Social Charter on 20 April 2009, accepting 51 out of the Charter's 98 paragraphs. Hungary has ratified the Additional Protocol of 1988 extending the social and economic rights of the 1961 Charter, accepting the first three out of the four Articles. It has also ratified the Amending Protocol of 1991 reforming the supervisory mechanism but has only signed (on 7 October 2004) and not ratified the Additional Protocol providing for a system of collective complaints.

Hungary has currently not accepted the following 47 provisions of the Revised Charter: Articles 4§§1 to 5, 7§§2 to 10, 12§§2 to 4, 18§§1 to 4, 19§§1 to 12, 23, 24, 25, 26§§1 and 2, 27§§1 to 3, 28, 29, 30 and 31§§1 to 3.

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](#)).

Previous examination

The procedure on non-accepted provisions was applied to Hungary for the first time in the context of a meeting between the ECSR and representatives of various ministries in Budapest on 6 March 2018. The meeting focused on the actual situation in Hungary, in law and in practice as regards Articles 4§§1 to 4, 7§§2 to 9, 24, 25, 27§§1 to 3, 28, 29 and 31§1. The selection of these provisions with a view to their acceptance by Hungary was made in consultation with the authorities.

Following the meeting, the ECSR concluded that Hungary was in a position to accept Articles 4§§2 and 5, 7§3, 25, 28 as well as 29. As regards Articles 4§§1 and 4, 7§§2, 4, 5 and 10, 27 and 31§1, the ECSR was of the opinion that further clarification of the situation in law and practice would be required. The ECSR invited Hungary to continue its consideration of these provisions with a view to their possible acceptance in the near future.

An exchange of views also took place concerning the 1995 Additional Protocol to the Charter providing for a system of collective complaints. The ECSR encouraged Hungary to consider accepting additional provisions of the Charter and also the collective complaints procedure as soon as possible, so as to consolidate the paramount role of the Charter in guaranteeing and promoting social rights.

Current examination

This second examination of the non-accepted provisions is based on the adjusted procedure for non-accepted provisions. In terms of this procedure, Hungary was invited to submit written information. The requested written information was registered in November 2024, and it was subsequently published on the CoE [website](#).

According to the information provided by the Government, “The report only covers legislative changes and government actions since the previous report (2019)”. Furthermore, as regards the potential ratification of the Additional Protocol of 1995 providing for a system of collective complaints, the Government indicated:

“An Additional Protocol on the Collective Complaint Procedure has been made to serve the more efficient enforcement of the provisions of the Revised European Social Charter (hereinafter: Charter). The collective complaint procedure is aimed at the consolidation of the Charter's enforcement scheme and the approximation of the European protection schemes of human rights (civil political rights and socioeconomic rights). The Additional Protocol on the Collective Right of Complaint was signed by Hungary on 7 October 2004, however, the country has not yet ratified it.

The national practice included in the Additional Protocol required to conduct the collective complaint procedure developed in the last report period as follows:

The Government, in cooperation with social partners and with financing from the European Social Fund, has continued to implement projects aimed at ‘Support to services for legal employment.’

Within the framework of project GINOP-5.3.3.-15 , Legal Points were established to provide labour market participants with credible and up-to-date information on labour rights and employment issues. On the other hand, it gave room to the formation of the Labour Counselling and Dispute Resolution Service for the settlement of collective labour rights disputes (hereinafter: Service).

The project GINOP-5.3.3.-18, which extended the results of GINOP-5.3.3.-15, operated the Service from 1 July 2019 to 27 January 2022, during which time it carried out tasks related to the collective complaint procedure.

During this new project period, the Service continued to be organized on a territorial basis. Its goal remains to effectively contribute to the resolution of collective labour disputes. One of the advantages of this system is that, compared to judicial proceedings, the Service's procedures were faster, more direct, and cost-free for the parties involved.

Between 1 July 2019 and 27 January 2022, the Service handled 115 collective labour related interest disputes nationwide. Compared to the previous period (2016-2019), the number of cases decreased slightly, with the impact of COVID-19-related lockdowns and restrictions playing a significant role in this reduction."

The present examination covers the following non-accepted provisions of the revised Charter:

- Article 4§§1 to 5 – The right to a fair remuneration
- Article 7§§2 to 10 – The right of children and young persons to protection
- Article 12§2 to 4 – The right to social security
- 18§§1 to 4 – The right to engage in a gainful occupation in the territory of other Parties
- 19§§1 to 12 – The right of migrant workers and their families to protection and assistance
- Article 23 – The right of elderly persons to social protection
- Article 24 – The right to protection in cases of termination of employment
- Article 25 – The right of workers to the protection of their claims in the event of the insolvency of their employer
- Article 26§§1 and 2 – The right to dignity at work
- Article 27§§1 to 3 – The right of workers with family responsibilities to equal opportunities and equal treatment
- Article 28 – The right of workers' representatives to protection in the undertaking and facilities to be accorded to them
- Article 29 – The right to information and consultation in collective redundancy procedures
- Article 30 – The right to protection against poverty and social exclusion
- Article 31§§1 to 3 – The right to housing

After examining the written information submitted by Hungary, the ECSR considers that there are no obstacles to the immediate acceptance of Article 4§§2, 4 and 5, Article 7§§3, 4 and 9 and Article 28, and no major obstacles to the acceptance of Article 7§§2 and 8, Article 25, Article 29 and Article 31§2 of the revised Charter, which can be accepted in 2025.

As regards Article 4§§1 and 3, Article 7§§5, 6, 7 and 10, Article 12§§3 and 4, Article 18§4, Article 19§§1 to 12, Article 23, Article 26§§1 and 2, Article 27§§1 to 3, Article 30 and Article 31§§1 and 3, the ECSR considers that further clarification of the law and practice is necessary in order to assess the situation.

Finally, the ECSR notes that the current situation in Hungary constitutes an obstacle to the acceptance of Article 12§2, Article 18§§1 to 3 and Article 24 of the Charter, and considers that with further improvements, acceptance by Hungary of these provisions could be envisaged. The ECSR wishes to encourage Hungary to continue its efforts in removing the remaining obstacles and to make possible its acceptance in the near future.

The ECSR points out that acceptance of the provisions of the Charter provisions, especially those provisions which are considered particularly difficult to realise, such as, for example, Article 4§1 or Article 31§§2 and 3, does not always have to be based on the full legal conformity of the situation at the time of acceptance, but instead acceptance may be the subject of a political decision to signal the aspiration of the State Party to realise the rights in question, given their crucial importance.

Furthermore, the ECSR invites Hungary to consider accepting the collective complaints procedure by making the declaration foreseen by Article D§2 of the revised Charter. The ECSR underlines that the collective complaints procedure is a good governance tool intimately linked to core democratic values and the rule of law. Full-fledged participation of the social partners and civil society, including the possibility for them to seek legal remedies for real or perceived injustices, is a defining characteristic of any functioning democracy. The ECSR further considers that it is the duty of a democratic state governed by the rule of law to embrace the good governance tools available to it in order to access the best possible information to inspire its decision-making.

The ECSR remains at the disposal of the Government for enhanced dialogue² on the Charter provisions and the relevant case law and invites Hungary 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 a greater unity among the Council of Europe member States by guaranteeing and promoting common social human rights standards.

A table showing the provisions of the Revised Charter accepted by Hungary appears in Appendix I.

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

III. EXAMINATION OF THE NON-ACCEPTED PROVISIONS OF THE REVISED EUROPEAN SOCIAL CHARTER

Article 4§1 – *The right to a fair remuneration*

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

1. to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living;

Situation in Hungary

The Government provides information concerning several acts regulating public sector salaries. Public servants' wages are based on job requirements and seniority. Public employment wages correspond to 50% of the minimum wage for full-time work and adjust automatically. For full-time civil servants the minimum wage has been incrementally raised. The Labour Code ensures wages meet or exceed the statutory minimum. Law enforcement personnel and defence employees received major salary increases, with further raises planned for 2024. Government officials must earn at least the guaranteed living wage. Healthcare workers have a structured salary scale, with doctors' wages increasing since 2021 and allied health professionals seeing a 72% rise, with further increases continuing into 2024. Employees of the National Tax and Customs Administration receive structured allowances based on experience and job classification. Wages are reviewed annually to ensure they meet statutory and guaranteed minimums.

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation ([DIGEST](#))

Article 4§1 guarantees the right to a fair remuneration such as to ensure a decent standard of living. It applies to all workers, including to civil servants and contractual staff in the state, regional

² In the light of the latest Charter system reform, States Parties to the Charter can benefit from enhanced dialogue with the Charter's monitoring bodies - constructively and in a spirit of cooperation - as a tool to reach a common understanding of problematic issues that may permit to identify possible solutions to such issues which are suitable for and acceptable to the State Party concerned. Enhanced dialogue may also serve as a means of enabling technical assistance. ([CM\(2022\)114 final](#) - Implementation of the Report on Improving the European Social Charter system)

and local public sectors, to branches or jobs not covered by collective agreement, to atypical jobs (assisted employment), and to special regimes or statuses (minimum wage for migrant workers).

The concept of “decent standard of living” goes beyond merely material basic necessities such as food, clothing and housing, and includes resources necessary to participate in cultural, educational and social activities.³

“Remuneration” relates to the compensation – either monetary or in kind – paid by an employer to a worker for time worked or work done. It covers, where applicable, special bonuses and gratuities. On the other hand, social transfers (e.g. social security allowances or benefits) are taken into account only when they have a direct link to the wage.

To be considered fair within the meaning of Article 4§1, the minimum wage paid in the labour market must not fall below 60% of the net average national wage.⁴ The assessment is based on net amounts, i.e. after deduction of taxes and social security contributions.⁵ Where net figures are difficult to establish, it is for the State Party concerned to provide estimates of this amount.⁶

When a statutory national minimum wage exists, its net value for a full-time worker is used as a basis for comparison with the net average full-time wage, but otherwise regard is had to the lowest wage determined by collective agreement or the lowest wage actually paid.⁷ This may be the lowest wage in a representative sector, for example, the manufacturing industry.⁸ If the lowest wage in a given State Party does not satisfy the 60% threshold, but does not fall very far below (in practice between 50% and 60%), the government in question will be invited to provide detailed evidence that the lowest wage is sufficient to give the worker a decent living standard even if it is below the established threshold.⁹ In particular, consideration will be given to the costs of having health care, education, transport, etc.

In extreme cases, for instance where the lowest wage is less than half the average wage the situation is held to be in breach of Charter independently of such evidence.¹⁰

It should be noted that providing for a lower minimum wage to younger workers who are under 25 years old is not contrary to the Charter if, and only if it furthers a legitimate aim of employment policy and is proportionate to achieve that aim.¹¹ The Committee has considered a reduction of the minimum wage below the poverty level and applied to all workers under the age of 25 to be disproportionate.¹²

Opinion of the ECSR

As regards the situation in Hungary, the ECSR takes note of the information provided concerning the remuneration of employees in representative public sector areas and private sector employees, as well as the increases in the minimum wages in recent years.

However, the ECSR notes that only gross wage values have been mentioned in the report, and that no information on the average wage in the private sector has been provided. Therefore, the ECSR has not been provided with sufficient information to assess whether the minimum wage paid in the labour market is fair within the meaning of Article 4§1.

³ [Conclusions 2010 - Statement of interpretation - Article 4§1](#)

⁴ [Conclusions XIV-2 - Statement of interpretation - Article 4§1](#)

⁵ Ibid.

⁶ [Conclusions XVI-2 - Denmark - Article 4§1](#)

⁷ [Conclusions XIV-2 - Statement of interpretation - Article 4§1](#)

⁸ Ibid.

⁹ [Conclusions XXI-3 - Denmark - Article 4§1](#)

¹⁰ [Conclusions XIV-2 - Statement of interpretation - Article 4§1](#)

¹¹ [General Federation of employees of the national electric power corporation \(GENOP-DEI\) / Confederation of Greek Civil Servants Trade Unions \(ADEDY\) v. Greece, Collective Complaint No. 66/2011, decision on the merits of 23 May 2012, §§ 60, 68](#)

¹² Ibid.

In view of these requirements, the ECSR reiterates its position that further information regarding the net values of the minimum and average wages in both public and private sectors 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 their efforts and to continue considering accepting Article 4§1 of the Charter.

Article 4§2 – *The right to a fair remuneration*

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

2. to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases;

Situation in Hungary

The Government indicates that the Labour Code governs the rules on the qualification and remuneration of overtime, requiring employers to notify employees of work schedules at least a week in advance. Overtime includes extra hours beyond regular schedules, with written notice required in most cases. The standard limit for overtime is 250 hours per year, but up to an additional 150 hours of voluntary overtime can be agreed upon in writing. Employees receive a 50% wage supplement for standard overtime and 100% for work on rest days or holidays, unless compensated with equivalent time off. Military personnel receive time off or pay for overtime, but from 2025, only time off will be granted. Managerial staff (excluding department heads) are not entitled to time off for overtime up to 150 hours per year and are not compensated for overtime over 150 hours. Law enforcement officers can choose time off or pay for overtime, with double compensation for work on rest days or holidays, though commanders have discretion over how overtime is compensated.

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation (DIGEST)

Article 4§2 is inextricably linked to Article 2§1, which guarantees the right to reasonable daily and weekly working hours.¹³ Overtime is work performed in addition to normal working hours.¹⁴ The principle of this provision is that work performed outside normal working hours requires an increased effort on the part of the worker, who should be paid at a rate higher than the normal wage.¹⁵

The ECSR considers that it is not responsible for ruling on the level of flat-rate overtime payments and on its effects on purchasing power.¹⁶ The Committee is only required to determine, in accordance with Article 4§2 of the revised Charter, whether those concerned receive remuneration for overtime worked and, above all, whether this is at a higher rate than their normal pay.¹⁷

Where remuneration for overtime is entirely given in the form of time off, Article 4§2 requires that this time be longer than the additional hours worked.¹⁸ It is not sufficient, therefore, to offer employees leave of equal length to the number of overtime hours worked.¹⁹

¹³ [Conclusions XIV-2 \(1998\), Statement of interpretation on Article 2§1 and 4§2](#)

¹⁴ [Conclusions I \(1969\), Statement of Interpretation on Article 4§2](#)

¹⁵ [Conclusions XIV-2 \(1998\), Statement of Interpretation on Article 4§2](#); [Conclusions I \(1969\), Statement of Interpretation on Article 4§2](#)

¹⁶ [European Council of Police Trade Unions \(CESP\) v. France](#), Complaint No. 57/2009, decision on the merits of 1st December 2010, §35

¹⁷ [European Council of Police Trade Unions \(CESP\) v. France](#), Complaint No. 57/2009, decision on the merits of 1st December 2010, §35

¹⁸ [Conclusions XIV-2 \(1998\), Belgium](#)

Mixed systems for compensating overtime, for example where an employee is paid the normal rate for the overtime worked but also receives time in lieu, are not contrary to Article 4§2.²⁰

In a number of countries, working time is calculated on the basis of average weekly hours over a period of several months.²¹ Over such periods, weekly working hours may vary between specified maximum and minimum figures without any of those hours counting as overtime, and thus qualifying for a higher rate of pay.²² Arrangements of this kind do not, as such, constitute a violation of Article 4§2, provided that the conditions laid down in Article 2§1 [right to just conditions of work], which provides for reasonable daily and weekly working hours, are respected, including:

- (i) maximum weekly (more than 60) and daily (up to 16) working hours are respected;²³
- (ii) flexibility measures operate within a legal framework providing adequate guarantees which clearly circumscribe the discretion left to employers and employees to vary, by means of collective agreement, working time.²⁴
- (iii) flexible working time arrangements provide for a reasonable reference period for the calculation of average working time.²⁵

It is possible to have exceptions to the right of workers to an increased rate of remuneration for overtime work in certain specific cases. These “special cases” have been defined as “state employees, and management executives of the private sector”.²⁶

State employees: The only acceptable exception is the category of “senior officials”.²⁷ That concerns, for example, police commissioners²⁸ or administrative court judges.²⁹ Exceptions to a higher rate of overtime pay for all police members irrespective of their rank and their responsibilities,³⁰ or for all state employees or public officials, irrespective of their level of responsibility are not in conformity with Article 4§2.³¹

Restrictions to an increased remuneration for additional hours of work can exist only if they are provided by law, pursue a legitimate aim and are proportionate to that aim.³² In this regard, the Committee has found that the introduction of a ‘solidarity day’ to fund measures to enable elderly or disabled persons to live independently in the form of an unpaid additional day’s work (seven hours additional work, compared with 1600 worked annually) was a permissible restriction on Article 4§2.

Opinion of the ECSR

¹⁹ [Conclusions XIV-2 \(1998\), Belgium](#)

²⁰ [European Council of Police Trade Unions \(CESP\) v. Portugal](#), Complaint No. 60/2010, decision on the merits of 17 October 2011, §21; see also [Conclusions 2014, Slovenia](#)

²¹ [Conclusions XIV-2 \(1998\), Statement of Interpretation on Article 4§2](#)

²² [Conclusions 2014, Portugal](#)

²³ [Conclusions 2014, Portugal](#)

²⁴ [Conclusions 2014, Portugal](#)

²⁵ [Conclusions 2014, Portugal](#)

²⁶ [Conclusions IX-2 \(1986\), Ireland](#); [Conclusions X-2 \(1990\), Ireland](#)

²⁷ [Conseil Européen des Syndicats de Police \(CESP\) v. France](#), Complaint No 57/2009, decision on the merits of 1 December 2010, §42

²⁸ [Conseil Européen des Syndicats de Police \(CESP\) v. France](#), Complaint No 57/2009, decision on the merits of 1 December 2010, §§ 42-44

²⁹ [Union syndicale des magistrats administratifs \(USMA\) v. France](#), Complaint No. 84/2012, decision on the merits of 2 December 2013, §§ 67 and 69

³⁰ [Conseil Européen des Syndicats de Police \(CESP\) v. France](#), Complaint No 38/2006, decision on the merits of 3 December 2007, §22

³¹ [Conclusions XV-2 \(2001\), Poland](#)

³² [Confédération générale du travail \(CGT\) v. France](#), Complaint No. 55/2009, decision on the merits of 23 June 2010, §§ 87-89

As regards the situation in Hungary, the Committee takes note of the detailed information provided in the report regarding the rules on remuneration for overtime in the private and public sectors, which generally conform with the Charter's requirements.

The Committee therefore reiterates its opinion that there are no obstacles to the immediate acceptance of Article 4§2 of the Charter.

Article 4§3 – The right to a fair remuneration

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

3. to recognise the right of men and women workers to equal pay for work of equal value;

Situation in Hungary

The Government indicates that the Labour Code ensures equal pay for work of equal value, allowing differentiation only based on legitimate factors like experience and responsibility. Employees can claim wage discrimination only if linked to a protected characteristic, defined by Act CXXV of 2003. Amendments effective from January 2023 incorporated provisions of EU Directive 2019/1158 on work-life balance into Hungarian law. The Directorate-General for Equal Treatment investigates violations. Claims must be submitted to a court, within a three-year statute of limitations. Specific provisions for healthcare workers and for the staff of the National Tax and Customs Administration reinforce the requirement of equal treatment, ensuring fair promotions based on professional merit and performance.

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation (DIGEST)

Article 4§3 guarantees the right to equal pay without discrimination on grounds of sex.³³ This is one aspect of the right to equal opportunities in matters of employment guaranteed by Article 20. As a result, the case law under Article 20 (see below) applies *mutatis mutandis* to Article 4§3. Only aspects specifically linked to equal pay are dealt with hereinafter.

Despite the obligations deriving from the Charter and other international and European instruments to recognise and ensure the right to equal opportunities and equal pay for women and men for equal work or work of equal value, the gender pay gap still persists today.³⁴ The available statistics reveal both downward and upward trends in gender pay gap indicators in European States as well as insufficient results of States' efforts to ensure a balanced representation of women in decision-making positions.³⁵

The obligations of States Parties as regards the recognition and the enforcement of the right to equal pay under Article 4§3 include the following:

- recognition in legislation of the right to equal pay for equal work or work of equal value;³⁶
- ensuring access to effective remedies when the right to equal pay for equal work or work of equal value has not been guaranteed;³⁷

³³ [Conclusions XII-5 \(1997\), Statement of Interpretation on Article 1 of Additional Protocol](#)

³⁴ [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §110

³⁵ [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §110

³⁶ [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §115

³⁷ [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §115

- ensuring pay transparency and enabling job comparisons;³⁸
- maintaining effective equality bodies and other relevant institutions.³⁹

The principle of equal pay

States must ensure that there is no direct or indirect discrimination between men and women with regard to remuneration.⁴⁰ Equal pay for men and women workers is required not only for equal work but also for work of equal value.⁴¹

In order to establish whether work performed is equal or of equal value, factors such as the nature of tasks, skills, educational and training requirements must be taken into account.⁴² The notion of equal work or work of equal value has a qualitative dimension and may not always be satisfactorily defined, thus undermining legal certainty.⁴³ States should therefore seek to clarify this notion in domestic law as necessary, either through legislation or case law.⁴⁴

The principle of equality should cover all the elements of pay, that is wages or salary plus all other benefits paid directly or indirectly in cash or kind by the employer to the worker by reason of the latter's employment.⁴⁵ The principle that there should be no discrimination between the sexes implies that the rule of equal pay for full-time and part-time workers should be observed.⁴⁶ Failure to respect this principle could give rise to indirect discrimination since most part-time workers are women.⁴⁷

Guarantees of enforcement and judicial safeguards

Article 4§3 obliges the States Parties who have accepted it to recognise the principle of equal pay for work of equal value, not only in law but also in fact.⁴⁸

Legislative means

Under the Charter, the right of women and men to equal pay for work of equal value must be expressly provided for in domestic legislation.⁴⁹ It is not sufficient to merely state the principle in the constitution.⁵⁰ The guarantee of equal pay must apply to workers in the public service and private sector.⁵¹

The principle of equal pay precludes unequal pay irrespective of the mechanism that produces such inequality.⁵² The source of discriminatory pay may be the law, collective agreements, individual employment contracts, internal laws of an employer.⁵³

³⁸ [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §115

³⁹ [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §115

⁴⁰ [University Women of Europe \(UWE\) v. France](#), Complaint No. 130/2016, decision on the merits of 5 December 2019, §164

⁴¹ [Conclusions I \(1969\), Statement of Interpretation on Article 4§3](#); see also [Conclusions VIII \(1982\), Statement of Interpretation on Article 4§3](#)

⁴² [University Women of Europe \(UWE\) v. Belgium, Complaint No. 124/2016](#), decision on the merits of 6 December 2019, §156

⁴³ [University Women of Europe \(UWE\) v. Belgium, Complaint No. 124/2016](#), decision on the merits of 6 December 2019, §156

⁴⁴ [University Women of Europe \(UWE\) v. Belgium, Complaint No. 124/2016](#), decision on the merits of 6 December 2019, §156

⁴⁵ [Conclusions XVIII-2 \(2007\), Malta](#)

⁴⁶ [Conclusions XVI-2 \(2003\), Portugal](#)

⁴⁷ [Conclusions XVI-2 \(2003\), Portugal](#)

⁴⁸ [Conclusions I \(1969\), Statement of Interpretation on Article 4§3](#)

⁴⁹ [Conclusions XV-2 \(2001\), Slovak Republic](#); [Conclusions 2014, Georgia](#)

⁵⁰ [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §115

⁵¹ [Conclusions 2018, Georgia](#)

⁵² [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §141

Any legislation, regulation or other administrative measure that fails to comply with the principle of equal pay must be repealed or revoked.⁵⁴ The non-application of discriminatory legislation is not sufficient for a situation to be considered in conformity with the Charter.⁵⁵ It must be possible to set aside, withdraw, repeal or amend any provision in collective agreements, individual employment contracts or internal company regulations that is incompatible with the principle of equal pay.⁵⁶

As far as setting wage levels is concerned, States Parties are free to choose their own methods and can treat this as a matter to be decided by collective bargaining. Domestic law must however ensure that violations of the principle of equal pay will be sanctioned and lay down the general rules applying to labour and management when they are negotiating wages (for example, differential pay scales and discriminatory clauses must be ruled out). If full equal pay cannot be achieved through collective bargaining, the state must intervene using legal wage-fixing methods or any other appropriate means.

Judicial safeguards

Domestic law must provide for appropriate and effective remedies in the event of alleged wage discrimination.⁵⁷ Workers who claim that they have suffered discrimination must be able to take their case to court.⁵⁸ Effective access to courts must be guaranteed for victims of pay discrimination.⁵⁹ Therefore, proceedings should be affordable and timely.⁶⁰

Domestic law should provide for a shift of the burden of proof in favour of the plaintiff in discrimination cases.⁶¹ The shift in the burden of proof consists in ensuring that where a person believes they have suffered discrimination on grounds of sex and establishes facts which make it reasonable to suppose that discrimination has occurred, the onus is on the defendant to prove that there has been no infringement of the principle of non-discrimination.⁶²

General statistical data on pay levels may not be sufficient to prove discrimination.⁶³ Therefore, in the context of judicial proceedings it should be possible to request and obtain information on the pay of a fellow worker while duly respecting applicable rules on personal data protection and commercial and industrial secrecy.⁶⁴

Anyone who suffers wage discrimination on grounds of sex must be entitled to adequate compensation, i.e. compensation that is sufficient to make good the damage suffered by the victim and act as a deterrent to the offender.⁶⁵ In cases of unequal pay, any compensation must, as a

⁵³ [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §141

⁵⁴ [University Women of Europe \(UWE\) v. France](#), Complaint No. 130/2016, decision on the merits of 5 December 2019, §166

⁵⁵ [University Women of Europe \(UWE\) v. France](#), Complaint No. 130/2016, decision on the merits of 5 December 2019, §166

⁵⁶ [University Women of Europe \(UWE\) v. France](#), Complaint No. 130/2016, decision on the merits of 5 December 2019, §166

⁵⁷ Conclusions VIII (1982), Statement of Interpretation on Article 4§3

⁵⁸ [Conclusions I \(1969\), Statement of Interpretation on Article 4§3](#)

⁵⁹ [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §145

⁶⁰ [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §145

⁶¹ [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §147

⁶² [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §147, citing [Conclusions XIII-5, Statement of interpretation on Article 1 of the 1988 Additional Protocol](#)

⁶³ [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §157

⁶⁴ [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §157

⁶⁵ [Conclusions XIII-5 \(1997\), Statement of Interpretation on Article 1 of the Additional Protocol](#)

minimum, cover the difference in pay.⁶⁶ Any ceiling on compensation that may preclude damages from being commensurate with the loss suffered and from being sufficiently dissuasive is contrary to the Charter.⁶⁷ This principle applies both to litigation involving equal pay and reprisal dismissals.⁶⁸

If there is such a ceiling on compensation for pecuniary damage, the victim must be able to seek compensation for non-pecuniary damage through other legal avenues (e.g. anti-discrimination legislation).⁶⁹

Article 4§3 of the Charter also requires that all clauses in employment contracts or collective agreements which violate the principle of equal pay must be held to be null and void.⁷⁰ Further, a court must have the power to waive the application of the offending clauses.⁷¹

Pay transparency

The Committee considers that pay transparency is instrumental in the effective application of the principle of equal pay for work of equal value.⁷² Transparency contributes to identifying gender bias and discrimination and it facilitates the taking of corrective action by workers and employers and their organisations as well as by the relevant authorities.⁷³

States should take measures in accordance with national conditions and traditions with a view to ensuring adequate pay transparency in practice, including measures such as those highlighted in the *European Commission Recommendation of 7 March 2014 on strengthening the principle of equal pay between men and women through transparency*, notably an obligation for employers to regularly report on wages and produce disaggregated data by gender.⁷⁴ The Committee regards such measures as indicators of compliance with the Charter in this respect.⁷⁵

Failure to comply with the obligation to recognise and respect pay transparency in practice can lead to a violation of Article 4§3 and Article 20.⁷⁶

Methods of comparison

The possibility of making job comparisons is essential to ensuring equal pay.⁷⁷ Lack of information on comparable jobs and pay levels could render it extremely difficult for a potential victim of pay discrimination to bring a case to court.⁷⁸ Workers should be entitled to request and receive information on pay levels broken down by gender, including on complementary and/or variable

⁶⁶ [Conclusions XVI-2 \(2003\), Malta](#)

⁶⁷ [Conclusions XIX-3 \(2010\), Germany](#); [Conclusions 2018, Armenia](#); see also [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §146

⁶⁸ [Conclusions XX-3 \(2014\), Germany](#)

⁶⁹ [Conclusions 2018, Turkey](#)

⁷⁰ [Conclusions XV-2 \(2001\), Slovak Republic](#)

⁷¹ [Conclusions XV-2 \(2001\), Slovak Republic](#)

⁷² [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §154

⁷³ [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §154

⁷⁴ [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §155

⁷⁵ [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §155

⁷⁶ [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §182

⁷⁷ [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §157

⁷⁸ [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §157

components of the pay package.⁷⁹ States Parties should collect reliable and standardised statistics on women's and men's wages.⁸⁰

Usually, pay comparisons are made between persons within the same undertaking/company.⁸¹ However, there may be situations where, in order to be meaningful this comparison can only be made across companies/ undertakings.⁸² Therefore, the Committee requires that it be possible to make pay comparisons across companies.⁸³ It also considers that national law should not unduly restrict the scope of job comparisons, e.g. by limiting them strictly to the same company.⁸⁴ At the very least, legislation should require pay comparisons across companies in one or more of the following situations:

- cases in which statutory rules apply to the working and pay conditions in more than one company;⁸⁵
- cases in which several companies are covered by a collective work agreement or regulations governing the terms and conditions of employment;⁸⁶
- cases in which the terms and conditions of employment are laid down centrally for more than one company within a holding [company] or conglomerate.⁸⁷

Pay/job comparisons across companies is important in order to ensure that job appraisal systems are effective, particularly in companies where the workforce is largely, or even exclusively, female.⁸⁸

States Parties must promote positive measures to narrow the pay gap, including:

- measures to improve job classifications and job evaluation as a means of reducing inequalities in pay;⁸⁹
- measures to improve the quality and coverage of wage statistics;⁹⁰
- steps to ensure that more attention is paid to equal pay for women and men in national action plans for employment;⁹¹
- measures combating occupational sex segregation in employment.⁹²

Retaliatory action

Employees who claim their right to equal pay must be legally protected from all forms of retaliatory action.⁹³ Where an employee is the victim of retaliatory action, there must be an adequate remedy, which will both compensate the employee and serve as a deterrent to the employer.⁹⁴

When the dismissal is the consequence of a worker's claim for equal wages, the employee must be able to file a complaint for unfair dismissal.⁹⁵ In this case, the employer must reintegrate them in

⁷⁹ [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §157

⁸⁰ [Conclusions 2018, Andorra](#)

⁸¹ [Conclusions 2014, Georgia](#)

⁸² [Conclusions 2014, Georgia](#)

⁸³ [Conclusions 2014, Georgia](#)

⁸⁴ [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §158

⁸⁵ [Conclusions 2014, Georgia](#)

⁸⁶ [Conclusions 2014, Georgia](#)

⁸⁷ [Conclusions 2014, Georgia](#)

⁸⁸ [Conclusions XVI-2 \(2003\), Portugal](#)

⁸⁹ [Conclusions XVII-2 \(2005\), Czech Republic](#)

⁹⁰ [Conclusions XVII-2 \(2005\), Czech Republic](#)

⁹¹ [Conclusions XVII-2 \(2005\), Czech Republic](#)

⁹² [Conclusions 2018, Latvia](#)

⁹³ [Conclusions XV-2 \(2001\), Slovak Republic](#)

⁹⁴ [Conclusions XV-2 \(2001\), Slovak Republic](#)

⁹⁵ [University Women of Europe \(UWE\) v. Belgium](#), Complaint No. 124/2016, decision on the merits of 6 December 2019, §148

the same or a similar post.⁹⁶ If this reinstatement is not possible, the employer has to pay compensation, which must be sufficient to compensate the worker (i.e. cover pecuniary and non-pecuniary damage) and to deter the employer.⁹⁷ Courts should be free to decide upon the amount aimed at compensating the damage caused by the termination of the working relationship.⁹⁸

Opinion of the ECSR

As regards the situation in Hungary, the Committee takes note of the detailed information provided by the Government regarding the existing legislative provisions recognising the right of men and women workers to equal pay for work of equal value in the private sector and in some public sector areas, as well as ensuring access to effective remedies when the right to equal pay for equal work or work of equal value has not been guaranteed.

However, the Committee has not been provided with sufficient information on the guarantees applying to other representative public sector employees and on whether Hungary recognises the principle of equal pay for work of equal value not only in law but also in fact. In particular the Committee could not identify sufficient information on the following:

- Whether data is collected, ensuring pay transparency and enabling job comparisons.
- Whether measures are taken to identify the main causes of the gender pay gap.
- Whether there is case law on compensation and discrimination based on gender.
- Whether effective equality bodies and other relevant institutions exist.

In view of these requirements, the Committee reiterates its position that further information is necessary to assess whether the situation concerning equal pay in practice is in line with the standards of the Charter. It encourages the Government to pursue their efforts and to continue considering accepting Article 4§3 in the near future.

Article 4§4 – *The right to a fair remuneration*

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

4. to recognise the right of all workers to a reasonable period of notice for termination of employment;

Situation in Hungary

The Government indicates that the Labour Code and Act XXXIII of 1992 regulate employment termination. The standard notice period is 30 days, which extends based on the employee's length of service. The parties may agree to a longer notice period of up to six months. Public servants have a notice period of at least 60 days, increasing with the length of service, while law enforcement employees have notice periods of 2 to 8 months. Immediate dismissal is allowed for reasons like national security concerns. Healthcare workers' employment termination follows the Labour Code, with additional provisions for transfer between healthcare providers. Act CXXX of 2020 establishes comprehensive rules regarding the rights, obligations and termination of employment for the staff of the National Tax and Customs Administration. Essential legal declarations and agreements need to be submitted electronically. Exemptions from termination periods apply for employees with children but may be forfeited under specific conditions.

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

⁹⁶ [Conclusions XIX-3 \(2010\), Iceland](#)

⁹⁷ [Conclusions XIII-2 \(1994\), Malta](#)

⁹⁸ [Conclusions XIX-3 \(2010\), Germany](#)

ECSR interpretation (DIGEST)

Appendix: This provision shall be so understood as not to prohibit immediate dismissal for any serious offence.⁹⁹

This paragraph forms part of the Article on remuneration, as the main purpose of giving a reasonable notice is to allow the person concerned a certain time to look for other work before their current employment ends, i.e. while they are still receiving wages.

The Committee will assess the national situation regarding Article 4§4 on the basis of the following aspects:

1. The rules governing the setting of notice periods (or the level of compensation in lieu of notice):
 - a. according to the source of the rule, namely the law, collective agreements, individual contracts and court judgments;¹⁰⁰
 - b. during any probationary periods, including those in the public service; the Committee wishes to see an explicit minimum period of notice even if the length of the probationary employment period is short or has recently been reduced by law;¹⁰¹
 - c. with regard to the treatment of employees in insecure jobs;¹⁰²
 - d. in the event of termination of employment for reasons outside the parties' control (including insolvency, death of the employer if they are a natural person); in principle such circumstances may not warrant failure to give notice;¹⁰³
 - e. and any circumstances in which employees can be dismissed without notice or compensation.¹⁰⁴
2. Acknowledgment, by law, collective agreement or individual contract, of length of service, whether with the same employer or in circumstances of successive precarious forms of employment relations;¹⁰⁵
3. The components of the employee's remuneration during the notice period.¹⁰⁶

Reasonable character of the period of notice

The Committee has refrained from defining in absolute terms the word "reasonable".¹⁰⁷ In fact it followed the reverse procedure and examined on a case-by-case basis if the duration of certain periods of notice were clearly "unreasonable".¹⁰⁸ A reasonable notice period is one which takes account of the employees' length of service, the need not to deprive them abruptly of their means of subsistence and the need to inform them of the termination in good time to enable them to seek a new job, and during which employees are entitled to their regular remuneration.¹⁰⁹ It is for governments to prove that these elements have been taken into account when devising and applying the basic rules on notice periods.¹¹⁰ The Committee has concluded, for example, that the following periods of notice and/or compensation in lieu thereof were not in conformity to the Charter:

⁹⁹ [Appendix to the European Social Charter - European Treaty Series - No. 35](#)

¹⁰⁰ [Conclusions 2018, Statement of Interpretation on Article 4§4](#)

¹⁰¹ [Conclusions 2018, Statement of Interpretation on Article 4§4](#)

¹⁰² [Conclusions 2018, Statement of Interpretation on Article 4§4](#)

¹⁰³ [Conclusions 2018, Statement of Interpretation on Article 4§4](#)

¹⁰⁴ [Conclusions 2018, Statement of Interpretation on Article 4§4](#)

¹⁰⁵ [Conclusions 2018, Statement of Interpretation on Article 4§4](#)

¹⁰⁶ [Conclusions 2018, Statement of Interpretation on Article 4§4](#)

¹⁰⁷ [Conclusions XIII-3 \(1995\), Portugal](#)

¹⁰⁸ [Conclusions XIII-3 \(1995\), Portugal](#)

¹⁰⁹ [Conclusions 2018, Statement of Interpretation on Article 4§4](#)

¹¹⁰ [Conclusions 2018, Statement of Interpretation on Article 4§4](#)

- five days' notice after less than three months of service, even during the probationary period;¹¹¹
- one week's notice after less than six months of service;¹¹²
- two weeks' notice after more than six months of service;¹¹³
- less than one month' notice after one year of service;¹¹⁴
- one month' notice for workers with five or more years' service;¹¹⁵
- eight weeks' notice after at least ten years of service;¹¹⁶
- twelve weeks' notice for workers dismissed for long-term working incapacity who have five or more years of service.¹¹⁷

Receipt of wages in lieu of notice is admitted, provided that the sum paid is equivalent to that which the worker would have earned during the corresponding period of notice.¹¹⁸ In order to ensure that the protection granted by Article 4§4 of the Charter is effective, the notice and/or compensation should not be left to the discretion of the parties to the employment contract, but should be governed by legal instruments such as legislation, case law, regulations or collective agreements.¹¹⁹

Cases where the notice period should apply

Article 4§4 does not apply solely to dismissals, but to all cases of termination of employment, such as termination due to bankruptcy, invalidity or death of the employer who is a natural person.¹²⁰

The right to reasonable notice of termination of employment applies to all categories of workers independently of their status, including those in non-standard such as fixed-term,¹²¹ temporary, part-time,¹²² intermittent, seasonal or complementary¹²³ employment. It applies to civil servants and contractual staff in the civil service,¹²⁴ to manual workers¹²⁵ and in all sectors of activity.¹²⁶ It also applies during the probationary period¹²⁷ and upon early termination of fixed-term contracts.¹²⁸ Domestic law must be broad enough to ensure that no workers are left unprotected.¹²⁹

When a decision to terminate employment on grounds other than disciplinary ones is subject to certain procedures being followed, the period of notice starts only after the decision has been taken.⁷⁶⁹ The period of notice for part-time workers is calculated on the basis of length of service and not of the effective weekly working time.¹³⁰ That of workers with consecutive fixed-term contracts is calculated on the basis of length of service accrued on all consecutive contracts.¹³¹ Any reduction of the legal period of notice by collective agreement is allowed only insofar as a

¹¹¹ [Conclusions 2007, Albania](#)

¹¹² [Conclusions XIII-3 \(1995\), Portugal](#)

¹¹³ [Conclusions XVI-2 \(2004\), Poland](#)

¹¹⁴ [Conclusions XIV-2 \(1998\), Spain](#)

¹¹⁵ [Conclusions 2007, Albania](#)

¹¹⁶ [Conclusions 2010, Turkey](#)

¹¹⁷ [Conclusions 2010, Estonia](#)

¹¹⁸ [Conclusions 2010, Turkey](#)

¹¹⁹ [Conclusions 2014, Russian Federation](#)

¹²⁰ [Conclusions XIV-2 \(1998\), Spain](#)

¹²¹ [Conclusions XIV-2 \(1998\), Spain](#)

¹²² [Conclusions XVIII-2 \(2007\), Slovak Republic](#), see also [Conclusions 2007, Albania](#)

¹²³ [Conclusions 2010, Bulgaria](#)

¹²⁴ [Conclusions 2010, Georgia](#)

¹²⁵ [Conclusions XVI-2 \(2003\), Greece](#)

¹²⁶ [Conclusions I \(1969\), Italy](#)

¹²⁷ [General Federation of employees of the national electric power corporation \(GENOP-DEI\) and Confederation of Greek Civil Servants' Trade Unions \(ADEDY\) v. Greece](#), Complaint No. 65/2011, decision on the merits of 23 May 2012, §§ 26 and 28

¹²⁸ [Conclusions XIV-2 \(1998\), Spain](#)

¹²⁹ [Greek General Confederation of Labour \(GSEE\) v. Greece](#), Complaint No. 111/2014, decision on the merits of 23 March 2017, §199 769 [Greek General Confederation of Labour \(GSEE\) v. Greece](#), Complaint No. 111/2014, decision on the merits of 23 March 2017, §200

¹³⁰ [Conclusions XVIII-2 \(2007\), Slovak Republic](#)

¹³¹ [Greek General Confederation of Labour \(GSEE\) v. Greece](#), Complaint No. 111/2014, decision on the merits of 23 March 2017, §200

reasonable period of notice is maintained.¹³² The period of notice applied in the probationary period may be shorter as long as it remains reasonable in relation to the authorised maximum length of the probationary period.¹³³

Cases of exclusion of the notice period

The only exception to the right of all workers to a reasonable period of notice concerns immediate dismissal for serious offences set out in the Annex to the Charter.¹³⁴ It may be the result of the accumulation of several less serious breaches, if there have been prior written warnings from the employer.¹³⁵

By way of example, the Committee considered that the following facts amounted to serious misconduct:

- disclosure of state, professional, commercial or technological secrets;¹³⁶
- violation of equal opportunities policy or sexual harassment;¹³⁷
- refusal to provide information as required by law, regulation or work regulations;¹³⁸
- working under the influence of alcohol, narcotic or toxic substances;¹³⁹
- abandonment of post;¹⁴⁰
- refusal to undergo mandatory medical checks;¹⁴¹
- unjustified absences of more than five consecutive days or more than ten days per year;¹⁴²
- abnormal decrease in productivity;¹⁴³
- immoral acts making it impossible for workers to be kept in teaching positions.¹⁴⁴

Other permitted grounds of dismissal without a period of notice or compensation, in particular a failure by the worker to perform, a loss of trust in the worker or a call up of the worker for military service have been found not to be in conformity with the Charter.¹⁴⁵ Immediate dismissal on the following grounds has also been rejected:

- death of the employer who is a natural person or winding-up of the company;¹⁴⁶
- withdrawal of administrative licenses required to perform the job;¹⁴⁷
- request by bodies or officials authorised by the law;¹⁴⁸
- duly certified unfitness for work;¹⁴⁹
- economic, technological or organisational circumstances requiring changes in the workforce;¹⁵⁰
- insufficient qualification for the post;¹⁵¹
- transfer of the employment contract to a successor employer;¹⁵²
- force majeure;¹⁵³
- arrest and custody.¹⁵⁴

¹³² [Conclusions XVIII-2 \(2007\), The Netherlands](#)

¹³³ [Conclusions 2014, Estonia](#)

¹³⁴ [Appendix to the European Social Charter - European Treaty Series - No. 35](#)

¹³⁵ [Conclusions 2010, Albania](#)

¹³⁶ [Conclusions 2014, Lithuania](#)

¹³⁷ [Conclusions 2014, Lithuania](#)

¹³⁸ [Conclusions 2014, Lithuania](#)

¹³⁹ [Conclusions 2014, Lithuania](#)

¹⁴⁰ [Conclusions 2014, Lithuania](#)

¹⁴¹ [Conclusions 2014, Lithuania](#)

¹⁴² [Conclusions 2014, Portugal](#)

¹⁴³ [Conclusions 2014, Portugal](#)

¹⁴⁴ [Conclusions 2014, Russian Federation](#)

¹⁴⁵ [Conclusions 2010, Armenia](#)

¹⁴⁶ [Conclusions 2014, Georgia](#)

¹⁴⁷ [Conclusions 2014, Lithuania](#)

¹⁴⁸ [Conclusions 2014, Lithuania](#)

¹⁴⁹ [Conclusions 2014, Lithuania](#)

¹⁵⁰ [Conclusions 2014, Malta](#)

¹⁵¹ [Conclusions 2014, Russian Federation](#)

¹⁵² [Conclusions 2014, Slovenia](#)

¹⁵³ [Conclusions 2014, Turkey](#)

Opinion of the ECSR

As regards the situation in Hungary, the Committee takes note of the detailed information provided by the Government regarding the rules governing notice periods of public and private sector employees, which generally is in line with the Charter requirements.

Therefore, the Committee considers that there are no obstacles to the immediate acceptance of Article 4§4 of the Charter.

Article 4§5 – *The right to a fair remuneration*

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

5. to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards.

Situation in Hungary

Under Act C of 2020, the Government indicates that health workers undergo an annual qualification assessment that can adjust their salary by up to +40% or -20%, with a 30-day appeal period. For the staff of the National Tax and Customs Administration, salary deductions are only allowed by law, enforceable decisions or employee consent. Employers are prohibited from deducting or transferring trade union fees from employees' salaries.

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation (DIGEST)

Appendix: It is understood that a Party may give the undertaking required in this paragraph if the great majority of workers are not permitted to suffer from deductions from wages either by law or through collective agreements or arbitration awards, the exceptions being those persons not so covered.¹⁵⁵

The deductions envisaged in Article 4§5 can only be authorised in certain circumstances which are well-defined in a legal instrument (law, regulation, collective agreement or arbitration award).¹⁵⁶ Therefore, workers should not be allowed to waive their right to limitation of deductions from their wage, and the way in which such deductions are determined should not be left at the disposal of the sole parties to the employment contract.¹⁵⁷ Article 4§5 also applies to civil servants and contractual staff in the civil service.¹⁵⁸

Such deductions must be subject to reasonable limits and should not per se result in depriving workers and their dependents of their means of subsistence.¹⁵⁹

All forms of deduction are covered by this provision, including trade union dues, disciplinary fines, maintenance payments, repayment or wage advances, tax debts, compensation for benefits in kind, wage assignments or transfers, etc.¹⁶⁰

Opinion of the ECSR

¹⁵⁴ [Conclusions 2014, Turkey](#)

¹⁵⁵ [Appendix to the European Social Charter - European Treaty Series - No. 35](#)

¹⁵⁶ [Conclusions V \(1977\), Statement of Interpretation on Article 4§5](#)

¹⁵⁷ [Conclusions 2005, Norway; Conclusions 2018, The Netherlands](#)

¹⁵⁸ [Conclusions 2014, Portugal](#)

¹⁵⁹ [Conclusions 2014, Estonia](#)

¹⁶⁰ [Conclusions 2014, Estonia](#)

As regards the situation in Hungary, the Committee takes note of the information provided in the report regarding deductions from wages of healthcare workers and staff of the National Tax and Customs Administration. It also considers the information provided by the Government in the [1st Report on the non-accepted provisions of the Charter](#) (October 2018) regarding deductions from wages of private sector and public service employees.

Therefore, the Committee reiterates its opinion that there are no obstacles to the immediate acceptance of Article 4§5.

Article 7§2 – *The right of children and young persons to protection*

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:

2. to provide that the minimum age of admission to employment shall be 18 years with respect to prescribed occupations regarded as dangerous or unhealthy;

Situation in Hungary

The Government indicates that minors' work protection is governed by Act XCIII of 1993 and related regulations. These rules prohibit the engagement of minors in workloads potentially harmful to health, such as heavy labour, extreme climates, high stress, excessive noise, or exposure to toxic substances. Employing minors in any risky work requires a specific risk assessment. Minors under 18 are banned from jobs in slaughterhouses, livestock farms and industrial alpine activities. Logging is restricted to supervised vocational trainees for limited hours, while industrial diving and heavy machinery operation are reserved for those aged 18 or older.

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation (DIGEST)

Appendix: This provision does not prevent Parties from providing in their legislation that young persons not having reached the minimum age laid down may perform work in so far as it is absolutely necessary for their vocational training where such work is carried out in accordance with conditions prescribed by the competent authority and measures are taken to protect the health and safety of these young persons.¹⁶¹

In application of Article 7§2, domestic law must set a higher minimum age of admission to prescribed occupations regarded as dangerous or unhealthy. There must be an adequate statutory framework to identify potentially hazardous work, which either lists such forms of work or defines the types of risk (physical, chemical, biological) which may arise during the course of that work.¹⁶²

However, if such work proves absolutely necessary for their vocational training, children may be permitted to perform it before the age set, but only where such work is carried out in accordance with conditions prescribed by the competent authority.¹⁶³ Children must have received training for performing dangerous tasks.¹⁶⁴ The Labour Inspectorate must monitor these arrangements.¹⁶⁵

Opinion of the ECSR

¹⁶¹ [Appendix to the European Social Charter \(Revised\) – European Treaty Series – No. 163](#)

¹⁶² [Conclusions 2006, France](#)

¹⁶³ [Conclusions 2006, Norway](#)

¹⁶⁴ [Conclusions 2006, France](#)

¹⁶⁵ [Conclusions 2006, Norway](#)

As regards the situation in Hungary, the Committee notes that there exists an adequate statutory framework setting a higher minimum age of admission to prescribed occupations regarded as dangerous or unhealthy. Exceptionally, vocational trainees under 18 may work in specific potentially hazardous occupations under supervision for limited hours weekly.

On this basis and subject to more detailed information on whether the competent authority monitors these exceptional arrangements, the Committee considers that there are no major obstacles to the acceptance by Hungary of Article 7§2 of the Charter.

Article 7§3 and 4 – *The right of children and young persons to protection*

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:

3. to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;

4. to provide that the working hours of persons under 18 years of age shall be limited in accordance with the needs of their development, and particularly with their need for vocational training;

Situation in Hungary

As of 1 January 2023, amendments to Act I of 2012 align young workers' hours with the Revised European Social Charter. Those aged 16-18 may work 8 hours daily, while those under 16 are limited to 6 hours and, if they are students in full time education, only during school holidays. In the healthcare sector, individuals under 18 may enter a health service employment contract, only if enrolled in relevant training program. However, Act CXXX of 2020 prohibits employing minors in the National Tax and Customs Administration, with no exceptions.

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation (DIGEST)

Article 7§3

Article 7§3 requires States Parties to ensure that children still subject to compulsory education and employed to work are not deprived of the full benefit of their education.¹⁶⁶

Only light work is permissible for schoolchildren under this provision.¹⁶⁷ The notion of “light work” is identical to that under article 7§1.¹⁶⁸

In the case of States Parties that have set the same age limit for admission to employment and the end of compulsory education, which is over 15 years, questions related to light work are examined under Article 7§1.¹⁶⁹ However, since Article 7§3 is concerned with the effective exercise of the right to compulsory education, matters relating thereto are assessed under that Article.¹⁷⁰

¹⁶⁶ [Conclusions I \(1969\), Statement of Interpretation on Article 7§3](#)

¹⁶⁷ [Conclusions 2015, Statement of interpretation on Articles 7§1 and 7§3](#)

¹⁶⁸ [Conclusions I \(1969\), Statement of Interpretation on Article 7§1; Conclusions 2015, Statement of interpretation on Articles 7§1 and 7§3](#)

¹⁶⁹ [Conclusions 2006, Statement of Interpretation on Article 7§3](#)

¹⁷⁰ [Conclusions 2006, Statement of Interpretation on Article 7§3](#)

Adequate safeguards must be in place to allow the authorities (labour inspectorate, social and education services) to protect children from work which could deprive them of the full benefit of their education.¹⁷¹

During school term, the time during which children may work must be limited so as not to interfere with their attendance, receptiveness and homework.¹⁷²

Allowing children to work before school begins in the morning is, in principle, contrary to Article 7§3.¹⁷³ Allowing children aged 15 years still subject to compulsory education to deliver newspapers from 6 a.m. for up to 2 hours per day, 5 days per week before school is not in conformity with the Charter.¹⁷⁴

In order not to deprive children of the full benefit of their education, States Parties must provide for a mandatory and uninterrupted period of rest during school holidays.¹⁷⁵ The assessment of compliance over the school year takes account of the length and distribution of holidays, the timing of uninterrupted periods of rest, the nature and the length of the light work and of the control efficiency of the labour inspectorate.¹⁷⁶

States Parties must provide for a mandatory and uninterrupted period of rest during school holidays.¹⁷⁷ Its duration shall not be less than 2 consecutive weeks during the summer holidays.¹⁷⁸

Article 7§4

Under Article 7§4, domestic law must limit the working hours of persons under 16 years of age who are no longer in compulsory education.¹⁷⁹ The limitation may be the result of legislation, regulations, contracts or practice.¹⁸⁰

For persons under 16 years of age, a limit of eight hours a day or forty hours a week is contrary to Article 7§4.¹⁸¹ However, for persons over 16 years of age, the same limits are in conformity with Article 7§4.¹⁸²

Opinion of the ECSR

As regards the situation in Hungary, the Committee welcomes the recent legislative amendments to align with the Charter standards. It notes that both children in compulsory education and children who are no longer in compulsory education can only engage in light work and for a limited time, in line with the Charter requirements.

Therefore, the Committee considers that there are no obstacles to the immediate acceptance of Article 7§§3 and 4 of the Charter.

Article 7§5 – *The right of children and young persons to protection*

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:

¹⁷¹ Conclusions V (1977), Statement of Interpretation on Article 7§3; [Conclusions 2006, Portugal](#)

¹⁷² [Conclusions 2006, Albania](#); [Conclusions 2019, Serbia](#)

¹⁷³ [Conclusions 2011, 2019, Italy](#)

¹⁷⁴ [Conclusions XVII-2 \(2005\), The Netherlands](#)

¹⁷⁵ [Conclusions XVII-2 \(2005\), The Netherlands](#)

¹⁷⁶ [Conclusions 2011, Statement of Interpretation on Article 7§3](#)

¹⁷⁷ [Conclusions 2011, Statement of Interpretation on Article 7§3](#)

¹⁷⁸ [Conclusions 2011, Statement of Interpretation on Article 7§3](#)

¹⁷⁹ [Conclusions 2006, Albania](#)

¹⁸⁰ [Conclusions 2006, Albania](#)

¹⁸¹ [Conclusions XI-1 \(1991\), The Netherlands](#)

¹⁸² [Conclusions 2002, Italy](#)

5. to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances;

Situation in Hungary

The Government indicates that Act LXXX of 2019 regulates vocational training in the health sector, integrating theory and practice while emphasizing digital skills, creativity, and collaboration with the economic sector. Apprentices engage in practical training with a monthly stipend. The minimum amount, timing and payment methods are defined by law. Training includes electronic tests, practical sessions in ICUs and skill labs, and instruction from designated trainers. Currently, 26,046 participants are enrolled, supported by 646 trainers. Programs have received high satisfaction ratings, averaging 4.53/5.

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation (DIGEST)

In application of Article 7§5, domestic law must provide for the right of young workers to a fair wage and of apprentices appropriate allowances.¹⁸³ This right may result from statutory law, collective agreements or other means.¹⁸⁴

The “fair” or “appropriate” character of the wage is assessed by comparing young workers’ remuneration with the starting wage or minimum wage paid to adults (aged eighteen or above).¹⁸⁵

In accordance with the methodology adopted under Article 4§1, wages taken into consideration are those after deduction of taxes and social security contributions.¹⁸⁶

Young workers

The young worker’s wage may be less than the adult starting wage, but any difference must be reasonable.¹⁸⁷ It must not be too substantial and ought to be for a limited time.¹⁸⁸ For fifteen/sixteen year-olds, a wage of 30% lower than the adult starting wage is acceptable and for sixteen/eighteen year-olds, the difference may not exceed 20%.¹⁸⁹

The adult reference wage must in all cases be sufficient to comply with Article 4§1 of the Charter.¹⁹⁰ If the reference wage is too low, even a young worker’s wage which respects these percentage differentials is not considered fair.¹⁹¹

Apprentices

Apprentices may be paid lower wages, since the value of the on-the-job training they receive must be taken into account.¹⁹² However, the apprenticeship system must not be deflected from its purpose and be used to underpay young workers.¹⁹³ Accordingly, the terms of apprenticeships should not last too long and, as skills are acquired, the apprentice’s allowance should be gradually increased throughout the contract period, starting from at least one-third of the adult starting wage

¹⁸³ [Conclusions 2019, Azerbaijan](#)

¹⁸⁴ [Conclusions 2019, Azerbaijan](#)

¹⁸⁵ [Conclusions XI-1 \(1991\), United-Kingdom](#)

¹⁸⁶ [Conclusions XI-1 \(1991\), United-Kingdom](#); [Conclusions 2019, Albania](#)

¹⁸⁷ [Conclusions 2019, Azerbaijan](#)

¹⁸⁸ [Conclusions II \(1971\), Statement of Interpretation on Article 7§5](#)

¹⁸⁹ [Conclusions 2006, Albania](#)

¹⁹⁰ [Conclusions IX-1 \(1987\), United Kingdom](#)

¹⁹¹ [Conclusions IX-1 \(1987\), United Kingdom](#)

¹⁹² [Conclusions II \(1971\), Statement of Interpretation on Article 7§5](#)

¹⁹³ [Conclusions 2019, Albania](#)

or minimum wage at the commencement of the apprenticeship, and arriving at least at two-thirds at the end.¹⁹⁴ After two or three years' vocational training, an apprentice is sufficiently trained and should be considered as an adult worker for wage purposes.¹⁹⁵

Opinion of the ECSR

As regards the situation in Hungary, the Committee takes note of the information provided in the report regarding the regulation of vocational education and training in the health sector.

However, the Committee has not been provided with sufficient information to assess whether the amounts of wages and allowances that young workers and apprentices receive, including in but not limited to the health sector, are fair and appropriate within the meaning of Article 7§5, in conjunction with Article 4§1 of the Charter.

In view of these requirements, the Committee reiterates its position 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 their efforts and to continue considering accepting Article 7§5 in the near future.

Article 7§6 – The right of children and young persons to protection

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:

6. to provide that the time spent by young persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming part of the working day;

Situation in Hungary

No information was provided regarding this paragraph in the report submitted by the Government.

ECSR interpretation (DIGEST)

Time spent on vocational training by young people during normal working hours must be treated as part of the working day.¹⁹⁶ Such training must, in principle, be done with the employer's consent – but not necessarily financed by the latter and be related to the young person's work.

Training time must thus be remunerated as normal working time (by either the employer or by public funds as the case may be), and there must be no obligation to make up for the time spent in training, which would effectively increase the total number of hours worked.¹⁹⁷

Opinion of the ECSR

As regards the situation in Hungary, the Committee notes that the Government has provided no information on this provision.

Therefore, the Committee 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 their efforts and to continue considering accepting Article 7§6 in the near future.

¹⁹⁴ [Conclusions 2006, Portugal](#); [Conclusions XVII-2 \(2005\), Germany](#); [Conclusions 2019, Austria](#)

¹⁹⁵ [Conclusions II \(1971\), Statement of Interpretation on Article 7§5](#)

¹⁹⁶ [Conclusions XV-2 \(2001\), The Netherlands](#)

¹⁹⁷ [Conclusions V \(1977\), Statement of Interpretation on Article 7§6](#)

Article 7§7 – *The right of children and young persons to protection*

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:

7. to provide that employed persons of under 18 years of age shall be entitled to a minimum of four weeks' annual holiday with pay;

Situation in Hungary

No information was provided regarding this paragraph in the report submitted by the Government.

ECSR interpretation (DIGEST)

In application of Article 7§7, young persons under eighteen years of age must be given at least three weeks' annual holiday with pay.

The arrangements which apply are the same as those applicable to annual paid leave for adults (Article 2§3).¹⁹⁸ Employed persons under 18 should not have the option of waiving their annual paid holiday.¹⁹⁹ They should not have the option of giving up their annual holiday for financial compensation either.²⁰⁰

According to Article 7§7, employees incapacitated for work by illness or accident during all or part of their annual leave must have the right to take the leave lost at some other time - at least to the extent needed to secure to them the four weeks' paid annual leave provided for in the Charter.²⁰¹ This principle applies in all circumstances, regardless of whether incapacity begins before or during leave - and also in cases where a company requires workers to take leave at a specified time.²⁰²

Opinion of the ECSR

As regards the situation in Hungary, the Committee notes that the Government has provided no information on this provision.

Therefore, the Committee 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 their efforts and to continue considering accepting Article 7§7 in the near future.

Article 7§8 – *The right of children and young persons to protection*

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:

8. to provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations;

Situation in Hungary

The Government indicates that an exception to the prohibition of night work for children of compulsory school age applies to artistic, sporting, modelling, or advertising activities, subject to a declaration by the guardianship authority since 1 January 2020. Employment is prohibited if

¹⁹⁸ [Conclusions 2019, Albania](#)

¹⁹⁹ [Conclusions 2019, Albania](#)

²⁰⁰ [Conclusions 2019, Azerbaijan](#)

²⁰¹ [Conclusions 2006, France](#)

²⁰² [Conclusions 2006, France](#), citing Conclusions XII-2, Article 2§3

deemed against the child's best interests. Any concerns arising after employment begins trigger an official inspection by the relevant authority.

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation (DIGEST)

In application of Article 7§8, domestic law must provide that persons under eighteen years of age are not employed in night work.

Laws or regulations must not cover only industrial work.²⁰³ Exceptions can be made as regards certain occupations in very limited cases, if they are: explicitly provided in domestic law; necessary for the proper functioning of the economic sector, and if the number of young workers concerned is low.²⁰⁴

It is up to domestic laws or regulations to define the period of time considered as being "night".²⁰⁵

Opinion of the ECSR

As regards the situation in Hungary, the Committee notes that the employment of young workers at night is prohibited, except for children of compulsory school age in the context of artistic, sporting, modelling or advertising activities, subject to control by the guardianship authority.

On this basis and subject to more detailed information on the situation in practice regarding young workers exceptionally occupied in the above contexts, the Committee reiterates its opinion that there are no major obstacles to the acceptance by Hungary of Article 7§8 of the Charter.

Article 7§9 – The right of children and young persons to protection

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:

9. to provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control;

Situation in Hungary

No information was provided regarding this paragraph in the report submitted by the Government.

ECSR interpretation (DIGEST)

In application of Article 7§9, domestic law must provide for compulsory regular medical check-ups for persons under eighteen employed in those occupations specified by domestic laws or regulations.²⁰⁶

These check-ups must be adapted to the specific situation of young workers and the particular risks to which they are exposed.²⁰⁷ They may, however, be carried out by the occupational health services, if these services have the specific training to do so.²⁰⁸

²⁰³ [Conclusions XVII-2 \(2005\) Portugal, Turkey](#)

²⁰⁴ [Conclusions XVII-2 \(2005\), Malta](#)

²⁰⁵ [Conclusions I \(1969\), Statement of Interpretation on Article 7§8](#)

²⁰⁶ [Conclusions IV \(1975\), Statement of Interpretation on Article 7§9](#) ; [Conclusions 2006, Albania](#)

²⁰⁷ [Conclusions 2006, Albania](#)

²⁰⁸ [Conclusions VIII \(1984\), Statement of Interpretation on Article 7§9](#)

The obligation entails a full medical examination on recruitment and regular check-ups thereafter.²⁰⁹ The intervals between check-ups must not be too long: in this regard, an interval of two years has been considered excessive.²¹⁰

The medical check-ups foreseen by Article 7§9 should take into account the skills required for the work envisaged.²¹¹

Opinion of the ECSR

As regards the situation in Hungary, despite the lack of information submitted by the Government, the Committee refers to the information provided in the [1st Report on the non-accepted provisions of the Charter](#) (October 2018) regarding regular medical check-ups for young workers.

Therefore, it reiterates its conclusion that there are no obstacles to the immediate acceptance of Article 7§9 of the Charter.

Article 7§10 – *The right of children and young persons to protection*

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:

10. to ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.

Situation in Hungary

The Government indicates that social assistance in kindergartens and schools was introduced on a national level on 1 September 2018, with family and child welfare centers taking on the responsibility. Social assistance in kindergarten and school focuses on prevention, conflict resolution, health development, socialization, and improving school performance to reduce early school leaving. Social assistants work with children, parents, and educators to address challenges, offering both group and individual support. The program is funded by the central budget, with HUF 6.8 billion (≈16,9 million Euro) allocated in 2024, marking a significant advancement in Hungary's child welfare system. In addition, in 2018, the Government indicated the Penal Code was amended in 2017 to take into account the obligations stemming from international treaties as well as the EU law as regards sexual exploitation of children, including through information technologies (see [First report on the non-accepted provisions of the European Social Charter 2018](#)).

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation (DIGEST)

Article 7§10 guarantees the right of children to be protected against physical and moral dangers within and outside the working environment.²¹² This covers, in particular, the protection of children against all forms of exploitation and against the misuse of information technologies.²¹³

States Parties must prohibit the use of children in forms of exploitation such as sexual exploitation, domestic/labour exploitation, including trafficking for the purposes of labour exploitation, begging,

²⁰⁹ [Conclusions XIII-1 \(1993\), Sweden](#)

²¹⁰ [Conclusions 2011, Estonia](#)

²¹¹ [Conclusions XIII-2 \(1994\), Italy](#); [Conclusions 2011, Estonia](#)

²¹² [Conclusions 2004, Bulgaria](#)

²¹³ [Conclusions 2004, Bulgaria](#)

or the removal of organs.²¹⁴ They must also take measures to prevent and assist street children.²¹⁵ In all these cases, States Parties must ensure not only that they have the necessary legislation to prevent exploitation and protect children and young persons, but also that this legislation is effective in practice.²¹⁶

The fact that the right of children and young persons to social, legal and economic protection is guaranteed under Article 17 of the Charter does not exclude the examination of certain relevant issues relating to the protection of children under Article 7§10.²¹⁷ The issues dealt with under Article 17 include the protection of children from ill-treatment, including corporal punishment.²¹⁸ However the issue of corporal punishment is examined under Article 7§10, where a State Party has not accepted Article 17.²¹⁹

Personal scope

Article 7§10 is applicable to foreign children in an irregular situation on the territory of a State Party to the Charter as otherwise they would not be guaranteed their fundamental rights and could be exposed to serious impairments of their rights to life, health and psychological and physical integrity.²²⁰

Likewise, measures should be taken to ensure the protection of unaccompanied or separated minors.²²¹ The failure to care for unaccompanied foreign minors present in the country and take the necessary measures to guarantee these minors the special protection against physical and moral hazards which threatens their enjoyment of the most basic rights, such as the right to life, to psychological and physical integrity and to respect for human dignity.²²²

Protection against sexual exploitation

An effective policy against commercial sexual exploitation of children should cover the following three primary and interrelated forms: child prostitution, child pornography and trafficking of children.¹⁰⁶¹

- Child prostitution includes the offer, procurement, use or provision of a child for sexual activities for remuneration or any other kind of consideration.²²³
- Child pornography is given an extensive definition and takes account of the fact that new technology has changed the nature of child pornography. It includes the procurement, production, distribution, making available and possession of material that visually depicts a child engaged in sexually explicit conduct or realistic images representing a child engaged in sexually explicit conduct.²²⁴

²¹⁴ [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, §185

²¹⁵ [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, §185

²¹⁶ [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, §176

²¹⁷ [Association for the protection of All Children \(APPROACH\) Ltd. v. Cyprus](#), complaint No.97/2013, decision on admissibility of July 2013, §10

²¹⁸ [Conclusions XV-2 \(2001\), Statement of Interpretation on Article 7§10](#)

²¹⁹ [Association for the protection of All Children \(APPROACH\) Ltd. v. Cyprus](#), complaint No.97/2013, decision on admissibility of July 2013, §10

²²⁰ [Defence for Children International \(DCI\) v. Belgium](#), Complaint No. 69/2011, decision on the merits of 23 October 2012, §85.

²²¹ [Conclusions 2019, Greece](#)

²²² [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, §138 1061 Conclusions 2004, Bulgaria

²²³ [Federation of Catholic Family Associations in Europe \(FAFCE\) v. Ireland](#), Complaint No. 89/2013, decision on the merits of 12 September 2014, §57

²²⁴ [Federation of Catholic Family Associations in Europe \(FAFCE\) v. Ireland](#), Complaint No. 89/2013, decision on the merits of 12 September 2014, §57

- Trafficking of children is the recruiting, transporting, transferring, harbouring, delivering, selling or receiving children for the purposes of sexual exploitation.²²⁵
In order to guarantee the right provided by Article 7§10, Parties must take specific measures to prohibit and combat all forms of sexual exploitation of children, in particular children's involvement in the sex industry.²²⁶ This prohibition must be accompanied by an adequate supervisory mechanism and sanctions.²²⁷

The following are minimum obligations:²²⁸

- Article 7§10 requires that all acts of sexual exploitation be criminalised;²²⁹ In this respect, it is not necessary for a Party to adopt a specific mode of criminalisation of the activities involved, but it must rather ensure that criminal proceedings can be instituted in respect of these acts.²³⁰ Furthermore, States Parties must criminalise the defined activities with all children under 18 years of age irrespective of lower national ages of sexual consent.²³¹ Child victims of sexual exploitation should not be prosecuted for any act connected with this exploitation.²³²
- a national action plan combating the sexual exploitation of children should be adopted, as well as a monitoring mechanism on the sexual exploitation of children and mechanisms for collecting statistical data on the sexual exploitation of children.²³³

Other measures to prohibit and combat all forms of sexual exploitation of children include awareness raising.²³⁴

With regard more specifically to accompanied or unaccompanied migrant girls, these children are exposed to a heightened risk of becoming subject to sexual and gender-based violence.²³⁵ States Parties should therefore put in place specific preventive measures to address their needs in terms of living space, privacy and security within reception centres and other accommodation facilities, taking into account their extreme vulnerability.²³⁶ They should also provide for gender-sensitive reporting procedures and support services allowing said children to report possible cases of violence and abuse and ask for assistance in a safe manner.²³⁷

Protection against the misuse of information technologies

The internet is becoming one of the most frequently used tools for the spread of child pornography.²³⁸

With a view to combating sexual exploitation of children through the use of internet technologies States Parties must adopt measures in law and in practice, such as by providing that Internet service providers be responsible for controlling the material they host, encouraging the development and use of the best monitoring system for activities on the net (safety messages, alert

²²⁵ [Conclusions 2004, Bulgaria; Federation of Catholic Family Associations in Europe \(FAFCE\) v. Ireland](#), Complaint No. 89/2013, decision on the merits of 12 September 2014, §57

²²⁶ [Conclusions 2004, Bulgaria](#)

²²⁷ [Conclusions 2004, Bulgaria](#)

²²⁸ [Conclusions 2019, Azerbaijan](#)

²²⁹ [Conclusions XVII-2 \(2005\), Poland](#)

²³⁰ [Federation of Catholic Family Associations in Europe \(FAFCE\) v. Ireland](#), Complaint No. 89/2013, decision on the merits of 12 September 2014, §58

²³¹ [Conclusions XIX-4 \(2011\), Croatia](#)

²³² [Conclusions XVII-2 \(2005\), United Kingdom](#)

²³³ [Conclusions 2004, Bulgaria; Conclusions 2019, Azerbaijan](#)

²³⁴ [Conclusions 2019, Albania](#)

²³⁵ [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, §189

²³⁶ [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, §189

²³⁷ [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, §189

²³⁸ [Conclusions 2004, Bulgaria](#)

buttons, etc) and logging procedures (filtering and rating systems, etc.).²³⁹ Some States Parties have adopted a provision on “child grooming” – i.e. arranging a meeting with a child below the age of sexual consent with the intent of committing a sexual offence.²⁴⁰

Internet services providers should be under an obligation to remove or prevent accessibility to illegal material about which they have knowledge.²⁴¹ Internet safety hotlines should be set up through which illegal material could be reported.²⁴²

Taking into consideration the spread of sexual exploitation of children through the means of new information technologies, States Parties should adopt measures in law and in practice to protect children from their misuse, such as unprotected access to harmful websites, audiovisual and print material.²⁴³

Corporal punishment

The Committee considers that the fact that the right of children and young persons to social, legal and economic protection is guaranteed under Article 17 of the Charter does not exclude the examination of certain relevant issues relating to the protection of children under Article 7§10.²⁴⁴ In this connection, the Committee recalls having held the scope of the said two provisions overlap to a large extent.²⁴⁵ Therefore, when States Parties have not accepted Article 17§1 of the Charter, the Committee will examine the issue relating to corporal punishment under Article 7§10.²⁴⁶

Under the Charter, the prohibition of all forms of corporal punishment of children is a measure that avoids discussions and concerns as to where the borderline would be between what might be acceptable form of corporal punishment and what is not.²⁴⁷ The Committee has clearly stated that all forms of corporal punishment must be prohibited in all settings and this prohibition must have an explicit legislative basis.²⁴⁸ The sanctions available must be adequate, dissuasive and proportionate.²⁴⁹

Protection from other forms of exploitation

States Parties must prohibit the use of children in other forms of exploitation such as, domestic/labour exploitation, including trafficking for the purposes of labour exploitation, begging, or the removal of organs.²⁵⁰ They must also take measures to protect and assist children in vulnerable situations, with particular attention to children in street situations and children at risk of child labour, including those in rural areas.²⁵¹

Street children are particularly exposed to trafficking and worst forms of child labour.²⁵² In this respect, the Committee has referred to the General Comment No. 21 of the UN Committee on the Rights of the Child which provides authoritative guidance to States on developing comprehensive, long-term national strategies on children in street situations using a holistic, child rights approach

²³⁹ [Conclusions 2004, Romania, Bulgaria](#)

²⁴⁰ [Conclusions XIX-4 \(2011\), Poland](#)

²⁴¹ [Conclusions XIX-4 \(2011\), Croatia](#)

²⁴² [Conclusions XIX-4 \(2011\), Croatia](#)

²⁴³ [Conclusions 2004, Romania](#)

²⁴⁴ [Conclusions 2019, Azerbaijan](#)

²⁴⁵ [Conclusions 2019, Azerbaijan](#), citing [Conclusions XV-2 \(2001\), Statement of interpretation on Article 7§10](#)

²⁴⁶ [Conclusions 2019, Azerbaijan](#)

²⁴⁷ [Conclusions 2019, Azerbaijan](#), citing General Introduction to Conclusions XV-2 (2001)

²⁴⁸ [Conclusions 2019, Azerbaijan](#); [Association for the Protection of all Children \(APPROACH\) Ltd v. Ireland](#), Complaint No. 93/2013, decision on the merits of 2 December 2014, §§ 53-54

²⁴⁹ [Conclusions 2019, Azerbaijan](#), citing [World Organisation against Torture \(OMCT\) v. Ireland](#), Complaint No. 18/2003, decision on the merits of 7 December 2004, §56

²⁵⁰ [Conclusions 2004, Bulgaria](#)

²⁵¹ [Conclusions 2019, Russian Federation](#)

²⁵² [Conclusions 2004, Romania](#); [Conclusions 2019, Albania](#)

and addressing both prevention and response in line with the Convention on the Rights of the Child.²⁵³

States Parties must ensure not only that they have the necessary legislation to prevent exploitation and protect children and young persons, but also that the measures adopted are fully effective in practice.²⁵⁴

States Parties must take measures to improve the knowledge of relevant professionals (including police officers, social workers, professionals working with children, labour inspectors, medical staff, public prosecutors, judges, the media and other groups concerned) about trafficking and the rights of victims.²⁵⁵

Opinion of the ECSR

As regards the situation in Hungary, the Committee takes note of the information provided by the Government regarding the measures in place to promote the provision of social assistance in kindergarten and schools.

However, the Committee has not been provided with sufficient information on the protection of children against all forms of exploitation and against the misuse of information technologies, including, in particular on the following:

- Whether the provisions in place protect foreign children in an irregular situation and unaccompanied or separated minors.
- Whether laws, policies and other practical measures have been implemented to combat the exploitation of children, as well as whether a monitoring and data collection mechanism on the sexual exploitation of children exists.
- Whether the measures taken to prohibit and combat all forms of exploitation of children are accompanied by an adequate supervisory mechanism and sanctions.
- Whether all forms of corporal punishment of children are prohibited.

In view of these requirements, the Committee reiterates its position 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 their efforts and to continue considering accepting Article 7§10 of the Charter in the near future.

Article 12§2 – *The right to social security*

With a view to ensuring the effective exercise of the right to social security, the Parties undertake:

2. to maintain the social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security;

Situation in Hungary

The Government indicates that Fundamental Law of Hungary guarantees social security for all citizens, providing assistance in cases like maternity, illness, disability, widowhood, orphanhood, and unemployment. Special entitlements exist for students, volunteers, and others undergoing sociotherapy. Social security benefits are divided into health insurance, covering services and monetary allowances, and pension benefits, including pension and survivor benefits. Specific laws further regulate various benefits. According to the Government, Hungary complies with several provisions of the European Code of Social Security but not fully with certain aspects

²⁵³ [Conclusions 2019, Albania](#)

²⁵⁴ [Conclusions 2006, Bulgaria](#)

²⁵⁵ [Conclusions 2019, Serbia](#)

Notable issues include the lack of derivative rights to benefits for family members, sick leave starting after 15 days instead of 3 and non-compliance with certain provisions regarding accident sick leave, pension benefits, family benefits for third-country nationals, and disability/rehabilitation benefits. Additionally, Hungary lacks provisions for suspending benefits for detainees and redistributing them to dependents.

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation (DIGEST)

Article 12§2 obliges States Parties to maintain a social security system which is at least equal to that required for the purposes of ratification of the European Code of Social Security. The European Code of Social Security requires acceptance of a higher number of parts than ILO Convention No. 102; six of Parts II to X must be accepted certain branches count for more than one: Part II (medical care) counts as two parts, and Part V (old age) counts as three.²⁵⁶ Each branch sets minimum levels of personal coverage and minimum levels of benefits.²⁵⁷

Where a State Party has ratified the European Code of Social Security, the conclusion under this paragraph is based on the Committee of Minister's Resolutions under the Code (which are in turn based on the assessment of the ILO Committee of Experts and the Governmental Committee of the European Social Charter and the European Code of Social Security).²⁵⁸ Failure to comply with the European Code of Social Security will lead to a conclusion of non-conformity with Article 12§2, where the State is not in compliance with at least the minimum parts for ratification.²⁵⁹

When the State concerned has not ratified the European Code of Social Security, the Committee will assess its social security system in order to decide on the conformity of that system with Article 12§2.²⁶⁰ In order to examine whether the social security system stands at a level at least equal to that necessary for the ratification of the Code, the Committee has to be provided with thorough information regarding the branches covered, the personal scope and the level of benefits offered.²⁶¹ Findings under Article 12§1 are also taken into account.²⁶²

Opinion of the ECSR

As regards the situation in Hungary, the Committee takes note of the detailed assessment of the Government regarding Hungary's non-compliance with several provisions of the European Code of Social Security. The Committee also takes into account the Committee's position, as laid down in its [2021 Conclusions](#), according to which Hungary is not in conformity with Article 12§1 of the Charter.

On this basis, the Committee considers that the situation in Hungary constitutes an obstacle to the acceptance of Article 12§2 of the Charter, and that with further improvements as regards the specific areas identified above, acceptance by Hungary of Article 12§2 of the Charter could be envisaged.

Article 12§3 – *The right to social security*

With a view to ensuring the effective exercise of the right to social security, the Parties undertake:

²⁵⁶ [Conclusions 2013, Serbia](#)

²⁵⁷ [Conclusions 2013, Serbia](#)

²⁵⁸ [Conclusions 2006, Italy](#)

²⁵⁹ [Conclusions 2006, Italy](#)

²⁶⁰ [Conclusions XIV-1 \(1998\), Finland](#)

²⁶¹ [Conclusions 2013, Serbia](#)

²⁶² See, e.g., [Conclusions 2017, Andorra](#)

3. to endeavour to raise progressively the system of social security to a higher level;

Situation in Hungary

As of December 2023, around 2.4 million people in Hungary were receiving pensions and other benefits, with the number of beneficiaries slightly decreased from the previous year. The average old-age pension in January 2024 increased compared to the previous year. In 2023, Hungary's pension system covered nearly all older individuals, with 62% of beneficiaries being women. Social security contributions are funded by insured individuals' contributions and employer-paid social contribution taxes. Act CXXX of 2020 outlines social security rights for employees of the National Tax and Customs Administration. Employees may be entitled to compensation for work-related injuries or illnesses, but only if negligence was not involved. The Act defines entitlements for customs officers and other officials to receive health impairment benefits.

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation (DIGEST)

Article 12§3 requires States Parties to improve their social security system. A situation of progress may consequently be in conformity with Article 12§3 even if the requirements of Article 12§1 and 12§2 have not been met or if these provisions have not been accepted by the State in question.²⁶³

The expansion of schemes, protection against new risks, or an increase(s) in the level of benefits are all examples of improvement.²⁶⁴

A partly restrictive development in the social security system (which can also be described as a 'restriction' or 'limitation' to 'rights in the area of social security') is not automatically in violation of Article 12§3.²⁶⁵ It should be assessed under Article G of the Revised Charter.²⁶⁶ The assessment of the situation is based on the following criteria:

- the nature of the changes (field of application, conditions for granting allowances, amounts of allowance, etc.);²⁶⁷
- the reasons given for the changes (the aims pursued) and the framework of social and economic policy in which they arise;²⁶⁸
- the extent of the changes introduced (categories and numbers of people concerned, levels of allowances before and after alteration);²⁶⁹
- the necessity of the reform;²⁷⁰
- the existence of measures of social assistance for those who find themselves in a situation of need as a result of the changes made (this information can be submitted under Article 13);²⁷¹
- the results obtained by such changes.²⁷²

Even if specific restrictive measures are, as such, in conformity with the Charter, their cumulative effect could amount to a violation of Article 12§3 of the Charter.²⁷³

²⁶³ [Conclusions 2009, Statement of Interpretation on Article 12§3](#)

²⁶⁴ [Conclusions 2013, Georgia](#)

²⁶⁵ See, e.g., [Federation of employed pensioners of Greece \(\(IKA –ETAM\) v. Greece](#), Complaint No. 76/2012 decision on the merits of 7 December 2012, §70

²⁶⁶ See, e.g., [Federation of employed pensioners of Greece \(\(IKA –ETAM\) v. Greece](#), Complaint No. 76/2012, decision on the merits of 7 December 2012, §72

²⁶⁷ [Conclusions XVI-1 \(2002\), Statement of Interpretation on Article 12§1, 12§2, 12§3](#)

²⁶⁸ [Conclusions XVI-1 \(2002\), Statement of Interpretation on Article 12§1, 12§2, 12§3](#)

²⁶⁹ [Conclusions XVI-1 \(2002\), Statement of Interpretation on Article 12§1, 12§2, 12§3](#)

²⁷⁰ [Panhellenic Federation of pensioners of the public electricity corporation \(POS-DEI\) v. Greece](#), Complaint No. 79/2012, decision on the merits, 7 December 2012, §67, citing General Introduction to Conclusions XIV-1, p. 11

²⁷¹ [Conclusions XVI-1 \(2002\), Statement of Interpretation on Article 12§1, 12§2, 12§3](#)

²⁷² [Conclusions XVI-1 \(2002\), Statement of Interpretation on Article 12§1, 12§2, 12§3](#)

Measures taken in order to consolidate public finances may be considered as a necessary means to ensure the maintenance and sustainability of the social security system. In view of the close relationship between the economy and social rights, the pursuit of economic goals is not incompatible with Article 12.²⁷⁴

However, with regard to such consolidation measures, any such measures should not undermine the core framework of a national social security system or deny individuals the opportunity to enjoy the protection it offers against serious social and economic risk.²⁷⁵ Therefore, any changes to a social security system must maintain in place a sufficiently extensive system of compulsory social security and refrain from excluding entire categories of worker from the social protection offered by this system.²⁷⁶ They should not transform the social security system into a basic social assistance system.²⁷⁷ Financial consolidation measures which fail to respect these limits constitute retrogressive steps which cannot be deemed to be in conformity with Article 12§3.²⁷⁸

Opinion of the ECSR

As regards the situation in Hungary, the Committee takes note of the increases in pension and benefit expenditure in recent years, as well as the rules in place regarding social security rights for certain public sector employees.

However, apart from the above improvements in the level of pensions and benefits, the Committee has not been provided with sufficient information to assess whether Hungary has taken steps to improve its social security system. In particular, such information could relate to whether schemes have been expanded or protection against new risks has been established, and, if so, with what results.

In view of these requirements, the Committee 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 their efforts and to continue considering accepting Article 12§3 in the near future.

Article 12§4 – *The right to social security*

With a view to ensuring the effective exercise of the right to social security, the Parties undertake:

4. to take steps, by the conclusion of appropriate bilateral and multilateral agreements or by other means, and subject to the conditions laid down in such agreements, in order to ensure:

a) equal treatment with their own nationals of the nationals of other Parties in respect of social security rights, including the retention of benefits arising out of social security

²⁷³ [Federation of employed pensioners of Greece \(\(IKA –ETAM\) v. Greece](#), Complaint No. 76/2012, decision on the merits of 7 December 2012, §§ 78-83

²⁷⁴ [Federation of employed pensioners of Greece \(\(IKA-ETAM\) v. Greece](#), Complaint No. 76/2012, decision on the merits of 7 December 2012, §71

²⁷⁵ [Federation of employed pensioners of Greece \(\(IKA –ETAM\) v. Greece](#), Complaint No. 76/2012, decision on the merits of 7 December 2012, §47

²⁷⁶ [General Federation of employees of the national electric power corporation \(GENOP-DEI\) / Confederation of Greek Civil Servants Trade Unions \(ADEDY\) v. Greece](#), Complaint No. 66/2011, decision on 23 May 2012, §47

²⁷⁷ [Finnish Society of Social Rights v. Finland](#), Complaint No.88/2012, decision on the merits of 9 September 2014, §85.

²⁷⁸ [General Federation of employees of the national electric power corporation \(GENOP-DEI\) / Confederation of Greek Civil Servants Trade Unions \(ADEDY\) v. Greece](#), Complaint No. 66/2011, decision on 23 May 2012, §47. Note that despite the language used, the Committee does not employ retrogression analysis in the way that a number of UN treaty bodies do, for instance. Rather the Committee assesses the compliance of such restrictions with the Charter by using what would be regarded in international human rights law as 'limitations' analysis in terms of Article 31 of the original Charter and Article G of the Revised Charter on 'Restrictions'.

legislation, whatever movements the persons protected may undertake between the territories of the Parties;
b) the granting, maintenance and resumption of social security rights by such means as the accumulation of insurance or employment periods completed under the legislation of each of the Parties.

Situation in Hungary

No information was provided regarding this paragraph in the report submitted by the Government.

ECSR interpretation (DIGEST)

Personal scope of Article 12§4

In defining the personal scope of Article 12§4, reference must be made to paragraph 1 of the Appendix to the Charter, which reads: "Without prejudice to Article 12§4, the persons covered by Articles 1 to 17 include foreigners only insofar as they are nationals of other States Parties lawfully resident or working regularly within the territory of the State Party concerned". It follows from the Appendix to the Charter that Article 12§4 applies to nationals of other States Parties who no longer reside on the territory concerned but who did reside or worked regularly there in the past and acquired social security rights.

The scope of Article 12§4 extends to refugees and stateless persons.²⁷⁹ Self-employed workers are also covered.²⁸⁰ Finally, the principle of reciprocity does not apply to Article 12§4.²⁸¹

Material scope of Article 12§4a

In order to ensure the right to social security of persons moving between States Parties the following principles must be guaranteed with respect to all existing branches of the social security system:

Right to equal treatment

The guarantee of equal treatment within the meaning of Article 12§4 requires States Parties remove all forms of discrimination from their social security legislation against foreigners in so far as they are nationals of other States.²⁸²

Both direct and indirect discrimination are covered. National legislation cannot reserve a social security benefit to nationals only, or impose extra or more restrictive conditions on foreigners.²⁸³ Nor may national legislation stipulate eligibility criteria for social security benefits which, although they apply without reference to nationality, are harder for foreigners to comply with than nationals, and therefore affect them to a greater degree.²⁸⁴ However, legislation may require the completion of a period of residence for non-contributory benefits.²⁸⁵ In this respect, Article 12§4 requires that any such prescribed period of residence is reasonable.²⁸⁶ A period of five years is considered to be too long.²⁸⁷

²⁷⁹ [Conclusions XIV-1 \(1998\), Turkey](#)

²⁸⁰ [Conclusions XIV-1 \(1998\), Turkey](#)

²⁸¹ Conclusions XIII-4 (1996), Statement of Interpretation on Article 12§4

²⁸² Conclusions XIII-4 (1996), Statement of Interpretation on Article 12§4

²⁸³ Conclusions XIII-4 (1996), Statement of Interpretation on Article 12§4

²⁸⁴ Conclusions XIII-4 (1996), Statement of Interpretation on Article 12§4

²⁸⁵ [Conclusions 2004, Lithuania](#)

²⁸⁶ [Conclusions 2004, Lithuania](#)

²⁸⁷ [Conclusions 2004, Lithuania](#)

As regards child benefit, a condition that the child concerned resides on the territory of the paying state may be compatible with Article 12§4.²⁸⁸ The question of whether the residence of a child in the territory is required before child benefits will be paid is examined exclusively under Article 12§4, rather than under Article 16.²⁸⁹ However since not all countries apply such a system, states applying the 'child residence requirement' are under the obligation, in order to secure equal treatment within the meaning of Article 12§4, to conclude within a reasonable period of time bilateral or multilateral agreements with those states which apply a different entitlement principle.²⁹⁰

Equality of treatment does not necessarily mean that family allowances should be paid at the same amount when the children for whom it is granted are not residents of the same country as the recipient. The level of benefit may in this case be reduced where the cost of living in the child's country of residence is significantly lower, but the reduction must be proportional to the differences of the cost of living in the countries concerned.²⁹¹

Right to retention of accrued rights

Invalidity benefit, old age benefit, survivor's benefit and occupational accident or disease benefit acquired under the legislation of one state according to the eligibility criteria laid down under national legislation are maintained irrespective of whether the beneficiary moves between the territories.²⁹² Due to the particular nature of unemployment benefit, which is a short-term benefit closely linked to trends in the labour market, Article 12§4 does not require it to be exported.²⁹³

In order to ensure the exportability of benefits, States may choose between bilateral agreements or any other means such as unilateral, legislative or administrative measures.²⁹⁴

Material scope of Article 12§4b

Right to maintenance of accruing rights

There should be no disadvantage in terms of accrual of rights for a person who changes their country of employment in instances in which they have not completed the period of employment or insurance necessary under national legislation to confer entitlement and determine the amount of certain benefits. Implementation of the right to maintenance of accruing rights requires, where necessary, the accumulation of employment or insurance periods completed in another territory. In the case of long-term benefits, the pro-rata approach should also be employed.²⁹⁵

States may choose between the following means in order to ensure maintenance of accruing rights: multilateral convention, bilateral agreement or, unilateral, legislative or administrative measures.²⁹⁶ States that have ratified the European Convention on Social Security are presumed to have made sufficient efforts to guarantee the retention of accruing rights.²⁹⁷

Opinion of the ECSR

As regards the situation in Hungary, the Committee notes that the Government has provided no information on this provision.

²⁸⁸ [Conclusions 2006, Italy](#)

²⁸⁹ [Conclusions XVI-1 \(2002\), Statement of Interpretation on Articles 12§4 and 16](#)

²⁹⁰ [Conclusions 2006, Italy](#)

²⁹¹ [Conclusions XIII-4 \(1996\), Statement of Interpretation on Article 12](#)

²⁹² [Conclusions XVI-1 \(2002\), Belgium](#); see also [Conclusions XIV-1 \(1998\), Finland](#)

²⁹³ [Conclusions XIV-1 \(1998\), Norway](#)

²⁹⁴ [Conclusions XIII-4 \(1996\), Statement of Interpretation on Article 12](#)

²⁹⁵ [Conclusions 2009, Finland](#)

²⁹⁶ [Conclusions 2009, Finland](#)

²⁹⁷ [Conclusions 2006, Italy](#)

Therefore, the Committee 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 their efforts and to continue considering accepting Article 12§4 in the near future.

Article 18§§1 to 3 – *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;**
- 2. to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers;**
- 3. to liberalise, individually or collectively, regulations governing the employment of foreign workers;**

Situation in Hungary

The Government indicates that on 1 March 2021, Hungary implemented Act CXXXV of 2020, which governs services and subsidies to promote employment and the supervision of employment. The General Rules for the Entry and Residence of Third-Country Nationals specify that foreign nationals can only be employed in Hungary if no Hungarian workers are available to fill the position. Foreigners must leave Hungary when their work permits expire, as residence is not a fundamental right for non-citizens. Foreign nationals must have state-approved permission for residence. Third-country nationals may be granted permanent residence for purposes such as business, investment projects, seasonal employment, or highly specialized work under strict conditions. They can obtain work or residence permits for specific purposes. Third-country nationals who hold work permits for at least six months in Hungary are entitled to the same job seeking and unemployment benefits as Hungarian citizens. Refugees and those granted protected status in Hungary also have the right to work under the same conditions as Hungarian citizens.

For further information, please see For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation ([DIGEST](#))

Article 18§1

Article 18§1 applies to employees and the self-employed who are nationals of States which are party to the Charter.²⁹⁸ It also covers members of their family allowed into the country for the purposes of family reunion.²⁹⁹

Article 18§1 is concerned with administrative practice rather than legal aspects.³⁰⁰ 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.³⁰¹

²⁹⁸ [Conclusions 2012, Serbia](#)

²⁹⁹ [Ibid.](#)

³⁰⁰ [Ibid.](#)

³⁰¹ [Ibid.](#)

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.³⁰²

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.³⁰³

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.³⁰⁴

To tie an employed person to an enterprise by the threat of being obliged to leave the host country if they of “a spirit of liberality” or of liberal regulations.³⁰⁵ 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.³⁰⁶

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.³⁰⁷ 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.³⁰⁸

In order to assess the degree of liberality in applying existing regulations, the Committee requires figures showing the rejection rates for work permits for both first-time and renewal applications.³⁰⁹ 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 Committee as a clear sign that existing regulations are being applied in a spirit of liberality.³¹⁰

Article 18§2

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.³¹¹

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.³¹² It also implies that the documents required (residence/work permits) will be delivered within a reasonable time.³¹³ 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§2.³¹⁴

³⁰² [ibid.](#), citing [Conclusions XIII-1 \(1993\), Sweden](#)

³⁰³ [Conclusions III \(1973\), Statement of Interpretation on Article 18](#)

³⁰⁴ [Conclusions II \(1971\), Statement of interpretation on Article 18](#)

³⁰⁵ [ibid.](#)

³⁰⁶ [ibid.](#)

³⁰⁷ [Conclusions 2012, Statement of Interpretation on Article 18§1 and 18§3](#)

³⁰⁸ [ibid.](#)

³⁰⁹ [Conclusions XXII-1 \(2020\), Germany](#)

³¹⁰ [Conclusions 2012, Serbia](#)

³¹¹ [Conclusions IX-1 \(1990\), United Kingdom](#)

³¹² [Conclusions 2016, Armenia](#); [Conclusions XVII-2 \(2005\), Finland](#)

³¹³ [Conclusions XVII-2 \(2005\), Portugal](#)

³¹⁴ [ibid.](#)

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.³¹⁵

States Parties are under an obligation to reduce or abolish chancery dues and other charges paid either by foreign workers or by their employers.³¹⁶ 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.³¹⁷

The Committee 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.³¹⁸

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§2.³¹⁹ Fees ranging from €266 to €1536 for work permits are also not in conformity with Article 18§2.³²⁰

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.³²¹ States are required to demonstrate that they have taken measures towards achieving such a reduction.³²²

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.³²³ The Committee 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.³²⁴

Article 18§3

Under Article 18§3, States Parties are required to liberalise periodically the regulations governing the employment of foreign workers in the following areas:

Access to the national labour market

The conditions laid down for access by foreign workers to the national labour market must not be excessively restrictive, in particular with regard to the geographical area in which the occupation can be carried out and the requirements be met.³²⁵

States Parties may make foreign nationals' access to employment on their territory subject to possession of a work permit but they cannot ban nationals of States Parties in general from occupying jobs for reasons other than those set out in Article G of the Charter.³²⁶ A person who has been legally resident for a given length of time on the territory of another Party should be able to

³¹⁵ [Conclusions XXII-1 \(2020\), Iceland](#); see also [Conclusions 2020, Ukraine](#)

³¹⁶ [Conclusions 2012, Statement of Interpretation on Article 18§2](#)

³¹⁷ [Ibid.](#)

³¹⁸ [Conclusions XXII-1 \(2020\), Iceland](#)

³¹⁹ [Conclusions 2020, Armenia](#)

³²⁰ [Conclusions XXII-1 \(2020\), United Kingdom](#)

³²¹ [Conclusions 2012, Statement of Interpretation of Article 18§2](#)

³²² [Conclusions 2012, Statement of Interpretation of Article 18§2](#)

³²³ [Conclusions 2012, Statement of Interpretation of Article 18§2](#)

³²⁴ [Conclusions XXII-1 \(2020\), Iceland](#)

³²⁵ [Conclusions V \(1977\), Germany](#)

³²⁶ [Conclusions 2012, Ireland](#)

enjoy the same rights as national of that country.³²⁷ The restrictions initially imposed with regard to access to employment must therefore be gradually lifted.³²⁸

In order not to be in contradiction with Article 18 of the Charter, the implementation of 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.³²⁹ Such a situation, deriving from the implementation of “priority rules” of the kind just mentioned, would not be in conformity with Article 18§3, since the State in question would not comply with its obligation to progressively liberalise regulations governing the access to the national labour market with respect to foreign workers of a number of States Parties to the Charter.³³⁰

The situation is not in conformity with Article 18§3 where the majority of refusals of work permit applications for nationals of non-EU/EEA States Parties to the Charter are the result of the application of so-called “priority worker” rules, as this does not show that the regulations have been applied in a liberal spirit.³³¹

The situation is not in conformity with Article 18§3 when the regulations governing access to self-employment of foreign workers have not been liberalised and foreign workers wishing to engage in a self-employed activity are subjected to a 5-year residence requirement and must demonstrate the creation of 10 new jobs on the market.

Recognition of certificates, qualifications and diplomas

Article 18§3 requires each State Party to liberalise regulations governing the employment of foreign workers, in order to ensure to the workers from other States Parties the effective exercise of the right to engage in a gainful occupation.³³² With a view to ensuring the effective exercise of this right, the States Parties’ engagement in liberalisation shall include regulations governing the recognition of foreign certificates, professional qualifications and diplomas, to the extent that such qualifications and certifications are necessary to engage in a gainful occupation as employees or self-employed workers.³³³

A requirement that foreign workers must be in possession of certificates, professional qualifications or diplomas issued only by national authorities, schools, universities, or other training institutions - without opening the possibility of recognising as valid and appropriate substantially equivalent certificates, qualifications or diplomas issued by authorities, schools, universities or other training institutions of other States Parties, which have been obtained as a result of training courses or professional careers carried out within other States Parties - would represent a serious obstacle for foreign workers to access the national labour market, and an actual discrimination against non-nationals.³³⁴ For this reason, States Parties must make efforts to liberalise regulations governing the recognition of foreign certificates, professional qualifications and diplomas, progressively reducing the disadvantages for foreign workers to engage in a gainful occupation due to lack of recognition of foreign diplomas or professional qualifications substantially equivalent to those issued by national authorities, schools, universities or other training institutions.³³⁵

Rights in the event of loss of employment

³²⁷ [Ibid.](#)

³²⁸ [Ibid.](#)

³²⁹ [Conclusions 2012, Statement of Interpretation on Article 18§1 and 18§3](#)

³³⁰ [Ibid.](#)

³³¹ [1899 Conclusions XXII-1 \(2020\), Iceland](#)

³³² [Conclusions 2020, Turkey, citing Conclusions 2016, Turkey](#)

³³³ [Conclusions 2012, Statement of interpretation on Article 18§3](#)

³³⁴ [Conclusions 2012, Statement of interpretation on Article 18§3](#)

³³⁵ [Conclusions 2012, Statement of interpretation on Article 18§3](#)

Both the granting and the cancellation of work and temporary residence permits may well be interlinked, in as much as they pursue the same goal, namely, to enable a foreigner to engage in a gainful occupation.³³⁶

In cases where a work permit is revoked before the date of expiry, either because the employment contract is prematurely terminated, or because the worker no longer meets the conditions under which the work permit was granted, it would be contrary to the Charter to automatically deprive such worker of the possibility to continue to reside in the State Party concerned and to seek another job and a new work permit, unless there are exceptional circumstances which would authorise expulsion of the foreign worker concerned, in the meaning of Article 19§8.³³⁷

The loss of employment should not lead to the cancellation of the residence permit, as this would require the worker to leave the country as soon as possible.³³⁸ The validity of the residence permit should in fact be extended to give them enough time to find a new job.³³⁹

Early termination of the employment relationship of a foreign national for professional misconduct resulting in the automatic withdrawal of that person's residence permit with no possibility of seeking new employment is also contrary to Article 18§3 of the Charter.³⁴⁰

Opinion of the ECSR

As regards the situation in Hungary, the Committee takes note of the information provided in the report submitted by the Government.

However, the Committee has not been provided with sufficient information on important aspects of Article 18§§1 to 3 of the Charter, including the following:

Article 18§1:

- Information on self-employed persons who are nationals of States which are party to the Charter.
- Information on the members of the families of nationals of States parties to the Charter.
- Figures showing the rejection rates for work permits for both first-time and renewal applications, which would enable the Committee to assess the degree of liberality in applying existing regulations.

Article 18§2:

- Information on whether it is possible to complete the relevant formalities in the country of destination as well as in the country of origin and obtain the residence and work permits at the same time and through a single application.
- Information on whether visas are delivered within a reasonable time or what the level of visa fees is and whether the fees are set at an excessively high level, 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.

Article 18§3:

- Information on regulations governing access to self-employment of foreign workers.
- Information on regulations governing the recognition of foreign certificates, professional qualifications and diplomas.

³³⁶ [Conclusions 2012, Statement of interpretation on Article 18§3](#)

³³⁷ [Conclusions 2012, Statement of interpretation on Article 18§3](#)

³³⁸ [Conclusions XXII-1 \(2020\), Germany](#)

³³⁹ [Conclusions XXII-1 \(2020\), Germany](#), citing [Conclusions XVII-2, \(2005\), Finland](#)

³⁴⁰ [1909 Conclusions 2020, The Netherlands](#)

- Information on whether and, if so, under what circumstances the premature loss of employment could lead to a residence permit being revoked.

In view of the above, the Committee considers that the situation in Hungary constitutes an obstacle to the acceptance of Article 18§§1 to 3 of the Charter, and that with further improvements as regards the situation in law and practice, acceptance by Hungary of Article 18§§1 to 3 of the Charter could be envisaged.

Article 18§4 – *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 recognise:

4. the right of their nationals to leave the country to engage in a gainful occupation in the territories of the other Parties.

Situation in Hungary

No information was provided regarding this paragraph in the report submitted by the Government.

ECSR interpretation (DIGEST)

According to Article 18§4, States Parties undertake not to restrict the right of their nationals to leave the country to engage in gainful employment in other Parties to the Charter.³⁴¹

There must be a legal framework guaranteeing the right of nationals to leave their country without restriction.³⁴²

People whose right to leave the country is restricted must have legal remedies to challenge such decisions.³⁴³

The only permitted restrictions are those provided for in Article G of the Charter, i.e. those which are “prescribed by law and are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health, or morals.”³⁴⁴

Restrictions may apply during the period of service (either voluntary or obligatory) of medical officers engaged in the armed forces provided that once they are free of their obligations there is no restriction on them exercising their right under Article 18§4.³⁴⁵

Blanket restrictions on the right of citizens to leave the national territory go beyond the permitted restrictions under Article G of the Charter and are not in conformity with Article 18§4 of the Charter.³⁴⁶

Opinion of the ECSR

As regards the situation in Hungary, the Committee notes that the Government has provided no information on this provision.

³⁴¹ [Conclusions 2020, Serbia](#)

³⁴² [Conclusions 2020, Latvia](#)

³⁴³ [Conclusions 2020, Latvia](#)

³⁴⁴ [Conclusions 2005, Cyprus](#); [Conclusions XI-1 \(1989\), The Netherlands](#)

³⁴⁵ [European Federation of Public Service Employees \(EUROFEDOP\) v. Greece](#), Complaint No. 115/2015, decision on the merits of 13 September 2017, §52

³⁴⁶ [Conclusions 2020, Ukraine](#)

Therefore, the Committee 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 their efforts and to continue considering accepting Article 18§4 in the near future.

Article 19§§1 to 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 Contracting Party, the Contracting 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;**
- 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;**
- 3. to promote co-operation, as appropriate, between social services, public and private, in emigration and immigration countries;**
- 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 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) membership of trade unions and enjoyment of the benefits of collective bargaining;**
 - c) accommodation;**
- 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;**
- 6. to facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory;**
- 7. to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals in respect of legal proceedings relating to matters referred to in this article;**
- 8. to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality;**
- 9. to permit, within legal limits, the transfer of such parts of the earnings and savings of such workers as they may desire;**
- 10. to extend the protection and assistance provided for in this article to self employed migrants insofar as such measures apply.**
- 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;**

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 Hungary

In response to the Russia-Ukraine war, Hungary adapted its legislation to support asylum seekers, prioritizing their integration into the workforce and society. Refugees and persons with protected status have full access to employment, education, and social benefits on equal terms with Hungarian citizens. Asylum seekers and beneficiaries of temporary protection can work in any occupation without additional authorization. While seeking employment, they receive support and those unable to find work can participate in public employment programs. To address accommodation needs, employers hiring asylum seekers receive housing subsidies. Asylum seekers with children have access to nursery and kindergarten services. Financial support is provided to schools for educating students with temporary protection, and language barriers are addressed through educational materials. Unaccompanied minors receive special protection, and custody cannot be ordered for minors under 16. Hungary's family reunification policies allow residence permits for family members of refugees and asylum seekers, but residence permits for family reunification are not available to individuals sponsored by third-country nationals holding temporary or specific-purpose perm. Victims of human trafficking and those unable to leave Hungary due to circumstances beyond their control may receive a temporary residence certificate. For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation (DIGEST)

Article 19§1

Article 19§1 guarantees the right to free information and assistance to nationals wishing to emigrate and to nationals of other States Parties who wish to immigrate.³⁴⁷ 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).³⁴⁸

Free information and assistance services for migrants must be accessible in order to be effective.³⁴⁹ 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.³⁵⁰

Another obligation under this provision is that States Parties must take measures to prevent misleading propaganda relating to immigration and emigration.³⁵¹ 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.³⁵²

To be effective, action against misleading propaganda should include legal and practical measures to tackle racism and xenophobia as well as women trafficking.³⁵³ Such measures, which should be aimed at the whole population, are necessary *inter alia* to counter the spread of stereotyped

³⁴⁷ [Conclusions I \(1969\), Statement of Interpretation on Article 19§1](#)

³⁴⁸ [Conclusions III \(1973\), Cyprus; Conclusion XV-1 \(2000\), Austria](#)

³⁴⁹ [Conclusions 2015, Armenia; Conclusions 2019, Albania](#)

³⁵⁰ [Conclusions 2015, Armenia; Conclusions 2019, Albania](#)

³⁵¹ [Conclusions XIV-1 \(1998\), Greece](#)

³⁵² [Conclusions 2019, Estonia, citing Conclusions XIV-1 \(1998\), Greece](#)

³⁵³ [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](#)

assumptions that migrants are inclined to crime, violence, drug abuse or disease.³⁵⁴ 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.³⁵⁵

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.³⁵⁶

Article 19§2

Article 19§2 requires States Parties to adopt special measures for the benefit of migrant workers to facilitate their departure, journey and reception.³⁵⁷

‘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.³⁵⁸ 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.³⁵⁹

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 families travelling either collectively or under the public or private arrangements for collective recruitment.³⁶⁰ The Committee considers that this aspect of Article 19§2 does not apply to forms of individual migration for which the State is not responsible.³⁶¹ However, in that case, the need for reception facilities is all the greater.³⁶²

In assessing States Parties’ compliance with Article 19§2, the Committee 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 govern the access to healthcare for all migrants, irrespective of their status, in particular in emergency.³⁶³

Article 19§3

The scope of Article 19§3 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.³⁶⁴ Formal arrangements are not always necessary,

³⁵⁴ [Conclusion XV-1 \(2000\), Austria](#)

³⁵⁵ [Conclusions 2019, Albania](#)

³⁵⁶ [Conclusions 2019, Albania](#)

³⁵⁷ [Conclusions III \(1973\), Cyprus](#)

³⁵⁸ [Conclusions IV \(1975\), Statement of interpretation on Article 19§2](#)

³⁵⁹ [Conclusions IV \(1975\), Germany](#)

³⁶⁰ [Conclusions IV \(1975\), Statement of interpretation on Article 19§2](#)

³⁶¹ [Conclusions IV \(1975\), Statement of interpretation on Article 19§2](#)

³⁶² [ibid.](#)

³⁶³ [Conclusions 2019, Armenia](#)

³⁶⁴ [Conclusions XIV-1 \(1998\), Belgium](#)

especially if there is little migratory movement in a given country.³⁶⁵ In such cases, the provision of practical co-operation on a need basis may be sufficient.³⁶⁶

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.³⁶⁷

In order to assess States Parties' compliance with Article 19§3, the Committee 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.³⁶⁸

Article 19§4

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.³⁶⁹ Equality in law does not always and necessarily ensure equality in practice.³⁷⁰ Hence, additional action becomes necessary owing to the different situation of migrant workers as compared with nationals.³⁷¹ States Parties should pursue a positive and continuous course of action providing for more favourable treatment of migrant workers.³⁷²

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 other than the State in which they usually work.³⁷³ States must respect the principles of non-discrimination laid down by the Charter in respect of all persons subject to their jurisdiction.³⁷⁴

States Parties are also responsible for the regulation in national law of the conditions and rights of workers in cross-border postings.³⁷⁵

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.³⁷⁶

³⁶⁵ [Conclusions 2019, Albania](#)

³⁶⁶ [Ibid.](#)

³⁶⁷ [Conclusions XV-1 \(2000\), Finland](#)

³⁶⁸ [Conclusions 2019, Albania](#)

³⁶⁹ [Conclusions III \(1973\), Statement of Interpretation on Article 19§4](#)

³⁷⁰ [Conclusions V \(1977\), Statement of interpretation on Article 19](#)

³⁷¹ [Ibid.](#)

³⁷² [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

³⁷³ [Conclusions 2015, Statement of interpretation on Article 19§4](#)

³⁷⁴ [Ibid.](#)

³⁷⁵ [Ibid.](#)

³⁷⁶ [Conclusions VII \(1981\), United Kingdom](#); [Conclusions 2019, Albania](#)

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.³⁷⁷

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.³⁷⁸

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.³⁷⁹ 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.³⁸⁰

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.³⁸¹ Irregularly present immigrants, however, do not fall within the scope of Article 19§4(c).³⁸²

There must be no legal or de facto restrictions on home-buying,³⁸³ access to subsidised housing or housing aids, such as loans or other allowances.³⁸⁴

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.³⁸⁵

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.³⁸⁶

Monitoring and judicial review

³⁷⁷ [Conclusions XIII-3 \(1995\), Turkey](#); [Conclusions 2011, Statement of interpretation on Article 19§4b](#); [Conclusions XIX-4 \(2011\), Luxembourg](#)

³⁷⁸ [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

³⁷⁹ [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

³⁸⁰ [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

³⁸¹ [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)

³⁸² [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)

³⁸³ [Conclusions IV \(1975\), Norway](#); [Conclusions 2019, Albania](#)

³⁸⁴ [Conclusions III \(1973\), Italy](#); [Conclusions 2019, Albania](#)

³⁸⁵ [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, §204, citing [Conclusions XV-1 \(2000\), Finland](#)

³⁸⁶ [Conclusions 2015, Slovenia](#)

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.³⁸⁷

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.³⁸⁸

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.³⁸⁹ The Committee considers that existence of such review is important for all aspects covered by Article 19§4.³⁹⁰

Article 19§5

Article 19§5 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.³⁹¹

This includes contributions such as mandatory pension payments, unemployment insurance payments and social insurance contributions derived from employment.³⁹²

The Committee found situations to be in non-conformity with the Charter where non-residents who are cross-border workers are not entitled to personal income tax allowances (for dependant persons and additional allowances of personal income tax)³⁹³ or to supplementary financial benefits.³⁹⁴

Article 19§6

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.³⁹⁵

Scope

Article 19§6 requires States Parties to allow the families of migrants legally established in State Party territory to join them.³⁹⁶ 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.³⁹⁷

“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.³⁹⁸

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.³⁹⁹

³⁸⁷ [Conclusions III \(1973\), Statement of interpretation on Article 19§4; Conclusions 2019, Albania](#)

³⁸⁸ [Conclusions XX-4 \(2015\), Germany; Conclusions 2019, Albania](#)

³⁸⁹ [Conclusions XV-1 \(2000\), Finland](#)

³⁹⁰ [Conclusions 2019, Albania](#)

³⁹¹ [Conclusions 2019, Albania](#), citing [Conclusions XIX-4 \(2011\), Greece](#)

³⁹² [Conclusions 2019, Austria](#)

³⁹³ [Conclusions 2015, Latvia](#)

³⁹⁴ [Conclusions XX-4 \(2015\), Poland](#)

³⁹⁵ [Appendix to the Revised European Social Charter, European Treaty Series - No. 163](#)

³⁹⁶ [Conclusions 2019, Albania](#)

³⁹⁷ [Appendix to the Revised European Social Charter, European Treaty Series - No. 163](#)

³⁹⁸ [Conclusions VIII \(1984\) Statement of Interpretation on Article 19§6](#)

³⁹⁹ [Conclusions XVI-1 \(2002\), The Netherlands](#)

Where children aged 18 to 21 are not only disqualified in law from family reunion but also denied it in practice, the Committee assesses the proportion of children aged 18 to 21 refused family reunion.⁴⁰⁰ 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.⁴⁰¹

Conditions governing family reunion

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.⁴⁰²

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.⁴⁰³ 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.⁴⁰⁴

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.⁴⁰⁵ 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.⁴⁰⁶ 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.⁴⁰⁷

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.⁴⁰⁸ Thus, for example, a period of eighteen months or more is not in conformity with this provision of the Charter.⁴⁰⁹

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.⁴¹⁰ States are entitled to impose such accommodation requirements in a proportionate manner so as to protect the interests of the family.⁴¹¹ 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

⁴⁰⁰ [Conclusions XVI-1 \(2002\), The Netherlands](#)

⁴⁰¹ [Conclusions XVI-1 \(2002\), The Netherlands](#)

⁴⁰² [Conclusions 2019, Albania](#), citing [Conclusions 2015, Statement of Interpretation on Article 19§6 – housing requirements](#)

⁴⁰³ Statement on Covid-19 and social rights adopted on 24 March 2021

⁴⁰⁴ Statement on Covid-19 and social rights adopted on 24 March 2021

⁴⁰⁵ [Conclusions XVI-1 \(2002\), Greece](#)

⁴⁰⁶ [Conclusions XV-1 \(2000\), Finland](#)

⁴⁰⁷ [Conclusions XV-1 \(2000\), Finland](#)

⁴⁰⁸ [Conclusion 2011, Statement of Interpretation on Article 19§6](#)

⁴⁰⁹ [Conclusions I \(1969\), Germany](#); [Conclusions 2011, France](#); [Conclusions 2011, Cyprus](#)

⁴¹⁰ [Conclusions IV \(1975\), Norway](#)

⁴¹¹ [Conclusions 2015, Statement of interpretation on Article 19§6 – housing requirements](#)

exemptions to be made in respect of particular categories of cases, or for consideration of individual circumstances.⁴¹²

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.⁴¹³ Social benefits shall not be excluded from the calculation of the income of a migrant worker who has applied for family reunion.⁴¹⁴

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.⁴¹⁵

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.⁴¹⁶ 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.⁴¹⁷

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.⁴¹⁸ 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.⁴¹⁹

The conformity of the expulsion of family members of a migrant worker with the Charter is assessed under Article 19§6.⁴²⁰

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.⁴²¹

Article 19§7

Under this provision States Parties must ensure that migrants have access to courts, to lawyers and legal aid on the same conditions as their own nationals.⁴²² This obligation applies to all legal

⁴¹² [Conclusions 2015, Statement of interpretation on Article 19§6 – housing requirements](#)

⁴¹³ [Conclusions XVII-1 \(2004\), The Netherlands](#)

⁴¹⁴ [Conclusions 2011, Statement of Interpretation on Article 19§6](#)

⁴¹⁵ [Conclusions 2015, Statement of Interpretation on Article 19§6 – language and integration tests](#)

⁴¹⁶ [Conclusions 2015, Statement of Interpretation on Article 19§6 – language and integration tests](#)

⁴¹⁷ [Conclusions 2015, Statement of Interpretation on Article 19§6 – language and integration tests](#)

⁴¹⁸ [Conclusions XVI-1 \(2002\), The Netherlands, Article 19§8](#)

⁴¹⁹ [Conclusions XVI-1 \(2002\), The Netherlands, Article 19§8](#)

⁴²⁰ [Conclusions 2015, Statement of interpretation on Article 19§6 and 19§8](#)

⁴²¹ [Conclusions 2015, Statement of interpretation on Article 19§6 – housing requirements](#)

⁴²² [Conclusions I \(1969\), Italy, Norway, United-Kingdom; Conclusions I \(1969\), Germany; Conclusions 2019, Albania](#)

proceedings concerning the rights guaranteed by Article 19 (i.e. pay, working conditions, housing, trade union rights, taxes).⁴²³

More specifically, any migrant worker residing or working lawfully within the territory of a State Party who is involved in legal or administrative proceedings and does not have counsel of their own choosing should be advised that they may appoint counsel and, whenever the interests of justice so require, be provided with counsel, free of charge if they do not have sufficient means to pay the latter, as is the case for nationals or should be by virtue of the Charter.⁴²⁴ Under the same conditions (involvement of a migrant worker in legal or administrative proceedings), whenever the interests of justice so require, a migrant worker must have the free assistance of an interpreter if they cannot properly understand or speak the national language used in the proceedings and have any necessary documents translated.⁴²⁵ Such legal assistance should be extended to obligatory pre-trial proceedings.⁴²⁶

Article 19§8

Article 19§8 requires States Parties to prohibit by law the expulsion of migrants lawfully residing in their territory, except where they are a threat to national security, or offend against public interest or morality.⁴²⁷

In cases where a fundamental right such as the right of residence is at stake, the burden of proof rests with the Government to demonstrate that a person does not reside legally on its territory.⁴²⁸

Such expulsions can only be in conformity with the Charter if they are ordered by a court or a judicial authority, or an administrative body whose decisions are subject to judicial review.⁴²⁹ Any such expulsion should only be ordered in situations where the individual concerned has been convicted of a serious criminal offence, or has been involved in activities which constitute a substantive threat to national security, the public interest or public morality.⁴³⁰ Expulsion orders must be proportionate, taking into account all aspects of the individual's behaviour as well as the circumstances and the length of time of their presence in the territory of the State.⁴³¹ The individual's connection or ties with both the host state and the state of origin, as well as the strength of any family relationships that they may have formed during this period, must also be considered to determine whether expulsion is proportionate.⁴³²

Risks to public health are not in themselves risks to public order and cannot constitute a ground for expulsion, unless the person refuses to undergo suitable treatment.⁴³³

The fact that a migrant worker is dependent on social assistance cannot be regarded as a threat against public order and cannot constitute a ground for expulsion.⁴³⁴

States Parties must ensure that foreign nationals served with expulsion orders have a right of appeal to a court or other independent body.⁴³⁵

⁴²³ [Conclusions I \(1969\), Germany](#)

⁴²⁴ [Conclusions 2011, Statement of Interpretation on Article 19§7](#)

⁴²⁵ [Ibid.](#)

⁴²⁶ [Ibid.](#)

⁴²⁷ [Conclusions VI \(1979\), Cyprus; Conclusions 2011, Statement of Interpretation on Article 19§8; Conclusions 2015, Statement of interpretation on Article 19§8](#)

⁴²⁸ [Médecins du Monde - International v. France, Complaint No. 67/2011](#), decision on the merits of 11 September 2012, §114

⁴²⁹ [Conclusions 2015, Statement of interpretation on Article 19§8](#)

⁴³⁰ [Conclusions 2015, Statement of interpretation on Article 19§8](#)

⁴³¹ [Conclusions 2015, Statement of interpretation on Article 19§8](#)

⁴³² [Conclusions 2015, Statement of interpretation on Article 19§8](#)

⁴³³ [Conclusions V \(1977\), Germany](#)

⁴³⁴ [Conclusions V \(1977\), Italy](#)

⁴³⁵ [Conclusions V \(1977\), United Kingdom; Conclusions 2015, Statement of interpretation on Article 19§8](#)

Collective expulsions are not in conformity with the Charter; decisions on expulsion may be made only on the basis of a reasonable and objective examination of the particular situation of each individual.⁴³⁶

National legislation should reflect the legal implications of Articles 18§1 and 19§8 as well as the case law of the European Court of Human Rights: foreign nationals who have been resident for a sufficient length of time in a State, either legally or with the tacit acceptance of their illegal status by the authorities in view of the host country's needs, should be covered by the rules protecting from deportation.⁴³⁷

Article 19§9

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.⁴³⁸

The right to transfer earnings and savings includes the right to transfer movable property (including money).⁴³⁹

Article 19§10

Under Article 19§10, States Parties must extend the rights provided for in paragraphs 1 to 9, 11 and 12 to self-employed migrant workers and their families.⁴⁴⁰

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.⁴⁴¹ In addition equal treatment between self-employed migrants and self-employed nationals must be guaranteed in the areas covered by this provision.⁴⁴²

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.⁴⁴³ Such finding of non-conformity prevents discrimination or difference in treatment.⁴⁴⁴

As this provision relates solely to extending the protection and assistance embodied in the other paragraphs of Article 19 to self-employed workers, it is important that the following comments should be considered not in isolation, but together with those made on each of the other paragraphs of Article 19. Hence, any statement that a particular state has fulfilled its obligations deriving from Paragraph 10 is valid only in so far as the Committee has been able to reach a like conclusion in respect of the other paragraphs also.⁴⁴⁵

Article 19§11

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

⁴³⁶ [Centre on Housing Rights and Evictions \(COHRE\) v. Italy, Complaint No. 58/2009](#), decision on the merits of 25 June 2010, §§ 155-158, [Centre on Housing Rights and Evictions \(COHRE\) v. France, Complaint No. 63/2010](#), decision on the merits of 28 June 2011, §§ 68-79; [European Roma and Travellers Forum \(ERTF\) v. France, Complaint No. 64/2011](#), decision on the merits of 24 January 2012, §§ 51-67; [Médecins du Monde - International v. France, Complaint No. 67/2011](#), decision on the merits of 11 September 2012, §§ 112-117

⁴³⁷ [Conclusions 2011, Statement of Interpretation on Article 19§8](#)

⁴³⁸ [Conclusions XIII-1 \(1993\), Greece](#)

⁴³⁹ [Conclusions 2011, Statement of Interpretation on Article 19§9](#)

⁴⁴⁰ [Conclusions I \(1969\), Norway](#)

⁴⁴¹ [Conclusions 2002, France](#)

⁴⁴² [Conclusions XVIII-1 \(2006\) Luxembourg](#)

⁴⁴³ [Conclusions 2019, Albania](#)

⁴⁴⁴ [Ibid.](#)

⁴⁴⁵ [Statement of interpretation on Article 19§10](#)

families who are no longer of school age.⁴⁴⁶ 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.⁴⁴⁷

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.⁴⁴⁸

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§11.⁴⁴⁹ 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.⁴⁵⁰

States Parties shall encourage the teaching of the national language in the workplace, in the voluntary sector or in public establishments such as universities.⁴⁵¹ Such services shall be free of charge so as not to exacerbate the disadvantaged position of migrant workers in the labour market.⁴⁵²

Article 19§12

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.⁴⁵³

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

- statistics on major migrant groups,⁴⁵⁴
- 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,⁴⁵⁵
- 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,⁴⁵⁶
- 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.⁴⁵⁷

Opinion of the ECSR

As regards the situation in Hungary, the Committee takes note of the information provided by the Government regarding the measures taken to provide assistance and integrate persons fleeing the war between Russia and Ukraine.

However, apart from the above context, no information has been provided regarding the measures in place to ensure the effective exercise of the right of other migrant workers and their families to

⁴⁴⁶ [Conclusions 2002, France](#)

⁴⁴⁷ [Conclusions 2002, France](#)

⁴⁴⁸ [Conclusions 2011, Norway](#)

⁴⁴⁹ [Conclusions 2002, France](#)

⁴⁵⁰ [Conclusions 2002, France](#)

⁴⁵¹ [Conclusions 2002, France](#)

⁴⁵² [Conclusions 2002, France](#)

⁴⁵³ [Conclusions 2002, Italy](#); [Conclusions 2011, Armenia](#); [Conclusions 2011, Statement of Interpretation on Article 19§12](#)

⁴⁵⁴ [Conclusions 2019, Albania](#)

⁴⁵⁵ [Conclusions 2019, Albania](#)

⁴⁵⁶ [Conclusions 2019, Albania](#)

⁴⁵⁷ [Conclusions 2019, Albania](#)

protection and assistance in Hungary. Therefore, the Committee has not been provided with sufficient information relating to important aspects of Article 19§§1 to 12 of the Charter.

In view of these requirements, the Committee 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 their efforts and to continue considering accepting Article 19§§1 to 12 in the near future.

Article 23 – *The right 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;

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

Situation in Hungary

The Government indicates that in Hungary the protection of the rights of older people is primarily ensured through social security pensions and supplementary income-tested old-age allowances. As of 2023, eligibility for this allowance depends on the income level of the older person and their spouse or partner. The social care system is governed by the 1993 Social Administration Act and it offers both basic and specialized services. The state and local authorities are responsible for ensuring the availability of these services. The Government has implemented various measures to support older persons, particularly in terms of income and care. From 2022, the retirement age is 65 years. For those not eligible for a pension or with insufficient pension income, the Government offers an old-age allowance. The Careful Watch Programme, running until 31 December 2026, aims to improve safety and provide remote care solutions for families who may be far from their older relatives. In terms of residential care, Hungary has introduced a new type of self-care-based retirement home, where residents can pay for services without needing a care needs assessment, as well as specialised care centres.

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation (DIGEST)

Article 23 of the Charter is the first human rights treaty provision to specifically protect the rights of older persons.⁴⁵⁸ 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

⁴⁵⁸ [Conclusions XIII-3 \(1995\), Statement of Interpretation on Article 4 of the Additional Protocol](#) (Article 23)

older persons, obliging States Parties to devise and carry out coherent actions in the different areas covered.⁴⁵⁹

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 account of their age.⁴⁶⁰ 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.⁴⁶¹ 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.⁴⁶² 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.⁴⁶³ Equal treatment calls for an approach based on the equal recognition of the value of older persons’ lives.⁴⁶⁴

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),⁴⁶⁵ Article 12 (Right to social security),⁴⁶⁶ Article 13 (Right to social and medical assistance) and Article 30 (Right to protection against poverty and social exclusion).⁴⁶⁷ 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.⁴⁶⁸ 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.⁴⁶⁹

Non-discrimination legislation should exist at least in certain domains protecting persons against discrimination on grounds of age.⁴⁷⁰

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.⁴⁷¹ 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.⁴⁷² Therefore an adequate legal framework is a fundamental measure to combat age discrimination in these areas.⁴⁷³ Article 23 must be fully respected during the Covid-19 crisis.⁴⁷⁴

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.⁴⁷⁵

⁴⁵⁹ [Conclusions XIII-3 \(1995\), Statement of Interpretation on Article 4 of the Additional Protocol](#) (Article 23)

⁴⁶⁰ [Fellesforbundet for Sjøfolk \(FFFS\) v. Norway](#), Complaint No. 74/2011, decision on the merits of 2 July 2013, §116

⁴⁶¹ [Fellesforbundet for Sjøfolk \(FFFS\) v. Norway](#), Complaint No. 74/2011, decision on the merits of 2 July 2013, §116, citing [Conclusions XIII-5, Finland](#)

⁴⁶² [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁴⁶³ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁴⁶⁴ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁴⁶⁵ Statement of Interpretation on the right to protection of health in times of pandemic, 20 April 2020

⁴⁶⁶ General Introduction to Conclusions 2017

⁴⁶⁷ Conclusions 2017, Ukraine

⁴⁶⁸ [Conclusions 2009, Andorra](#)

⁴⁶⁹ [Conclusions 2009, Andorra](#)

⁴⁷⁰ [Fellesforbundet for Sjøfolk \(FFFS\) v. Norway](#), Complaint No. 74/2011, decision on the merits of 2 July 2013, §115

⁴⁷¹ [Conclusions 2009, Andorra](#)

⁴⁷² [Conclusions 2009, Andorra](#)

⁴⁷³ [Conclusions 2009, Andorra](#)

⁴⁷⁴ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁴⁷⁵ [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 23.⁴⁷⁶ Older persons at times may have reduced capacity-making powers or no such powers or capacity at all.⁴⁷⁷ Therefore, there should be a national legal framework related to assisted decision making for older persons guaranteeing their right to make decisions for themselves.⁴⁷⁸ 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.⁴⁷⁹

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.⁴⁸⁰ 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.⁴⁸¹

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.⁴⁸² It must be ensured that any person acting on behalf of older persons interferes to the least possible degree with their wishes and rights.⁴⁸³

Article 23 also requires States Parties to take appropriate measures against the abuse of older persons.⁴⁸⁴ Abuse can take various forms: physical, psychological or emotional, sexual, financial or simply reflect intentional or unintentional neglect.⁴⁸⁵ 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.⁴⁸⁶

- **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.⁴⁸⁷

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.⁴⁸⁸ In particular, pensions, contributory or non-contributory, and other complementary cash benefits available to older persons are examined.⁴⁸⁹ These resources are then compared with the median equivalised income.⁴⁹⁰ The Committee also takes into

⁴⁷⁶ [Conclusions 2003, France](#)

⁴⁷⁷ [Conclusions 2003, France](#)

⁴⁷⁸ [Conclusions 2013, Statement of Interpretation Article 23 – assisted decision-making](#)

⁴⁷⁹ [Conclusions 2013, Statement of Interpretation Article 23 – assisted decision-making](#)

⁴⁸⁰ [Conclusions 2013, Statement of Interpretation Article 23 – assisted decision-making](#)

⁴⁸¹ [Conclusions 2013, Statement of Interpretation Article 23 – assisted decision-making](#)

⁴⁸² [Conclusions 2013, Statement of Interpretation Article 23 – assisted decision-making](#)

⁴⁸³ [Conclusions 2013, Statement of Interpretation Article 23 – assisted decision-making](#)

⁴⁸⁴ [Conclusions 2009, Andorra](#)

⁴⁸⁵ [Conclusions 2009, Andorra](#)

⁴⁸⁶ [Conclusions 2009, Andorra](#)

⁴⁸⁷ [Conclusions 2013, Statement of Interpretation Article 23 – adequate resources for the elderly](#)

⁴⁸⁸ [Conclusions 2013, Statement of Interpretation Article 23 – adequate resources for the elderly](#)

⁴⁸⁹ [Conclusions 2013, Statement of Interpretation Article 23 – adequate resources for the elderly](#)

⁴⁹⁰ [Conclusions 2013, Statement of Interpretation Article 23 – adequate resources for the elderly](#)

consideration relevant indicators relating to at-risk-of-poverty rates for persons aged 65 and over.⁴⁹¹

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.⁴⁹² Therefore, it is not only information relating to the provision of these services and facilities that is examined but also the services and facilities themselves.⁴⁹³ In doing so, the Committee 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.⁴⁹⁴

Furthermore, States Parties must have a system for monitoring the quality of services and a procedure for complaining about the standard of services.⁴⁹⁵

Insufficient regulation of fees for service housing and service housing with 24-hour assistance may amount to a violation of Article 23.⁴⁹⁶

- 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.⁴⁹⁷ The supply of adequate housing for older persons must be sufficient.⁴⁹⁸ 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.⁴⁹⁹ 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.⁵⁰⁰ Improvement of housing conditions by moving elsewhere is often not a viable option in that it uproots the older person from their “natural” environment.⁵⁰¹

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

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.⁵⁰² In addition, there should be mental health programmes for any psychological problems in respect of older persons, and adequate palliative care services.⁵⁰³

⁴⁹¹ [Conclusions 2013, Statement of Interpretation Article 23 – adequate resources for the elderly](#)

⁴⁹² [Conclusions 2003, France](#)

⁴⁹³ [Conclusions 2003, France](#)

⁴⁹⁴ [Conclusions 2003, France](#)

⁴⁹⁵ [Conclusions 2009, Andorra](#)

⁴⁹⁶ [The Central Association of Carers in Finland v. Finland](#), Complaint No 71/2011, decision on the merits of 4 December 2012, §53

⁴⁹⁷ [Conclusions 2003, France](#)

⁴⁹⁸ [Conclusions 2003, France](#)

⁴⁹⁹ [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

⁵⁰⁰ [Conclusions 2009, Andorra](#)

⁵⁰¹ [Conclusions 2017, Bosnia and Herzegovina](#)

⁵⁰² [Conclusions 2003, France; Conclusions 2017, Ukraine](#)

⁵⁰³ [Conclusions 2003, France](#)

- **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.⁵⁰⁴

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.⁵⁰⁵

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.⁵⁰⁶

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.⁵⁰⁷ 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.⁵⁰⁸ 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.⁵⁰⁹

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.⁵¹⁰

Opinion of the ECSR

As regards the situation in Hungary, the Committee takes note of the detailed information provided by the Government regarding the measures in place to ensure the effective exercise of the right of elderly persons to social protection, including pensions, benefits and social services.

However, the Committee has not been provided with sufficient information on other important aspects of Article 23 of the Charter, including the following:

- Whether non-discrimination legislation protects, in law and in practice, persons against discrimination outside employment on grounds of age, and in which domains.
- Whether there exists a legal framework and a procedure of assisted decision-making for older persons and with which characteristics.
- The measures taken to protect older persons against abuse and neglect.

⁵⁰⁴ [Conclusions 2017, Malta; Portugal](#)

⁵⁰⁵ [Conclusions 2005, Slovenia; Conclusions XX-2 \(2013\), Czech Republic](#)

⁵⁰⁶ [Conclusions 2005, Slovenia](#)

⁵⁰⁷ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁵⁰⁸ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁵⁰⁹ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁵¹⁰ [Conclusions 2005, Slovenia; Conclusions 2003, France](#)

- Whether a system exists for monitoring the quality of services and a procedure for complaining about the standard of service.
- Whether there exist programmes and services for older persons with dementia and adequate palliative care services.
- Which rights are guaranteed in institutional facilities for older persons (public or private).

In view of these requirements, the Committee 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 their efforts and to continue considering accepting Article 23 in the near future.

Article 24 – *The right to protection in cases of termination of employment*

With a view to ensuring the effective exercise of the right of workers to protection in cases of termination of employment, the Parties undertake to recognise:

- a) the right of all workers not to have their employment terminated without valid reasons for such termination connected with their capacity or conduct or based on the operational requirements of the undertaking, establishment or service;**
- b) the right of workers whose employment is terminated without a valid reason to adequate compensation or other appropriate relief. To this end the Parties undertake to ensure that a worker who considers that his employment has been terminated without a valid reason shall have the right to appeal to an impartial body.**

Situation in Hungary

The Government indicates that Hungary's Labour Code and its amendments introduce new protections for employees in line with EU Directive 2019/1158 on work-life balance. These amendments extend dismissal prohibitions to include paternity leave, parental leave, and carer's leave, in addition to existing protections for pregnancy, maternity leave, and voluntary military service. The amendments also strengthen the burden of proof in legal disputes, allowing employees to challenge dismissals they believe to be unfair, and expand the cases in which reinstatement of employment can be requested and granted by court. Additional provisions apply to specific groups, such as military personnel, healthcare workers and staff of the National Tax and Customs Administration. Act CXXX of 2020 sets out legal consequences for unlawful dismissals of National Tax and Customs Administration employees. Employees who are unlawfully dismissed are entitled to compensation. If reinstatement is not requested or is denied, the employment relationship ends upon the final court decision, and the employee is entitled to a payment equivalent to at least 2 months' salary. If the dismissal was not unlawful, but improper due to an insufficient notice period, employment continues until the proper notice period expires.

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation (DIGEST)

Scope of protection

Article 24 relates to termination of employment at the initiative of the employer.⁵¹¹ A situation where a mandatory retirement age is set by statute, as a consequence of which the employment relationship automatically ceases by operation of law, does not fall within the scope of this provision. However, the termination of employment on the sole ground that the person has reached the pensionable age, which is permitted (but not mandated) by law, is not justified.⁵¹²

⁵¹¹ [Conclusions 2012, Statement of Interpretation on Article 24](#)

⁵¹² [Conclusions 2020, Malta](#) ; [Conclusions 2012, Statement of Interpretation on Article 24](#)

Definition of an “employee”

All workers who have signed an employment contract are entitled to protection in the event of termination of employment.⁵¹³ However, according to the Appendix, the State Party may exclude one or more of the following categories:

- workers engaged under a contract of employment for a specified period of time or a specified task.⁵¹⁴ In the public sector, the non-renewal of fixed-term contracts or the fact that such contracts are not converted into indefinite duration contracts, even though there are vacant positions within the workforce, cannot be regarded as dismissals contrary to Article 24 of the Charter.⁵¹⁵
- workers undergoing a period of probation or a qualifying period of employment, provided that this is determined in advance and is of a reasonable duration.⁵¹⁶ Under Article 24, exclusion of employees from protection against dismissal for six months during the probationary period is not reasonable if applied indiscriminately, regardless of the employee’s qualification.⁵¹⁷ A one year period of exclusion is manifestly unreasonable and therefore not in conformity with the Charter.⁵¹⁸
- workers engaged on a casual basis for a short period.⁵¹⁹

This list is exhaustive. Exclusion of any other category of employee, such as employees having reached the normal retiring age, from protection against unfair dismissal is not in conformity with the Charter.⁵²⁰

Safeguards must exist to ensure that employers hiring workers in the platform or gig economy do not circumvent labour law as regards protection against dismissal on the grounds that a person performing work for them is self-employed, when in reality, after examination of the conditions under which such work is provided it is possible to identify certain indicators of the existence of an employment relationship.⁵²¹

Definition of valid reasons

Article 24 establishes in an exhaustive manner the valid grounds on which an employer can terminate an employment relationship.⁵²² Two types of grounds are considered valid, namely on the one hand those connected with the capacity or conduct of the employee and on the other hand those based on the operational requirements of the enterprise (economic reasons).⁵²³

i. reasons connected with the capacity or conduct of the employee

A prison sentence delivered in court can be a valid ground for termination of an employment contract if such sentence is delivered for employment-related offences.⁵²⁴ This is not the case with prison sentences for offences unrelated to the person’s employment, which cannot be considered valid reasons unless the length of the custodial sentence prevents the person from carrying out their work.⁵²⁵

⁵¹³ [Conclusions 2003, Italy](#)

⁵¹⁴ [Appendix to the European Social Charter \(Revised\) – European Treaty Series – No. 163](#)

⁵¹⁵ [Associazione Professionale e Sindacale \(ANIEF\) v. Italy](#), Complaint No. 146/2017, decision on the merits of 7 July 2020, §§ 104-106

⁵¹⁶ [Appendix to the European Social Charter \(Revised\) – European Treaty Series – No. 163](#)

⁵¹⁷ [Conclusions 2012, Ireland](#); [Conclusions 2012, Cyprus](#); [Conclusions 2003, Italy](#)

⁵¹⁸ [Conclusions 2012, Ireland](#)

⁵¹⁹ [Appendix to the European Social Charter \(Revised\) – European Treaty Series – No. 163](#)

⁵²⁰ [Conclusions 2012, Ireland](#)

⁵²¹ [Conclusions 2020, Albania](#)

⁵²² [Conclusions 2012, Statement of Interpretation on Article 24](#)

⁵²³ [Conclusions 2012, Statement of Interpretation on Article 24](#)

⁵²⁴ [Conclusions 2008, Lithuania](#)

⁵²⁵ [Conclusions 2008, Lithuania](#)

ii. certain economic reasons

Economic reasons for dismissal must be the reasons based on the operational requirements of the undertaking, establishment or service.⁵²⁶ The assessment relies on the domestic courts' interpretation of the law.⁵²⁷ The courts must have the competence to review a case on the economic facts underlying the reasons of dismissal and not just on issues of law.⁵²⁸ Article 24 of the Charter requires a balance to be struck between an employer's right to direct/run their enterprise as they see fit and the need to protect the rights of the employees.⁵²⁹

In cases of collective dismissals due to a reduction or change in the company's activities caused by the Covid19 crisis, due respect must be accorded to the Charter requirement that workers' representatives are informed and consulted in good time before redundancies and that the purpose of such consultations is respected in redundancy procedures, namely that the workers are made aware of reasons and scale of planned redundancies and that the position of the workers is taken into account when their employer is planning collective redundancies.⁵³⁰

Prohibited dismissals

A series of Charter provisions require increased protection against termination of employment on certain grounds:

- discrimination (Articles 1§2, 4§3, and 20);⁵³¹
- trade union activities (Article 5);⁵³²
- participation in strikes (Article 6§4);⁵³³
- maternity (Article 8§2);⁵³⁴
- disability (Article 15);⁵³⁵
- family responsibilities (Article 27);⁵³⁶
- worker representation (Article 28).⁵³⁷

Only two reasons are examined under Article 24, namely:

i. the filing of a complaint or the participation in proceedings against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities;

National legislation or case law must contain express safeguards against retaliatory dismissal.⁵³⁸ Safeguarding persons who resort to the courts or other competent authorities to enforce their rights against reprisals is essential in any situation in which a worker alleges a violation of the law.⁵³⁹ In the absence of any explicit statutory ban, States Parties must be able to show how national legislation conforms to the requirement of the Charter.⁵⁴⁰

ii. temporary absence from work due to illness or injury.

⁵²⁶ [Conclusions 2016, Latvia](#)

⁵²⁷ [Conclusions 2016, Latvia](#) citing [Conclusions 2012, Turkey](#)

⁵²⁸ [Conclusions 2012, Turkey](#)

⁵²⁹ [Conclusions 2016, Latvia](#)

⁵³⁰ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁵³¹ [Conclusions 2016, Latvia](#)

⁵³² [Conclusions 2016, Latvia](#)

⁵³³ [Conclusions 2016, Latvia](#)

⁵³⁴ [Conclusions 2016, Latvia](#)

⁵³⁵ [Conclusions 2016, Latvia](#)

⁵³⁶ [Conclusions 2016, Latvia](#)

⁵³⁷ [Conclusions 2016, Latvia](#)

⁵³⁸ [Conclusions 2016, Latvia](#)

⁵³⁹ [Conclusions 2016, North Macedonia](#)

⁵⁴⁰ [Conclusions 2016, Russian Federation](#)

A time limit can be placed on protection against dismissal in such cases.⁵⁴¹ Absence from work can constitute a valid reason for dismissal if it severely disrupts the smooth running of the undertaking and a genuine, permanent replacement must be provided for the absent employee.⁵⁴²

As regards dismissal without notice in the event of permanent invalidity, the following factors are taken into consideration for the assessment:

- is dismissal without notice for reasons of permanent invalidity permitted regardless of the origin of the invalidity? In particular, may this occur in cases of employment injuries or occupational diseases?⁵⁴³
- are employers required to pay compensation for termination in such cases?⁵⁴⁴
- if, despite the permanent invalidity, the worker can still carry out light work, is the employer required to offer a different placement? If the employer is unable to meet this requirement, what alternatives are available?⁵⁴⁵

iii. Dismissal of the employee at the initiative of the employer on the ground that the former has reached the normal pensionable age

States Parties should take adequate measures to ensure protection for all workers against dismissal on grounds of age.⁵⁴⁶

Dismissal on grounds of age will not constitute a valid reason for termination of employment unless a termination is, within the context of national law, objectively and reasonably justified by a legitimate aim such as a legitimate employment policy, labour market objectives or the operational requirements of the undertaking, establishment or service and provided that the means of achieving that aim are appropriate and necessary.⁵⁴⁷

Legislation which enables dismissal directly on grounds of age and does not, therefore, effectively guarantee the right to protection in cases of termination of employment, is contrary to the Charter.⁵⁴⁸ The list of prohibited reasons set out in the appendix to Article 24 is not exhaustive.⁵⁴⁹

Adequate compensation

Right of appeal

Any employee who considers themselves to have been dismissed without valid reason must have the right to appeal to an impartial body.⁵⁵⁰ The burden of proof should not rest entirely on the complainant, but should be the subject of an appropriate adjustment between employee and employer.⁵⁵¹

Damages

Article 24 of the Charter requires that courts or other competent bodies are able to order adequate compensation, reinstatement or other appropriate relief.⁵⁵² In order to be considered appropriate,

⁵⁴¹ [Conclusions 2012, Ukraine](#)

⁵⁴² [Conclusions 2016, Latvia](#)

⁵⁴³ [Conclusions 2008, Azerbaijan](#)

⁵⁴⁴ [Conclusions 2008, Azerbaijan](#)

⁵⁴⁵ [Conclusions 2008, Azerbaijan](#)

⁵⁴⁶ [Conclusions 2007, Statement of Interpretation on Article 24](#)

⁵⁴⁷ [Conclusions 2008, Lithuania](#); [Conclusions 2007, Statement of Interpretation on Article 24](#)

⁵⁴⁸ [Fellesforbundet for Sjøfolk \(FFFS\) v. Norway](#), Complaint No. 74/2011, decision on the merits of 2 July 2013, §§ 86, 89, 97, 99

⁵⁴⁹ [Appendix to the European Social Charter \(Revised\) – European Treaty Series – No. 163](#)

⁵⁵⁰ [Conclusions 2005, Cyprus, France, Estonia](#)

⁵⁵¹ [Conclusions 2008, Statement of Interpretation on Article 24 and Statement of Interpretation on the burden of proof in discrimination cases](#)

⁵⁵² [Conclusions 2016, North Macedonia](#)

compensation should include reimbursement of financial losses incurred between the date of dismissal and the decision of the appeal body ruling on the lawfulness of the dismissal, the possibility of reinstatement and/or compensation sufficient both to deter the employer and proportionate to the damage suffered by the victim.⁵⁵³

Any ceiling on compensation that may preclude damages from being commensurate with the loss suffered and sufficiently dissuasive is in principle contrary to the Charter.⁵⁵⁴ If there is such a ceiling on compensation for pecuniary damage, the victim must be able to seek 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.⁵⁵⁵

Opinion of the ECSR

As regards the situation in Hungary, the Committee takes note of the legislative amendments to the Labour Code adopted in recent years to ensure the effective exercise of the right of workers to protection in cases of termination of employment (e.g. extension of prohibitions on dismissal, new burden of proof provisions and expansion of cases in which reinstatement of employment can be requested and granted by court), as well as the detailed information on the legal consequences of unlawful dismissal concerning the staff of the National Tax and Customs Administration.

However, the Committee notes that there continues to exist a 12-month ceiling to the compensation that can be granted in cases of unlawful dismissal, which may preclude damages from being commensurate with the loss suffered and sufficiently dissuasive areas. No information has been provided on whether the victim is nevertheless able to seek compensation for non-pecuniary damage through other legal avenues (e.g. anti-discrimination legislation).

Therefore, the Committee reiterates its position that the situation in Hungary constitutes an obstacle to the acceptance of Article 24 of the Charter, and that with further improvements as regards the above situation, acceptance by Hungary of Article 24 of the Charter could be envisaged.

Article 25 – The right of workers to the protection of their claims in the event of the insolvency of their employer

With a view to ensuring the effective exercise of the right of workers to the protection of their claims in the event of the insolvency of their employer, the Parties undertake to provide that workers' claims arising from contracts of employment or employment relationships be guaranteed by a guarantee institution or by any other effective form of protection.

Situation in Hungary

The Government indicates that the Wage Guarantee Fund Act of 1994 has been amended multiple times since 2018. The wage guarantee procedure now allows financial support to cover various wage-related debt. Individuals undergoing debt settlement may also receive wage-related financial aid as repayable state assistance. The also Act covers wage debts incurred before the start of liquidation or winding-up proceedings. Applications for wage guarantee aid must be submitted electronically by the liquidator or an authorised representative to the designated public employment service. If approved, repayment is required. Unlawfully claimed or improperly used aid must be repaid with an additional penalty.

⁵⁵³ [Conclusions 2016, North Macedonia](#), Finnish Society of Social Rights v. Finland, decision on the merits of 8 September 2016

⁵⁵⁴ [Conclusions 2012, Slovenia](#); [Conclusions 2012, Finland](#), Finnish Society of Social Rights v. Finland, decision on the merits of 8 September 2016

⁵⁵⁵ [Conclusions 2012, Slovenia](#); [Conclusions 2012, Finland](#), Finnish Society of Social Rights v. Finland, decision on the merits of 8 September 2016

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation (DIGEST)

Article 25 of the Charter guarantees individuals the right to protection of their claims in the event of the insolvency of their employer.⁵⁵⁶

The term “insolvency” includes both situations in which formal insolvency proceedings have been opened relating to an employer’s assets with a view to the collective reimbursement of their creditors, and situations in which the employer’s assets are insufficient to justify the opening of formal proceedings.⁵⁵⁷

In the event of the insolvency of their employer, workers’ claims must be guaranteed by a guarantee institution or by any other effective form of protection.⁵⁵⁸ States Parties which have accepted this provision benefit from a margin of discretion as to the form of protection of workers’ claims; Article 25 does not require the existence of a specific guarantee institution.⁵⁵⁹

The appendix to the Charter stipulates, *inter alia*, the minimum amounts of wages and paid absence that must be covered depending on whether recourse is had to a “privilege system” (three months prior to the insolvency) or a “guarantee system” (eight weeks).⁵⁶⁰

The protection afforded, whatever its form, must be adequate and effective including in situations where the assets of an enterprise are insufficient to cover salaries owed to workers.⁵⁶¹ Guarantees must exist for workers that their claims will be satisfied in such cases.⁵⁶²

Employees’ claims must take precedence over other creditors both under formal bankruptcy proceedings as well as in those cases when an enterprise closes down without formally being declared insolvent.⁵⁶³

A privilege system, on its own, cannot be regarded as an effective form of protection in the meaning of Article 25.⁵⁶⁴ While a privilege system may amount to effective protection in cases where formal insolvency proceedings are opened, this is not so in situations where the employer no longer has any assets.⁵⁶⁵ It serves no purpose to have a privilege system when there are no assets to divide among creditors and consequently States Parties must provide for an alternative mechanism to effectively guarantee workers’ claims in those situations.⁵⁶⁶

Therefore, situations where there is no alternative to the privilege system are not in conformity with the Charter as such a system does not itself provide effective guarantees of protection of workers’ claims in situations where the employer no longer has any assets.⁵⁶⁷

A privilege system where workers’ claims were ranked below mortgage obligations, foreclosure on property and bankruptcy costs does not amount to an effective protection under the Charter.⁵⁶⁸

⁵⁵⁶ [Conclusions 2003, France](#)

⁵⁵⁷ [Conclusions 2012, Statement of Interpretation Article 25](#)

⁵⁵⁸ [Conclusions 2012, Statement of Interpretation Article 25](#)

⁵⁵⁹ [Conclusions 2003, France](#)

⁵⁶⁰ [Conclusions 2012, Statement of Interpretation Article 25](#)

⁵⁶¹ [Conclusions 2003, France](#)

⁵⁶² [Conclusions 2012, Ireland](#)

⁵⁶³ [Conclusions 2012, Albania](#)

⁵⁶⁴ [Conclusions 2012, Statement of Interpretation Article 25](#)

⁵⁶⁵ [Conclusions 2012, Statement of Interpretation Article 25](#)

⁵⁶⁶ [Conclusions 2012, Statement of Interpretation Article 25](#)

⁵⁶⁷ [Conclusions 2012 and 2020, Albania](#)

⁵⁶⁸ [Conclusions 2003, Bulgaria](#)

In order to demonstrate the adequacy in practice of the protection, States Parties must provide information, inter alia, on the average duration of the period from which a claim is lodged until the worker is paid and on the overall proportion of workers' claims which are satisfied by the guarantee institution.⁵⁶⁹

States Parties may limit the protection of workers' claims to a prescribed amount which shall be of a socially acceptable level.⁵⁷⁰ Three times the average monthly wage of the employee is an acceptable level.⁵⁷¹ In addition, the employer is also obliged to pay for claims in respect of other types of paid absence (holidays, sick leave), at not less than three months under a privilege system and eight weeks under a guarantee system.⁵⁷²

Certain categories of employees may, exceptionally, be excluded from Article 25 protection because of the special nature of their employment relationship.⁵⁷³ However, it is for the Committee to determine on each occasion whether the nature of the employment relationship warrants such an exclusion.⁵⁷⁴ Under no circumstances may this be a reason for the exclusion of part-time employees and employees on fixed-term or other temporary contract.⁵⁷⁵

Exclusion of employees having worked less than one year for the same employer from protection against insolvency of their employer is contrary to the Charter.⁵⁷⁶

Opinion of the ECSR

As regards the situation in Hungary, the Committee takes note of the information in the report regarding the provisions in place to ensure the effective exercise of the right of workers to the protection of their claims in the event of the insolvency of their employer, which generally conform with the Charter's requirements.

On this basis and subject to more detailed information in practice on the average duration of the period from which a claim is lodged until the worker is paid and on the overall proportion of workers' claims which are satisfied by the guarantee institution, the Committee reiterates its opinion that there are no major obstacles to the acceptance by Hungary of Article 25 of the Charter.

Article 26§§1 and 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, in consultation with employers' and workers' organisations:

- 1. 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;**
- 2. 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.**

Situation in Hungary

⁵⁶⁹ [Conclusions 2012, Ireland](#)

⁵⁷⁰ [Conclusions 2012, Ireland](#)

⁵⁷¹ [Conclusions 2012, Slovakia](#), citing [Conclusions 2005, Estonia](#)

⁵⁷² [Conclusions 2012, Slovakia](#)

⁵⁷³ [Conclusions 2008, Statement of Interpretation on Article 25](#)

⁵⁷⁴ [Conclusions 2008, Statement of Interpretation on Article 25](#)

⁵⁷⁵ [Conclusions 2008, Statement of Interpretation on Article 25](#)

⁵⁷⁶ [Conclusions 2012, Turkey](#)

The Government indicates that Hungary's Labour Code has been amended to strengthen protections for personality rights, human dignity and prevent the abuse of rights, aligning domestic law with European Union directives. Section 9 of the Labour Code requires employers to provide written justification for any restriction of employee rights, ensuring transparency and adherence to necessity and proportionality. Employers must respect the principle of human dignity throughout the employment relationship. Section 7 clarifies the prohibition of the abuse of rights, detailing enforcement rules and shifting the burden of proof in disputes. These changes comply with EU directives on work-life balance and transparent working condition. Act CXXX of 2020 on the Legal Status of the staff of the National Tax and Customs Administration establishes ethical principles for employees, while explicitly prohibiting the abuse of rights.

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation (DIGEST)

Article 26§1

Appendix: It is understood that this article does not require that legislation be enacted by the Parties.⁵⁷⁷

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.⁵⁷⁸

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.⁵⁷⁹

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 relevant national authorities ensures an effective protection in law and in practice against harassment in the workplace or in relation to work.⁵⁸⁰

The effectiveness of legal protection against sexual harassment depends on how the domestic courts interpret the law as it stands.⁵⁸¹

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.⁵⁸² In particular, they should inform workers about the nature of the behaviour in question and the available remedies.⁵⁸³

Social partners should be consulted on measures to promote awareness, knowledge and prevention measures vis-à-vis sexual harassment in the workplace.⁵⁸⁴

⁵⁷⁷ [Appendix to the European Social Charter \(Revised\) - European Treaty Series - No. 163](#)

⁵⁷⁸ [Conclusions 2003, Bulgaria](#); [Conclusions 2005, Republic of Moldova](#)

⁵⁷⁹ [Conclusions 2014, Georgia](#)

⁵⁸⁰ [Conclusions 2014, Georgia](#)

⁵⁸¹ [Conclusions 2007, Slovenia](#)

⁵⁸² [Conclusions 2018, Lithuania](#); [Conclusions 2005, Republic of Moldova](#)

⁵⁸³ [Conclusions 2005, Lithuania](#); [Conclusions 2003, Italy](#)

⁵⁸⁴ [Conclusions 2018, Ukraine](#)

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.⁵⁸⁵

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.⁵⁸⁶

Employers may be held liable towards persons working for them who are not their employees, such as subcontractors, self-employed persons, or customers and visitors, and who have suffered sexual harassment committed on their business premises or by employees answerable to them.⁵⁸⁷

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.⁵⁸⁸

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.⁵⁸⁹ 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.⁵⁹⁰

Damages

Victims of sexual harassment must have effective judicial remedies to seek reparation for pecuniary and non-pecuniary damage.⁵⁹¹ 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.⁵⁹²

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.⁵⁹³

A lack of appropriate and effective redress (compensation and reinstatement) in cases of sexual harassment is not in conformity with Article 26§1.⁵⁹⁴

Article 26§2

Appendix: It is understood that this article does not require that legislation be enacted by the Parties.⁵⁹⁵ It is understood that paragraph 2 does not cover sexual harassment.⁵⁹⁶

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.⁵⁹⁷ States

⁵⁸⁵ [Conclusions 2003, Bulgaria](#); [Conclusions 2005, Republic of Moldova](#)

⁵⁸⁶ [Conclusions 2007, Statement of Interpretation on Article 26§2](#)

⁵⁸⁷ [Conclusions 2014, Finland](#)

⁵⁸⁸ [Conclusions 2018, Lithuania](#); [Conclusions 2018, Georgia](#)

⁵⁸⁹ [Conclusions 2018, Azerbaijan](#); [Conclusions 2014, Azerbaijan](#)

⁵⁹⁰ [Conclusions 2018, Azerbaijan](#)

⁵⁹¹ [Conclusions 2018, Turkey](#); [Conclusions 2005, Republic of Moldova](#)

⁵⁹² [Conclusions 2018, Turkey](#); [Conclusions 2007, Slovenia](#)

⁵⁹³ [Conclusions 2018, Turkey](#); [Conclusions 2003, Bulgaria](#)

⁵⁹⁴ [Conclusions 2018, Ukraine](#)

⁵⁹⁵ [Appendix to the European Social Charter \(Revised\) - European Treaty Series - No. 163](#)

⁵⁹⁶ [Appendix to the European Social Charter \(Revised\) - European Treaty Series - No. 163](#)

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.⁵⁹⁸

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.⁵⁹⁹ Harassment should be prohibited and repressed even when the harassing behaviour does not amount to discrimination.⁶⁰⁰

The Appendix to Article 26§2 specifies that States Parties have no obligation to enact legislation relating specifically to harassment.⁶⁰¹ 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.⁶⁰² 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.⁶⁰³

Prevention

As far as awareness raising is concerned, the requirements are the same as under Article 26§1.⁶⁰⁴ 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 harassment is likely to occur.⁶⁰⁵ In particular, they should inform workers about the nature of the behaviour in question and the available remedies.⁶⁰⁶ 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.⁶⁰⁷ A failure to take any preventative action, training or awareness-raising in such situations may amount to a violation of Article 26§2.⁶⁰⁸

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.⁶⁰⁹

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.⁶¹⁰

⁵⁹⁷ [Conclusions 2003, Bulgaria](#)

⁵⁹⁸ [Conclusions 2003, Bulgaria](#)

⁵⁹⁹ [Conclusions 2007, Statement of Interpretation on Article 26§2](#)

⁶⁰⁰ [Conclusions 2007, Statement of Interpretation on Article 26§2](#)

⁶⁰¹ [Appendix to the European Social Charter \(Revised\) - European Treaty Series - No. 163](#)

⁶⁰² [Conclusions 2005, Republic of Moldova](#)

⁶⁰³ [Conclusions 2005, Republic of Moldova](#)

⁶⁰⁴ [Conclusions 2018, Andorra](#); [Conclusions 2003, Slovenia](#)

⁶⁰⁵ [Conclusions 2014, Azerbaijan](#); [Conclusions 2005, Republic of Moldova](#)

⁶⁰⁶ [Conclusions 2005, Republic of Moldova](#)

⁶⁰⁷ [Conclusions 2018, Serbia](#)

⁶⁰⁸ [Confederazione Generale Italiana del Lavoro \(CGIL\) v. Italy](#), Complaint No 91/2013, decision on the merits of 12 October 2015, §295

⁶⁰⁹ [Conclusions 2014, Finland](#)

⁶¹⁰ [Conclusions 2014, Finland](#)

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.⁶¹¹

Damages

Under Article 26§2, victims of harassment must have effective judicial remedies to seek reparation for pecuniary and non-pecuniary damage.⁶¹² 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.⁶¹³

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.⁶¹⁴

Opinion of the ECSR

As regards the situation in Hungary, the Committee takes note of the information provided in the report regarding the legislative amendments to the Labour Code adopted to address the protection of privacy, human dignity and the prohibition of the abuse of rights in the workplace, including the new provisions on the burden of proof sharing during disputes.

However, the Committee has not been provided with sufficient information on important aspects of Article 26§§1 and 2, including the following:

- Whether there is legislation relating specifically to harassment or whether the legal framework, as interpreted by the relevant national authorities, ensures an effective protection in law and in practice against harassment in the workplace.
- Whether there are appropriate preventive measures in place (information, awareness-raising and prevention campaigns in the workplace or in relation to work) against sexual and moral harassment.
- How domestic courts interpret the law to ensure the effectiveness of legal protection against sexual and moral harassment.
- Whether social partners are consulted on measures to promote awareness, knowledge and prevention measures vis-à-vis sexual and moral harassment in the workplace.
- Whether there exists a 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.
- Whether employers may be held liable towards persons working for them who are not their employees, such as subcontractors, self-employed persons, or customers and visitors, and who have suffered sexual or moral harassment committed on their business premises or by employees answerable to them.

In view of these requirements, the Committee 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 their efforts and to continue considering accepting Article 26§§1 and 2 in the near future.

Article 27§§1 to 3 – *The right of workers with family responsibilities to equal opportunities and equal treatment*

⁶¹¹ [Conclusions 2007, Statement of Interpretation on Article 26§2](#)

⁶¹² [Conclusions 2014, Azerbaijan](#)

⁶¹³ [Conclusions 2014, Azerbaijan](#)

⁶¹⁴ [Conclusions 2014, Azerbaijan](#)

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 re-enter 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.**

2. to provide a possibility for either parent to obtain, during a period after maternity leave, parental leave to take care of a child, the duration and conditions of which should be determined by national legislation, collective agreements or practice.

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

Situation in Hungary

The Government indicates that the Hungarian Labour Code aligns with EU Directive 2019/1158 and enhances work-life balance, particularly for public servants, military personnel, law enforcement, and healthcare workers. For public employees, paternity leave has been increased since 2023. Provisions are in place for military personnel, with female members of the armed forces specifically protected from night duty and overtime during pregnancy. For law enforcement and defence employees, paternity leave was extended. From 1 January 2023, government officials are granted enhanced parental leave based on the number of children. Fathers and grandparents are granted additional working days of leave. Health professionals' work hours are capped at 60 hours per week, with voluntary extra hours allowed and a minimum number of hours of rest between shifts. The staff of the National Tax and Customs Administration is provided with maternity, paternity and parental leave, as well as unpaid leave and medical leave. Hungary has expanded childcare services to support working parents, increasing nursery services and nursery workers' wages. Childcare allowances have been reformed and a childcare sick pay benefit was introduced in 2023. To help parents return to work, financial aid is provided when childcare placement is unavailable. For families caring for disabled members, personal assistance is provided to reduce caregiving burdens and prevent social isolation.

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation (DIGEST)

Article 27§1

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.⁶¹⁵

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.⁶¹⁶

⁶¹⁵ [Conclusions 2005, Sweden](#)

⁶¹⁶ [Conclusions 2005, Estonia](#)

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.⁶¹⁷

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.⁶¹⁸

Measures need to be taken concerning the length and organisation of working time.⁶¹⁹ Furthermore, workers with family responsibilities should be allowed to work part-time or to return to full-time employment.⁶²⁰ These measures should apply equally to men and women.⁶²¹

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).⁶²²

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.⁶²³

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.⁶²⁴ Preschool education should be free of charge and, if it is not, measures must be taken to make it financially accessible for vulnerable families.⁶²⁵

Where a State has accepted Article 16, childcare arrangements are dealt with under that provision.⁶²⁶

In any event, under Article 27§1 parents should be allowed to reduce or cease work because of the serious illness of a child.⁶²⁷

Article 27§2

Article 27§2 provides for the right to parental leave which is distinct from maternity leave.⁶²⁸ (Maternity leave is addressed under Article 8 of the Charter).

Article 27§2 requires States Parties to provide the possibility for either parent to obtain parental leave, as an important element for the reconciliation of professional, private and family life. The duration and conditions of parental leave should be determined by States Parties.⁶²⁹

Domestic law should entitle men and women to an individual right to parental leave on the grounds of the birth or adoption of a child.⁶³⁰ With a view to promoting equal opportunities and equal treatment between men and women, the leave should, in principle, be provided on a non-transferable basis to each parent.⁶³¹

⁶¹⁷ [Conclusions 2003, Sweden](#)

⁶¹⁸ Conclusions 2005, Statement of Interpretation on Article 27§1b; see e.g. [Conclusions 2005, Estonia](#)

⁶¹⁹ Conclusions 2005, Statement of Interpretation on Article 27§1b; see e.g. [Conclusions 2005, Estonia](#)

⁶²⁰ Conclusions 2005, Statement of Interpretation on Article 27§1b; see e.g. [Conclusions 2005, Estonia](#)

⁶²¹ [Conclusions 2005, Lithuania](#)

⁶²² [Conclusions 2019, Belgium](#)

⁶²³ [Conclusions 2003, Sweden](#)

⁶²⁴ Conclusions 2005, Statement of Interpretation on Article 27§1c; see e.g. [Conclusions 2005, Estonia](#)

⁶²⁵ [Conclusions 2019, Armenia](#)

⁶²⁶ [Conclusions 2003, Italy](#)

⁶²⁷ [Conclusions 2003, Italy](#)

⁶²⁸ [Conclusions 2011, Armenia](#)

⁶²⁹ [Conclusions 2011, Armenia](#)

⁶³⁰ [Conclusions 2011, Armenia](#)

⁶³¹ [Conclusions 2011, Armenia](#)

The States Parties are under a positive obligation to encourage the use of parental leave by either parent.⁶³²

Remuneration of parental leave plays a vital role in the take up of childcare leave, in particular for fathers or lone parents.⁶³³ States Parties shall ensure that an employed parent is adequately compensated for their loss of earnings during the period of parental leave.⁶³⁴ The modalities of compensation is within the margin of appreciation of the States Parties and may be either paid leave (continued payment of wages by the employer), a social security benefit, any alternative benefit from public funds or a combination of such compensations.⁶³⁵ Regardless of the modalities of payment, the level must be adequate.⁶³⁶

Unpaid parental leave is not in conformity with Article 27§2.⁶³⁷

The Covid-19 crisis must not be allowed to eradicate or roll back progress made in relation to gender equality in the labour market, especially having regard to the fact that such gender equality was far from achieved prior to the onset of the crisis.⁶³⁸ Indications are that women's employment has been placed at greater risk than men's by the pandemic.⁶³⁹ Women workers are likely at a greater danger of infection as they make up the vast majority of exposed domestic, health and social care workers.⁶⁴⁰ The need to reconcile family life with teleworking from home, home-schooling of children and childcare, combined with the stresses of potential Covid-19 health concerns, has led to serious pressures and challenges for many families, frequently with a disproportionate impact on women.⁶⁴¹ Faced with this situation, States Parties must take all necessary measures to apply and reinforce as appropriate Charter rights such as Article 27.⁶⁴²

Article 27§3

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).⁶⁴³ 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.⁶⁴⁴

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.⁶⁴⁵ 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.⁶⁴⁶

Any ceiling on compensation that may preclude damages from being commensurate with the loss suffered and sufficiently dissuasive are proscribed.⁶⁴⁷ If there is a ceiling on compensation for pecuniary damage, the victim must be able to seek unlimited compensation for non-pecuniary

⁶³² [Conclusions 2015, Statement of interpretation on Article 27§2](#)

⁶³³ [Conclusions 2011, Armenia](#)

⁶³⁴ [Conclusions 2015, Statement of interpretation on Article 27§2](#)

⁶³⁵ [Conclusions 2015, Statement of interpretation on Article 27§2](#)

⁶³⁶ [Conclusions 2015, Statement of interpretation on Article 27§2](#)

⁶³⁷ [Conclusions 2019, Ireland, Malta](#)

⁶³⁸ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁶³⁹ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁶⁴⁰ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁶⁴¹ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁶⁴² [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁶⁴³ [Conclusions 2003, Statement of Interpretation on Article 27§3](#); see e.g. [Conclusions 2003, Bulgaria](#)

⁶⁴⁴ [Conclusions 2003, Statement of Interpretation on Article 27§3](#); see e.g. [Conclusions 2003, Bulgaria](#)

⁶⁴⁵ [Conclusions 2007, Finland](#)

⁶⁴⁶ [Conclusions 2007, Finland](#)

⁶⁴⁷ [Conclusions 2011, Statement of Interpretation on Articles 8§2 and 27§3](#)

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.⁶⁴⁸

Opinion of the ECSR

As regards the situation in Hungary with respect to Article 27§1, the Committee notes that there are flexible working arrangements available for workers with family responsibilities in the private and public sectors, as well as child day care services and childcare arrangements. However, the Committee has not been provided with sufficient information on the measures taken to assist workers with family responsibilities to enter and re-enter the labour market, in particular by means of vocational guidance, training and re-training, as well as measures taking into account the needs of workers with family responsibilities in terms of social security.

As regards the situation in Hungary with respect to Article 27§2, the Committee notes that there are measures in place providing for the possibility of parental leave to take care of a child. However, the Committee has not been provided with sufficient information on whether this possibility exists for either parent in the private sector and whether the leave is provided on a non-transferable basis to each parent. Furthermore, the Committee does not have sufficient information to assess whether the payment of 10% of absentee pay during parental leave can be considered as adequate compensation for the loss of earnings during this period. Finally, the Committee requires further information on the law and practice with respect to the right of the employer to postpone the granting of parental leave for a maximum of 60 days in the case of an exceptionally important economic interest or for reasons directly and seriously affecting the operation of the employer's business.

As regards the situation in Hungary with respect to Article 27§3, the Committee notes that the information provided only relates to employees of the National Tax and Customs Administration, who are entitled to protection from dismissal during significant family-related periods, such as pregnancy, maternity or paternity leave and caring for a child under three years old. However, no information has been submitted on the situation of employees in the private sector and that of other categories of employees in the public sector.

In view of these requirements, the Committee 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 their efforts and to continue considering accepting Article 27§§1 to 3.

Article 28 – The right of workers' representatives to protection in the undertaking and facilities to be accorded to them

With a view to ensuring the effective exercise of the right of workers' representatives to carry out their functions, the Parties undertake to ensure that in the undertaking:

- a) they enjoy effective protection against acts prejudicial to them, including dismissal, based on their status or activities as workers' representatives within the undertaking;**
- b) they are afforded such facilities as may be appropriate in order to enable them to carry out their functions promptly and efficiently, account being taken of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.**

Situation in Hungary

The Government indicates that a Health Service Interest Conciliation Forum, which includes government representatives, sectoral interest groups and employee organisations, has been

⁶⁴⁸ [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

established to resolve disputes and reconcile the interests of individuals involved in the health service sector. The Forum has the right to request information or make proposals on relevant issues. Under Act C of 2020 collective contracts cannot be concluded with healthcare providers, public health service providers are prohibited from deducting trade union fees from employees' salaries and strikes are permitted under specific rules. Act CXXX of 2020 ensures fair employment practices and protection of rights for staff in the National Tax and Customs Administration. It prohibits actions that harm others' legitimate interests, harass employees, or restrict freedom of expression. Employees must adhere to legal standards, and any abuse of rights must be remedied. Employees can engage in trade union activities without conflict of interest, and employers must facilitate employee participation in workplace decisions. Unions can access employment-related information, propose regulatory changes, and represent employees in disputes. Officials cannot be reassigned or dismissed without consent from their union's superior body. Employers must consult unions on workplace regulations, and unions can represent employees in legal and administrative matters. Wrongfully dismissed union officials may seek reinstatement.

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation (DIGEST)

This provision guarantees the right of workers' representatives to protection in the undertaking and to certain facilities.⁶⁴⁹ It complements Article 5, which recognises a similar right in respect of trade union representatives.⁶⁵⁰

Types of workers' representatives

According to the Appendix of Article 28, the term "workers' representatives" means persons who are recognised as such under national legislation or practice.⁶⁵¹ States Parties may therefore recognise different kinds of workers' representatives other than trade union representatives.⁶⁵² However, Article 28 is not intended to impose an obligation to introduce any specific types of workers' representatives but to ensure that adequate forms of representation are available to all employees, both within and outside the scope of collective bargaining with the employer.⁶⁵³ Representation may be exercised, for example, through workers' commissioners, workers' council or workers' representatives on the enterprise's supervisory board.⁶⁵⁴

Protection granted to workers' representatives

Protection should cover the prohibition of dismissal on the ground of being a workers' representative and the protection against any other detrimental treatment.⁶⁵⁵ Prejudicial acts may entail, for instance, denial of certain benefits, training opportunities, promotions or transfers, discrimination when issuing lay-offs or assigning retirement options, being subjected to shifts, cut-down or any other taunts or abuse.⁶⁵⁶

The rights recognised in the Social Charter must take a practical and effective, rather than purely theoretical form.⁶⁵⁷ To this end, the protection afforded to workers shall be extended for a reasonable period after the effective end of period of their office.⁶⁵⁸

⁶⁴⁹ [Conclusions 2003, Bulgaria](#)

⁶⁵⁰ [Conclusions 2003, Bulgaria](#)

⁶⁵¹ [Conclusions 2003, Bulgaria](#)

⁶⁵² [Conclusions 2003, Bulgaria](#)

⁶⁵³ [Conclusions 2018, Latvia](#)

⁶⁵⁴ [Conclusions 2014, Austria](#)

⁶⁵⁵ [Conclusions 2018, Russian Federation](#)

⁶⁵⁶ [Conclusions 2018, Azerbaijan](#)

⁶⁵⁷ [Conclusions 2010, Statement of Interpretation on Article 28, citing International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §59](#)

Situations where the protection of worker's representatives against dismissal is limited for the period of performance of their functions, until their mandate expire, are not in conformity with Article 28 of the Charter.⁶⁵⁹ Nor are situations where the protection afforded to workers' representatives lasts for three months after the end of their mandate.⁶⁶⁰

The Committee has found the situation to be in conformity with the requirements of Article 28 in countries where the protection is extended for one year after the end of mandate of workers' representatives⁶⁶¹ or where the protection granted to workers' representatives is extended for six months after the end of their mandate.⁶⁶² Remedies must be available to worker representatives who are dismissed unlawfully.⁶⁶³

Where discrimination takes place, domestic law must make provision for compensation that is adequate and proportionate to the harm suffered by the victim.⁶⁶⁴ The compensation must at least correspond to the wage that would have been payable between the date of the dismissal and the date of the court decision or reinstatement.⁶⁶⁵

Facilities granted to workers' representatives

Protected workers must be granted the following facilities: paid time off to represent employees, financial contributions to work councils, the use of premises and materials for works councils, as well as other facilities mentioned in the R143 Recommendation concerning protection and facilities to be afforded to workers representatives within the undertaking adopted by the ILO General Conference of 23 June 1971 (support in terms of benefits and other welfare benefits because of the time off to perform their functions; access for workers' representatives or other elected representatives to all premises, where necessary; the access without any delay to the undertaking's management board if necessary; the authorisation to regularly collect subscriptions in the undertaking; the authorization to post bills or notices in one or several places to be determined with the management board, the authorization to distribute information sheets, factsheets and other documents on general trade unions' activities).⁶⁶⁶

Moreover, the participation in training courses on economic, social and union issues should not result in a loss of pay.⁶⁶⁷ Training costs should not be borne by the workers' representatives.⁶⁶⁸

Opinion of the ECSR

As regards the situation in Hungary, and taking into consideration the relevant information provided by the Government in the [1st Report on the non-accepted provisions of the Charter](#), the Committee notes that there measures in place to ensure the effective exercise of the right of workers' representatives to carry out their functions.

Therefore, the Committee reiterates its opinion that there are no obstacles to the immediate acceptance of Article 28 of the Charter by Hungary.

Article 29 – The right to information and consultation in collective redundancy procedures

⁶⁵⁸ [Conclusions 2010, Statement of Interpretation on Article 28](#)

⁶⁵⁹ [Conclusions 2018, Armenia](#)

⁶⁶⁰ [Conclusions 2018, Austria](#)

⁶⁶¹ [Conclusions 2018, Austria](#), citing [Conclusions 2010, Estonia](#), and [Conclusions 2010, Slovenia](#)

⁶⁶² [Conclusions 2018, Austria](#), citing [Conclusions 2010, Bulgaria](#)

⁶⁶³ [Conclusions 2010, Norway](#)

⁶⁶⁴ [Conclusions 2010, Bulgaria](#)

⁶⁶⁵ [Conclusions 2007, Bulgaria](#)

⁶⁶⁶ [Conclusions 2010, Statement of Interpretation on Article 28](#)

⁶⁶⁷ [Conclusions 2010, Statement of Interpretation on Article 28](#)

⁶⁶⁸ [Conclusions 2010, Statement of Interpretation on Article 28](#)

With a view to ensuring the effective exercise of the right of workers to be informed and consulted in situations of collective redundancies, the Parties undertake to ensure that employers shall inform and consult workers' representatives, in good time prior to such collective redundancies, on ways and means of avoiding collective redundancies or limiting their occurrence and mitigating their consequences, for example by recourse to accompanying social measures aimed, in particular, at aid for the redeployment or retraining of the workers concerned.

Situation in Hungary

The Government indicates that Act C of 2020 on Healthcare Service Relationship applies to individuals in the healthcare sector and operates under the framework of Act I of 2012 on the Labour Code, which governs labour relations and employment terms. Similarly, Act CXXX of 2020 on the Legal Status of the Staff of the National Tax and Customs Administration regulates employment and termination conditions for its staff. Section 72 of the Act requires employers to notify the state employment body about dismissals, including employee details, when significant workforce reductions occur.

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation (DIGEST)

Under Article 29, workers' representatives have the right to be informed and consulted in good time by employers planning to make collective redundancies.⁶⁶⁹

Redundancies concerned

Under Article 29 the collective redundancies referred to are redundancies affecting several workers within a period of time set by law and decided for reasons which have nothing to do with individual workers, but correspond to a reduction or change in the firm's activity.⁶⁷⁰

The definition of collective redundancies in domestic law must not be too restrictive.⁶⁷¹

A situation where collective redundancies are such where the number of employees to be made redundant within 30 days is at least five in undertakings employing between 20 and 50 persons; at least 10 in undertakings employing between 50 and 100 persons; at least 10% of employees in undertakings employing between 100 and 300 persons; or at least 30 employees in undertakings employing 300 or more persons is compatible with the Charter.⁶⁷²

Notion of workers' representatives

The appendix to the Charter defines workers' representatives as persons who are recognised as such under national legislation or practice, in accordance with ILO Convention No. 135 on workers' representatives.⁶⁷³

When employers implement information and consultation procedures preceding collective redundancies, employees should be represented by persons acting on behalf of all workers employed in the workplace.⁶⁷⁴ Such representatives may be either bodies operating in the

⁶⁶⁹ [Conclusions 2010, Statement of Interpretation on Article 28](#)

⁶⁷⁰ [Conclusions 2003, Statement of Interpretation on Article 29](#); [Conclusions 2018, Latvia](#)

⁶⁷¹ [Conclusions 2014, Azerbaijan](#)

⁶⁷² [Conclusions 2014, Azerbaijan](#)

⁶⁷³ [Explanatory Report to the European Social Charter \(Revised\) – European Treaty Series – No. 163](#); see also [Appendix to the European Social Charter \(Revised\) – European Treaty Series – No. 163](#)

⁶⁷⁴ [Conclusions 2014, Statement of Interpretation on Article 29](#)

employer's enterprise (for example, trade unions or workers' councils) or ad hoc representatives appointed to take part in this process.⁶⁷⁵

National law should ensure that employees may appoint representatives even when they are not otherwise represented in the context of a particular workplace by a trade union or other representative body.⁶⁷⁶ Such representatives should represent all employees who may be potentially subject to collective redundancies and should not suffer any negative consequences as a consequence of their activities in this regard.⁶⁷⁷

Consultation procedure

Prior information and consultation

Under Article 29, consultation procedures must take place in good time prior to collective redundancies.⁶⁷⁸ National law should thus ensure that employers are obliged to provide employees with information about planned collective redundancies sufficiently far in advance of the process, so as to enable employees and their representatives to become familiar with the key aspects of the planned redundancies.⁶⁷⁹ National law should also guarantee the right of employees' representatives to be provided with all relevant information throughout the entire duration of the consultation process.⁶⁸⁰

Consultation should be conducted within a time period that is sufficient to ensure that employees' representatives have an opportunity to present suitable proposals with a view to avoiding, limiting or mitigating the effect of the proposed redundancies.⁶⁸¹

Employers should be required to provide employees' representatives with all the relevant information necessary to ensure the integrity and effectiveness of the information and consultation process.⁶⁸² This information should in particular include the reasons for the proposed redundancies, the criteria for determining which employees are to be made redundant, the proposed order and scheduling of such redundancies, the amount of any cash benefits or other forms of compensation and the scope and content of any planned social measures which are designed to mitigate the consequences of this process.⁶⁸³

Purpose of the consultation

Article 29 requires that States Parties establish an information and consultation procedure which should precede the process of collective redundancies. The provisions of Article 29 are directed – on the one hand – towards ensuring that workers are made aware of reasons and scale of planned redundancies, and – on the other hand – towards ensuring that the position of workers is taken into account when their employer is planning collective redundancies, in particular as regards the scope, mode and manner of such redundancies and the extent to which their consequences can be avoided, limited and/or mitigated.⁶⁸⁴

Article 29 provides for the employer's duty to consult with workers' representatives and the purpose of such consultation. This obligation is not just an obligation to inform unilaterally, but implies that a process will be set in motion, i.e. that there will be sufficient dialogue between the employer and the workers' representatives on ways of avoiding redundancies or limiting their

⁶⁷⁵ [Conclusions 2014, Statement of Interpretation on Article 29](#)

⁶⁷⁶ [Conclusions 2014, Statement of Interpretation on Article 29](#)

⁶⁷⁷ [Conclusions 2014, Statement of Interpretation on Article 29](#)

⁶⁷⁸ [Conclusions 2014, Statement of Interpretation on Article 29](#)

⁶⁷⁹ [Conclusions 2014, Statement of Interpretation on Article 29](#)

⁶⁸⁰ [Conclusions 2014, Statement of Interpretation on Article 29](#)

⁶⁸¹ [Conclusions 2014, Statement of Interpretation on Article 29](#)

⁶⁸² [Conclusions 2014, Statement of Interpretation on Article 29](#)

⁶⁸³ [Conclusions 2014, Statement of Interpretation on Article 29](#)

⁶⁸⁴ [Conclusions 2014, Statement of Interpretation on Article 29](#)

number and mitigating their effects, although it is not necessary that agreement be reached.⁶⁸⁵ The failure of the employer to carry out their information and consultation obligations amounts to a violation of Article 29.⁶⁸⁶ Simple notification of redundancies to workers or their representatives is not sufficient.⁶⁸⁷

The consultation procedure must cover the redundancies themselves, including the ways and means of avoiding them or limiting their occurrence; and support measures, such as social measures to facilitate the redeployment or retraining of the workers concerned and the redundancy package.⁶⁸⁸

As part of this process, employers should be required to cooperate with administrative authorities or public agencies which are responsible for the policy counteracting unemployment, by for example notifying them about planned collective redundancies and/or cooperating with them in relation to retraining employees who are made redundant, or by providing them with other forms of assistance with a view to obtaining a new job.⁶⁸⁹

Preventive measures and sanctions

Consultation rights must be accompanied by guarantees that they can be exercised in practice.⁶⁹⁰ Where employers fail to fulfil their obligations, there must be at least some possibility of recourse to administrative or judicial proceedings before the redundancies are made to ensure that they are not put into effect before the consultation requirement is met.⁶⁹¹

Provision must be made for sanctions after the event, and these must be effective, i.e. a sufficient deterrent for employers.⁶⁹² The right of individual employees to contest the lawfulness of their dismissal is examined under Article 24 of the Charter.⁶⁹³

Opinion of the ECSR

As regards the situation in Hungary, and taking into consideration the relevant information provided by the Government in the [1st Report on the non-accepted provisions of the Charter](#), the Committee notes that there are measures in place to ensure the effective exercise of the right of workers to be informed and consulted in situations of collective redundancies in the private sector and for some employees in the public sector.

However, the Committee has not been provided with sufficient information on the following:

- Whether the representatives of the employees have the right to be provided with all relevant information throughout the entire duration of the consultation process.
- Whether the consultation procedure covers support measures, such as social measures to facilitate the redeployment or retraining of the workers concerned and the redundancy package.
- Whether it is possible to have recourse to administrative or judicial proceedings before the redundancies are made when employers fail to fulfil their obligations.

⁶⁸⁵ [Conclusions 2003, Sweden](#); Conclusions 2003, Statement of Interpretation on Article 29

⁶⁸⁶ [Conclusions 2014, Georgia](#)

⁶⁸⁷ [Conclusions 2014, Georgia](#)

⁶⁸⁸ [Conclusions 2014, Georgia](#)

⁶⁸⁹ [Conclusions 2014, Statement of Interpretation on Article 29](#)

⁶⁹⁰ [Conclusions 2014, Georgia](#)

⁶⁹¹ [Conclusions 2003 and 2007, Sweden](#)

⁶⁹² [Conclusions 2003, Sweden](#)

⁶⁹³ Conclusions 2003 Statement of Interpretation on Article 29

On this basis and subject to more detailed information in law and practice, the Committee reiterates its position that there are no major obstacles to the acceptance by Hungary of Article 29 of the Charter.

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 Hungary

The Government indicates that in 2021 the Hungarian National Social Inclusion Strategy 2030 was adopted to implement the EU Framework Strategy for Roma Inclusion 2030. Since 2012, the number of people at risk of poverty or social exclusion has significantly decreased. Various programs, supported by both national and EU funding, have been established to enhance social inclusion, improve educational outcomes for disadvantaged groups, and preserve the cultural heritage of the Roma community. In 2023, Hungary published key programs and guidelines to support disadvantaged children and students, aiming to prevent dropouts and improve educational opportunities. After-school clubs and scholarship programs support disadvantaged students, integrated regional children's chance programs prevent generational poverty and training programs have improved the employability of disadvantaged people with low educational qualifications. The currently effective anti-discrimination act, which is aligned with EU laws and promotes equal treatment in various sectors, aims to contrast racism and discrimination. The Government has also prioritized efforts to prevent segregation, amending the district boundaries to improve the distribution of disadvantaged students. To support teachers, the 2023 Act introduced a salary incentive for educators involved in creating opportunities for disadvantaged students, while specialized teaching services for children with special educational needs has been strengthened.

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation (DIGEST)

Living in a situation of poverty and social exclusion violates the dignity of human beings.⁶⁹⁴

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.⁶⁹⁵ 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.⁶⁹⁶ Nor does it apply to unlawfully present foreign minors.⁶⁹⁷

⁶⁹⁴ Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#)

⁶⁹⁵ [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

⁶⁹⁶ [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

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,⁶⁹⁸ 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.⁶⁹⁹

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.⁷⁰⁰ Effective coordination mechanisms should exist at all levels, including at the level of delivery of assistance and services to the end users.⁷⁰¹ Adequate resources must be made available for the implementation of the measures taken in the context of the overall and coordinated approach under Article 30.⁷⁰² 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.⁷⁰³

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.⁷⁰⁴ The measures should be adequate in their quality and quantity to the nature and extent of poverty and social exclusion in the country concerned.⁷⁰⁵ As long as poverty and social exclusion persist they should also represent an increase in the resources deployed to realise social rights.⁷⁰⁶

i. Measures to prevent and remove obstacles to access fundamental social rights

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.⁷⁰⁷

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.⁷⁰⁸

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.⁷⁰⁹

⁶⁹⁷ [Defence for Children International \(DCI\) v. Belgium](#), Complaint No. 69/2011, decision on the merits of 23 October 2012, §145

⁶⁹⁸ Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#)

⁶⁹⁹ [Conclusions 2013, Statement of interpretation on Article 30](#)

⁷⁰⁰ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁷⁰¹ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁷⁰² [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁷⁰³ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁷⁰⁴ [Conclusions 2005, Slovenia](#)

⁷⁰⁵ Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#)

⁷⁰⁶ Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#)

⁷⁰⁷ Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#)

⁷⁰⁸ Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#)

⁷⁰⁹ [International Federation of Human Rights \(FIDH\) v. Belgium](#), Complaint No. 75/2011, decision of 18 March 2013, §§ 193, 197

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.⁷¹⁰ The Committee 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.⁷¹¹ 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.⁷¹²

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,⁷¹³ in so far as “adequate resources are an essential element to enable people to become self-sufficient”.⁷¹⁴

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).⁷¹⁵

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.

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.).⁷¹⁶

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 30.⁷¹⁷

Poverty and social exclusion in times of crisis

Concerning the repercussions of the economic crisis on social rights, the Committee 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.⁷¹⁸ 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”.⁷¹⁹

⁷¹⁰ Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#)

⁷¹¹ Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#); [Conclusions 2013, Statement of interpretation on Article 30](#)

⁷¹² See, e.g., the Committee description of ‘the multidimensional poverty and exclusion phenomena’ in its [Conclusions 2005, Norway](#) and [Conclusions 2007, Belgium](#)

⁷¹³ Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#)

⁷¹⁴ Conclusions 2003, Statement of interpretation on Article 30, see e.g. [Conclusions 2003, France](#)

⁷¹⁵ [Conclusions 2013, Statement of interpretation on Article 30](#)

⁷¹⁶ [Conclusions 2013, Statement of interpretation on Article 30](#)

⁷¹⁷ See, e.g., [Conclusions 2017, Ireland](#)

⁷¹⁸ General Introduction to Conclusions XIX-2 (2009)

⁷¹⁹ General Introduction to Conclusions XIX-2 (2009)

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 Committee takes into consideration.⁷²⁰

Social exclusion

In particular, the Committee 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.⁷²¹

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.⁷²²

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.⁷²³ 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 Article 30.⁷²⁴ 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.⁷²⁵

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).⁷²⁶

The relationship between Article 30 and other Charter rights

The Committee 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.⁷²⁷

Consequently, together with the indicators mentioned above, when assessing state compliance with Article 30, the Committee 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

⁷²⁰ [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](#)

⁷²¹ [Conclusions 2013, Statement of interpretation on Article 30](#)

⁷²² [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

⁷²³ [Conclusions 2013, Statement of interpretation on Article 30](#)

⁷²⁴ [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

⁷²⁵ [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 103 and 108

⁷²⁶ [Conclusions 2013, Statement of interpretation on Article 30](#)

⁷²⁷ [Conclusions 2013, Statement of interpretation on Article 30](#)

monitoring systems (the reporting procedure and the collective complaint procedure).⁷²⁸ 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 30.⁷²⁹

Opinion of the ECSR

As regards the situation in Hungary, the Committee takes note of the information in the report regarding the measures taken to ensure the effective exercise of the right to protection against poverty and social exclusion, particularly focusing on the situation of vulnerable groups such as children and Roma.

The Committee considers that this is a rare provision that does not demand legislation in a specific sector, but an obligation of formulation of a general policy on the part of the state aimed to attain a social objective. The Government must have a strategy aimed at reducing poverty and social exclusion. It must elaborate and implement a wide range of measures and use a coordinated approach to promote effective access to certain societal issue, including living conditions, employment, housing, social assistance, health, etc. The efficacy of the approach must be regularly reviewed and adapted or changed if necessary.

The Committee requires reliable statistics and significant information to assess the situation under this article and recalls that the Government provides already similar information to Eurostat.

The Committee has not been provided with sufficient information on the following:

- Details about the analytical framework, set of priorities and corresponding measures to prevent and remove obstacles to access to social rights, especially regarding areas on which the report does not touch, such as employment, training and social and medical assistance.
- How the Government coordinates the efforts in the various policy fields in order to achieve the “overall and coordinated approach” required under Article 30 of the Revised Charter and thus addressing the multidimensional nature of poverty and social exclusion.
- Whether civil society and persons affected by poverty and social exclusion are involved in the monitoring mechanisms.
- Whether minorities are encouraged to participate in society and whether they are represented in the general culture, media or the different levels of government.
- Which definitions of poverty and social exclusion are adopted, as well as which measuring methodologies and data are applied at the national level.

In view of these requirements, the Committee 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 their efforts and to continue considering accepting Article 30 of the revised 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.**

Situation in Hungary

⁷²⁸ [Conclusions 2013, Statement of interpretation on Article 30](#)

⁷²⁹ [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

The Hungarian government has implemented various programs to address housing segregation, particularly for Roma communities. Since 2005, initiatives have focused on providing quality housing, improving social services, and fostering integration. The National Social Inclusion Strategy 2030 links housing to employment, health interventions and access to community services. A national database tracks segregated areas to guide local interventions. Between 2005 and 2015, programs fostered housing renovations and social inclusion through education, healthcare and employment support, aiming to enhance the living conditions of people in segregated housing. From 2014 to 2020, EU-funded projects created and renovated social housing units, built service points, and developed individual support plans to improve living conditions and promote social inclusion.

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation (DIGEST)

Under Article 31§1 of the Charter, States Parties shall guarantee to everyone the right to housing and shall promote access to adequate housing.⁷³⁰ States must take the legal and practical measures which are necessary and adequate for the effective protection of the right in question.⁷³¹ 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.⁷³²

States Parties must guarantee to everyone the right to adequate housing.⁷³³ 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.⁷³⁴

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;⁷³⁵
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;⁷³⁶
3. a dwelling with secure tenure supported by the law. This issue is covered by Article 31§2.⁷³⁷

The definition of adequate housing must be applied not only to new constructions, but also gradually to the existing housing stock.⁷³⁸ It must also be applied to housing available for rent as well as to housing owner occupied housing.⁷³⁹

⁷³⁰ [European Roma and Travellers Forum \(ERTF\) v. France](#), Complaint No. 64/2011, decision on the merits of 24 January 2012, §95

⁷³¹ [European Roma and Travellers Forum \(ERTF\) v. France](#), Complaint No. 64/2011, decision on the merits of 24 January 2012, §95

⁷³² [European Roma and Travellers Forum \(ERTF\) v. France](#), Complaint No. 64/2011, decision on the merits of 24 January 2012, §95

⁷³³ [Conclusions 2003, France](#)

⁷³⁴ [Conclusions 2003, Italy](#)

⁷³⁵ [Conclusions 2003, France](#)

⁷³⁶ [Conclusions 2003, France](#)

⁷³⁷ [Conclusions 2003, France](#)

⁷³⁸ [Conclusions 2003, France](#)

⁷³⁹ [Conclusions 2003, France](#)

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.⁷⁴⁰ They, therefore, require special protection.⁷⁴¹ 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.⁷⁴²

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.⁷⁴³

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.⁷⁴⁴

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§1.⁷⁴⁵ These facilities do not offer the quality standards necessary for the long-term accommodation of unaccompanied children.⁷⁴⁶

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.⁷⁴⁷ 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.⁷⁴⁸ Public authorities must also limit against the interruption of essential services such as water, electricity and telephone.⁷⁴⁹

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.⁷⁵⁰ Thus, ultimate responsibility for policy implementation, involving at a minimum supervision and

⁷⁴⁰ [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 39-40

⁷⁴¹ [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 39-40

⁷⁴² [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 39-40

⁷⁴³ [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

⁷⁴⁴ [European Roma Rights Centre \(ERRC\) v. Portugal](#), Complaint No. 61/2010, decision on the merits of 30 June 2011, §48

⁷⁴⁵ [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

⁷⁴⁶ [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

⁷⁴⁷ [Conclusions 2003, France](#)

⁷⁴⁸ [Conclusions 2019, Turkey, Ukraine](#)

⁷⁴⁹ [Conclusions 2003, France](#)

⁷⁵⁰ [European Roma Rights Centre \(ERRC\) 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

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.⁷⁵¹

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.⁷⁵² Any appeal procedure must be effective.⁷⁵³

Opinion of the ECSR

As regards the situation in Hungary, the Committee takes note of the information in the report regarding the measures taken to promote access to housing of an adequate standard, particularly for the Roma community.

The Committee has not been provided with sufficient information on the following:

- Whether the notion of 'adequate housing' is defined in law and, if so, how.
- How the adequacy of the existing housing stock 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.
- Measures taken to promote access to different groups of vulnerable persons, including low-income persons, unemployed persons, single parent households, young persons, persons with disabilities including those with mental health problems, refugees and asylum-seeking persons (other than persons fleeing the war in Ukraine), especially unaccompanied children.
- Whether there is access to affordable and impartial judicial or other remedies.

In view of these requirements, the Committee reiterates its position 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 their efforts and to continue considering accepting Article 31§1 of the Charter.

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 Hungary

The Hungarian Government has implemented several programs to support homeless individuals and vulnerable groups. The RSZTOP program provided daily hot meals to homeless people from 2017 to 2023, benefiting over 4,000 individuals. The HRDOP Plus program, for the 2021-2027 period, focuses on promoting social and economic inclusion and on improving living conditions for people at risk of poverty, aiming to assist 10,000 people by 2028. The "Housing First" program, active from 2016 to 2023, helps people secure independent housing. Additional support includes street social work, day shelters, night shelters, and long-term housing facilities, such as rehabilitation institutions. Regional dispatching services coordinate the homeless care system,

⁷⁵¹ [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

⁷⁵² [Conclusions 2003, France](#)

⁷⁵³ [Conclusions 2015, Austria](#), Article 16

receiving public reports and collaborating with entities like police and ambulance services. Transitional homes under child welfare services assist families facing housing insecurity.

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

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§1.⁷⁵⁴

Article 31§2 obliges States Parties to gradually reduce homelessness with a view to its elimination.⁷⁵⁵ 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.⁷⁵⁶

Preventing homelessness

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).⁷⁵⁷

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.⁷⁵⁸

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.⁷⁵⁹

States Parties must set up procedural safeguards to limit the risk of eviction.⁷⁶⁰

Illegal occupation of a site or dwelling may justify the eviction of the illegal occupants.⁷⁶¹ 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.⁷⁶²

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

⁷⁵⁴ [Conclusions 2003, Italy](#); [Conference of European Churches \(CEC\) v. the Netherlands](#), Complaint No. 90/2013, decision on the merits of 1 July 2014, §135

⁷⁵⁵ [Conclusions 2003, Sweden](#)

⁷⁵⁶ [Conclusions 2003, Sweden](#)

⁷⁵⁷ [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

⁷⁵⁸ [Conclusions 2007, Italy](#)

⁷⁵⁹ [Conclusions 2003, Sweden](#); [Conclusions 2019, Ukraine](#)

⁷⁶⁰ [Conclusions 2005, Lithuania](#)

⁷⁶¹ [European Roma Rights Centre \(ERRC\) v. Greece](#), Complaint No. 15/2003, decision on the merits of 8 December 2004, §51

⁷⁶² [European Roma Rights Centre \(ERRC\) v. Greece](#), Complaint No. 15/2003, decision on the merits of 8 December 2004, §51

a reasonable notice period before eviction.⁷⁶³ A notice period of one month in case of eviction due to insolvency or wrongful occupation is not reasonable.⁷⁶⁴

When evictions do take place, they must be carried out under conditions that respect the dignity of the persons concerned.⁷⁶⁵ The law must prohibit evictions carried out at night or during the winter period.⁷⁶⁶ When an eviction is justified by the public interest, authorities must adopt measures to re-house or financially assist the persons concerned.⁷⁶⁷

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.⁷⁶⁸

Right to shelter

According to Article 31§2, homeless persons must be offered shelter as an emergency solution.⁷⁶⁹ 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.⁷⁷⁰ Another basic requirement is the security of the immediate surroundings.⁷⁷¹ 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.⁷⁷² States Parties shall foresee sufficient places in emergency shelters⁷⁷³ and the conditions in the shelters should be such as to enable living in keeping with human dignity.⁷⁷⁴

The temporary supply of shelter, however adequate, cannot be considered satisfactory.⁷⁷⁵ Individuals who are homeless should be provided with adequate housing within a reasonable period.⁷⁷⁶ In addition, measures should be taken to help such people overcome their difficulties and to prevent them from returning to a situation of homelessness.⁷⁷⁷

The right to shelter should be adequately guaranteed for migrants, including unaccompanied migrant children, and asylum-seekers.⁷⁷⁸ States Parties are required to provide adequate shelter to children unlawfully present in their territory for as long as they are within their jurisdiction.⁷⁷⁹ As the scope of Articles 31§2 and 17 overlap to a large extent, the Committee assesses the issue of the right to a shelter of unaccompanied foreign minors under the scope of Article 31§2 when States

⁷⁶³ [Conclusions 2003, Sweden](#)

⁷⁶⁴ [Conclusions 2019, Ukraine](#)

⁷⁶⁵ [Conclusions 2003, Sweden](#)

⁷⁶⁶ [Conclusions 2003, Sweden](#)

⁷⁶⁷ [Conclusions 2003, Sweden](#)

⁷⁶⁸ [Conclusions 2003, Sweden](#)

⁷⁶⁹ [Defence for Children International \(DCI\) v. the Netherlands](#), Complaint No. 47/2008, decision on the merits of 20 October 2009, §46

⁷⁷⁰ [Defence for Children International \(DCI\) v. the Netherlands](#), Complaint No. 47/2008, decision on the merits of 20 October 2009, §62

⁷⁷¹ [Defence for Children International \(DCI\) v. the Netherlands](#), Complaint No. 47/2008, decision on the merits of 20 October 2009, §62

⁷⁷² [Defence for Children International \(DCI\) v. the Netherlands](#), Complaint No. 47/2008, decision on the merits of 20 October 2009, §62

⁷⁷³ [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

⁷⁷⁴ [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

⁷⁷⁵ [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

⁷⁷⁶ [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

⁷⁷⁷ [Conclusions 2003, Italy](#)

⁷⁷⁸ [Conclusions 2019, Greece](#)

⁷⁷⁹ [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

Parties have accepted both provisions.⁷⁸⁰ 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.⁷⁸¹ States should develop detailed guidelines on standards of reception facilities, assuring adequate space and privacy for children and their families.⁷⁸²

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.⁷⁸³

The Committee considers that eviction from shelters without the provision of alternative accommodation must be prohibited.⁷⁸⁴

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.⁷⁸⁵

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.⁷⁸⁶

Opinion of the ECSR

As regards the situation in Hungary, the Committee takes note of the information in the report regarding the measures taken to prevent and reduce homelessness, which generally conform with the Charter's requirements.

The Committee has not been provided with sufficient information on the measures taken by Hungary to protect against forced evictions and on whether the right to shelter is adequately guaranteed for migrants, including unaccompanied migrant children, and asylum-seekers.

On this basis and subject to more detailed information on the situation in law and practice, the Committee considers that there are no major obstacles to the acceptance by Hungary of 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 Hungary

⁷⁸⁰ [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

⁷⁸¹ [Defence for Children International \(DCI\) v. the Netherlands](#), Complaint No. 47/2008, decision on the merits of 20 October 2009, §62

⁷⁸² [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

⁷⁸³ [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

⁷⁸⁴ [Conclusions 2015, Statement of Interpretation on Article 31§2](#)

⁷⁸⁵ [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

⁷⁸⁶ [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

The Hungarian Government has introduced various measures to support adequate and affordable housing. The CSOK Plus program, starting in 2024, provides subsidized loans for couples planning to have children, purchase their first home or move to a higher-value home or extend an existing one. The program offers housing subsidies in smaller villages, along with VAT reimbursement and tax exemptions, to encourage housing development in rural areas. A Home Renovation Program aims to improve energy efficiency and reduce household costs, while municipalities provide rental and utility subsidies for low-income households. Housing assistance is available for job seekers needing to relocate. Public sector employees can receive housing allowances and subsidies for housing loans, including state-backed loan guarantees.

For further information, please see <https://rm.coe.int/hun-revision-of-non-accepted-provisions-of-the-social-charter-2024/1680b295cb>

ECSR interpretation (DIGEST)

An adequate supply of affordable housing must be ensured for persons with limited resources.⁷⁸⁷

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 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.⁷⁸⁸ 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.⁷⁸⁹

States Parties must:

- adopt appropriate measures for the provision of housing, in particular social housing.⁷⁹⁰ Social housing should target, in particular, the most disadvantaged;⁷⁹¹
- adopt measures to ensure that waiting periods for the allocation of housing are not excessive;⁷⁹² judicial or other remedies must be available when waiting periods are excessive;⁷⁹³

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.⁷⁹⁴

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.⁷⁹⁵ Housing benefit is an individual right: all qualifying households must receive it in practice; legal remedies must be available in case of refusal.⁷⁹⁶

⁷⁸⁷ [Conclusions 2003, Sweden](#)

⁷⁸⁸ [Conclusions 2003, Sweden](#)

⁷⁸⁹ [FEANTSA v. Slovenia](#), Complaint No. 53/2008, decision on the merits of 8 September 2009, §72.

⁷⁹⁰ [Conclusions 2003, Sweden](#)

⁷⁹¹ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 98-100

⁷⁹² [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §131

⁷⁹³ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §131

⁷⁹⁴ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 149155; [Conclusions 2019, France](#)

⁷⁹⁵ [Conclusions 2003, Sweden](#); [Conclusions 2019, Greece](#)

⁷⁹⁶ [Conclusions 2003, Sweden](#)

The right to affordable housing must not be subject to any kind of discrimination on any grounds mentioned by Article E of the Charter.⁷⁹⁷

Opinion of the ECSR

As regards the situation in Hungary, the Committee takes note of the information in the report regarding the measures taken to make the price of housing accessible to those without adequate resources, predominantly focusing on subsidies and loans for specific categories of persons.

The Committee has not been provided with sufficient information on the following:

- Appropriate measures taken or being developed for the poorest and disadvantaged members of society in terms of social housing and housing benefits.
- Whether the affordability ratio of the poorest applicants for housing is compatible with their level of income.
- Measures taken to ensure that waiting periods for the allocation of housing are not excessive and that judicial or other remedies are available when waiting periods are excessive.
- What legal remedies are available in case the application for housing benefits is rejected.

In view of these requirements, the Committee 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 their efforts and to continue considering accepting Article 31§3 of the Charter.

⁷⁹⁷ [Conclusions 2019, Turkey](#)

APPENDIX I



European
Social
Charter

Charte
sociale
européenne



— Hungary and the European Social Charter —

Signatures, ratifications and accepted provisions

Hungary ratified the European Social Charter on 08/07/1999 and the Additional Protocol to the Charter on 01/06/2005.

It ratified the Amending Protocol to the Charter on 04/02/2004.

Hungary ratified the Revised European Social Charter on 20/04/2009 accepting 51 of the Revised Charter's 98 paragraphs.

It has not accepted the system of collective complaints.

The Charter in domestic law

Article 7§1 of the Constitution: "The legal system of the Republic of Hungary shall ensure harmony between the assumed international law obligations and domestic law".

Table of accepted provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22
23	24	25	26.1	26.2	27.1	27.2	27.3	28	29	30	31.1
31.2	31.3								Grey = accepted provisions		

Reports on non-accepted provisions

The European Committee of Social Rights ("the Committee") examines the situation of non-accepted provisions of the Revised Charter every 5 years after the ratification. It adopted a [report concerning Hungary](#) in 2018. The Committee was of the view that Hungary could consider acceptance of Articles 4§2, 4§5, 7§3, 25, 28 and 29.

Further information on the reports on non-accepted provisions is available on the [relevant webpage](#).

Monitoring the implementation of the European Social Charter ⁷⁹⁸

I. Reporting system ⁷⁹⁹

Reports submitted by Hungary

Between 2002 and 2024, Hungary submitted 7 reports on the application of the 1961 Charter and 14 reports on the application of the Revised Charter.

The [13rd report](#), which was submitted on 21/12/2022, concerns the accepted provisions relating to thematic group 4 "Children, families and migrants" (Articles 7, 8, 16, 17, 16, 19, 27 and 31).

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

On 22 December 2023, an [ad hoc report on the cost-of-living crisis was submitted by Hungary](#) ⁸⁰⁰.

⁷⁹⁸ The European Committee of Social Rights ("the Committee") monitors compliance with the Charter under two procedures, the reporting system and the collective complaints procedure, according to Rule 2 of the Committee's rules: « 1. The Committee rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure ». Further information on the [procedures](#) may be found on the [HUDOC database](#) and in the [Digest of the case law of the Committee](#).

⁷⁹⁹ 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](#).

⁸⁰⁰ In accordance with the [decision of the Ministers' Deputies](#) adopted on 27 September 2022 concerning the [new system](#) for the presentation of reports under the European Social Charter, the European Committee of Social Rights and the Governmental Committee have decided to request an ad hoc report on the cost-of-living crisis to all State parties.

Situations of non-conformity⁸⁰¹

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

► *Article 1§4 – Right to work – Vocational guidance, training and rehabilitation*

It has not been established that the right to vocational guidance in the labour market is guaranteed.

► *Article 9 - Right to vocational guidance*

It has not been established that the right to vocational guidance in the labour market is guaranteed.

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

It has not been established that equal treatment of nationals of other States Parties residing or working lawfully in Hungary is guaranteed as regards financial assistance for vocational education and training.

► *Article 15§2 – Right of persons with disabilities to independence, social integration and participation in the life of the community - Employment of persons with disabilities*

It has not been established that there are adequate remedies in the event of discrimination on grounds of disability in employment.

► *Article 15§3 – Right of persons with disabilities to independence, social integration and participation in the life of the community - Integration and participation of persons with disabilities in the life of the community*

It has not been established that persons with disabilities have effective access to housing.

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

There is no explicit statutory guarantee of equal pay for women and men for equal work or work of equal value.

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

► *Article 3§2 – Right to safe and healthy working conditions - Safety and health regulations*

Domestic workers and the self-employed are not covered by occupational health and safety regulations.

► *Article 3§3 - Right to safe and healthy working conditions - Enforcement of safety and health regulations* It has not been established that accidents at work and occupational diseases are monitored effectively.

► *Article 11§1- Right to protection of health - Removal of the causes of ill-health*

Measures taken to reduce maternal mortality rates have been insufficient.

► *Article 12§1 - Right to social security - Existence of a social security system*

- The minimum amount of the old-age pension is inadequate;
- The maximum duration of payment of jobseeker's allowance is too short.

► *Article 13§1 - Adequate assistance for every person in need*

- The level of social assistance paid to a single person without resources, including elderly persons, is not adequate.
- There is no right to appeal for certain benefits.

► *Article 14§1 - Promotion or provision of social services*

Equal access to social services is not guaranteed to nationals of all States Parties lawfully residing on Hungarian territory.

Thematic Group 3 “Labour rights” - Conclusions 2022

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

- In certain cases, the reference period for the calculation of average working hours can be extended beyond 12 months;

⁸⁰¹ Further information on the situations of non-conformity is available on the [HUDOC database](#).

- Daily working time can go up to 24 hours and weekly working time – up to 72 hours;
- During the pandemic, the reference period for banking of hours could be extended to 24 months upon a unilateral decision of the employer.

► *Article 2§3 - Right to just conditions of work - Annual holiday with pay*

The employees' right to take at least two weeks of uninterrupted holiday during the year in respect of which the holidays were due is not sufficiently guaranteed.

► *Article 2§5 - Right to just conditions of work - Weekly rest period*

There are insufficient safeguards to prevent workers from working for more than twelve consecutive days before being granted a rest period.

► *Article 6§2– Negotiation procedures*

The promotion of collective bargaining is not sufficient.

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

- In the civil service, the right to call a strike is restricted to trade unions which are parties to the agreement concluded with the Government;
- The criteria used to define civil servant officials who are denied the right to strike go beyond the limits set by Article G;
- Civil service trade unions may only call strikes with the approval of a majority of the staff concerned;
- The police are denied the right to strike.

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

It has not been established that there exist legal remedies in cases of alleged violation of the right of workers to take part in the determination and improvement of working conditions and the working environment.

Thematic Group 4 “Children, families, migrants” - Conclusions 2023

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

The duration of working time of children under the age of 15 is excessive and therefore such work cannot be regarded as light.

► *Article 8§5 - Right of employed women to protection of maternity - Prohibition of dangerous, unhealthy or arduous work*

In the event of reassignment to a different post, the law does not guarantee the right of pregnant women, or women who have recently given birth or are breastfeeding to return to their previous post at the end of the protected period.

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

- Evicted families can be left homeless;
- The protection of Roma families with respect to housing is inadequate.

► *Article 17§1 - Right of children and young persons to social, legal and economic protection -assistance, education and training*

- Immediate expulsion of children in an irregular migration situation can be carried out by the authorities without providing them with any assistance;
- The length of pre-trial detention of children is excessive;
- The age of criminal responsibility is too low for some offences.

► *Article 17§2 - Right of children and young persons to social, legal and economic protection - Free primary and secondary education - regular attendance at school*

Roma children are subject to segregation in education.

The Committee also considered that the failure to provide requested information on Articles 8§1, 16, and 17§1 amounts to a breach by Hungary of its reporting obligations under Article C of the Charter.

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

Thematic Group 1 “Employment, training and equal opportunities”

- ▶ Article 1§2 - Conclusions 2020
- ▶ Article 1§3 - Conclusions 2020
- ▶ Article 15§1 - Conclusions 2020

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

- ▶ Article 11§2 - Conclusions 2021
- ▶ Article 11§3 - Conclusions 2021
- ▶ Article 14§2 - Conclusions 2021

Thematic Group 3 “Labour rights”

- ▶ Article 6§1 - Conclusions 2022
- ▶ Article 21 - Conclusions 2022

Thematic Group 4 “Children, families, migrants”

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II. Examples of progress achieved in the implementation of rights under the Charter

(non-exhaustive list)

Thematic Group 1 “Employment, training and equal opportunities”

- ▶ With the Act CLV of 2011 on Vocational Contribution and Support to Training Development, the new vocational contribution system introduced in 2012 strengthens the dual approach to practical education in vocational training provided in schools.
- ▶ The report indicates that Section 12 (1) of the Act I of 2012 on the Labour Code (the new Labour Code) states that the requirement of equal treatment must be complied with in relation to employment. The Act defines the concept of wages (as any remuneration in cash or in kind provided to employees directly or indirectly based on their employment), as well as the factors that need to be taken into account when calculating the equal value of work.
- ▶ Measures taken to enable nationals of other States Parties to have equal entitlement to specific emergency assistance (amendment of the Health Insurance Benefits Act in 2004).

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

- ▶ In accordance with the Act CXXII of 2015 on Primary Health Service, school health services are now part of the primary health service which is a mandatory responsibility of municipal governments.
- ▶ The amendment to the Labour Safety Act, that came into force on 1 January 2008, introduced the employer's obligation of dealing with psychosocial risk factors.
- ▶ The Recommendations of the International Commission on Radiological Protection (ICRP Publication No. 103, 2007) have been integrated into Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, which Hungary transposed into national law.

Thematic Group 3 “Labour rights”

- ▶ Restrictions on daily or weekly exposure time in the case of occupations subject to extreme temperatures and vibration (Decree no. 26/1996).

Thematic Group 4 “Children, families, migrants”

- ▶ The child protection law of 1997 was amended in 2004 (effective as of 1 January 2005) so as to prohibit all forms of corporal punishment, therefore including such punishment in the home.
- ▶ The Criminal Code, that entered into force on 1 July 2013, introduced the crime of "domestic violence".
- ▶ Pursuant to the legal provisions on asylum and child protection in effect from 1 May 2011, unaccompanied minors requesting their recognition shall be placed in child protection institutes under the legal regulations on child protection. As a result, the scope of the Child Protection Act extends to unaccompanied minors requesting their recognition as well as children with an admitted status and children recognised as refugees or protected by the Hungarian authorities.
- ▶ Following the amendments of 2014 to the Family Support Act, the personal scope of family benefits has been extended and now covers third-country nationals holding a single permit, provided that their employment was permitted for a period exceeding 6 months.

APPENDIX II



PRESIDENCY OF LITHUANIA
Council of Europe
May – November 2024
PRÉSIDENCE DE LA LITUANIE
Conseil de l'Europe
Mai – Novembre 2024



European
Social
Charter

Charte
sociale
européenne



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](#)