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COMITE EUROPEEN DES DROITS SOCIAUX

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THIRD REPORT
ON THE NON-ACCEPTED PROVISIONS OF
THE EUROPEAN SOCIAL CHARTER

Serbia

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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 subsequent to ratification of the treaty, to notify the Secretary General of their acceptance of additional articles or paragraphs of the treaty.

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 on examination of reports on non-accepted provisions is provided for by Article 22 of the European Social Charter of 1961 (ETS No. 35). According to this provision, the States Parties shall send to the Secretary General, at appropriate intervals as requested by the Committee of Ministers, reports relating to the provisions of Part II of the Charter which they did not accept at the time of their ratification or by subsequent notification. The Committee of Ministers shall determine from time to time in respect of which provisions such reports shall be requested and the form of the reports to be provided.

In the early years, the Committee of Ministers would occasionally launch an exercise on a particular provision, asking all states that had not accepted it to report on the situation. In 2002, following the decision of the Committee of Ministers², it shifted to periodic reporting every five years on nonaccepted provisions of the revised Charter.

Noting that the exercise was not yielding the expected results, considering the objective of strengthening the impact of the European Social Charter, the Committee of Ministers decided in December 2019 to invite “the ECSR to make full use of the opportunities for dialogue offered by Article 22 and to include in this exercise a dialogue with the member States that are not yet Party to the revised Charter, with a view to encouraging them to ratify it”.³

On this basis, in September 2022, the ECSR decided to henceforth implement the procedure on non-accepted provisions in respect of all States Parties to either Charter, in a reinforced manner. The procedure now provides for submission of written information by States Parties in accordance with a pre-established calendar, and for 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 reception, and the national and international social partners, non-governmental organisations, national

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](#))

² [Committee of Ministers Decision of 11 December 2002](#)

³ [Committee of Ministers Decision of 11 December 2019](#)

human rights institutions, equality bodies and other stakeholders shall be given the possibility to provide comments within three months after receipt of the written information.

In this context, the European Committee of Social Rights (ECSR) took the opportunity to underline that the objective of improving the implementation of social rights as a whole also entails a progressive strengthening of States Parties' commitments under the Charter. As implied by the Committee of Ministers in its decision of 15 March 2023⁴, non-acceptance of provisions should be an exception, not the rule. Moreover, the binding scope of the accepted provisions relates to the modalities and extent of monitoring under the Charter, which does not detract from their nature as human rights. Consistent with the tenet that social rights are human rights and therefore universal, indivisible and interdependent, the ECSR emphasised that the ultimate goal is for the member States to commit to all the provisions of the Charter and that not accepting certain provisions should on no account be seen as a permanent state of affairs.

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

Serbia ratified the revised Charter on 14 September 2009 accepting 88 of its 98 paragraphs. It has currently not accepted the following ten provisions: Article 2§4, Article 10§5, Article 19§11 and 12, Article 27§1, 2 and 3, and Article 31§1, 2 and 3. Furthermore, in the declaration deposited with the instrument of ratification, it was indicated that Serbia did not consider itself bound by Art.6§4 in regard to professional military personnel of the Serbian Army, as well as by Art.17§1(a). Serbia has not yet accepted the system of collective complaints.

The procedure on non-accepted provisions (Articles 2§4, 10§5, 19§11 and 12, 27§1, 2 and 3, and 31§1, 2 and 3 and Reservations regarding Articles 6§4 and 17§1(a)) was applied to Serbia for the first time in the context of a meeting between the ECSR and representatives of various institutions in a meeting held in Belgrade on 4 November 2014. Subsequent examinations of the situation in law and practice in Serbia took place in 2019.

After considering information provided by the Government in a meeting held in November 2019, the European Committee of Social Rights invited the Government to consider the possibility of accepting Article 10§5, Article 19§§11,12, and Article 27§§1–3, as well as to lift the reservations as regards Articles 6§4 and 17§1a of the Charter. The ECSR also invited the Government to take the necessary steps towards acceptance of the collective complaints procedure and more provisions of the revised Charter.

3. Current examination

This third examination of the non-accepted provisions is based on the adjusted procedure for non-accepted provisions. In terms of this procedure, Serbia was invited on 7 November 2023 to submit written information before 31 March 2024. The requested written information was registered on 12 March 2024, and it was subsequently published on the CoE website.⁵

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

- Article 2§4 – The right to just conditions of work
- Article 10§5 – The right to vocational training

⁴ [Committee of Minister Decision of 15 March 2023](#) (CM(2022)196-final)

⁵ <https://rm.coe.int/the-3rd-national-report-on-the-non-accepted-provisions-of-the-revised-/1680af684f>.

- Article 19§§11 and 12 – The right of migrant workers and their families to protection and assistance
- Article 27§§1 to 3 – The right of workers with family responsibilities to equal opportunities and equal treatment
- Article 31§§1 to 3 – The right to housing

After reviewing the written information provided by the Government, the ECSR considers that there are no major obstacles to the acceptance of Article 19§12. Regarding Article 2§4, Article 10§5, Article 19§11, and Articles 27§§1 and 3, the ECSR finds that further information is needed to assess whether the legal and practical situation complies with the standards of the Charter. As for Article 27§2 and Articles 31§§1, 2, and 3, the ECSR considers that the current legal and/or practical framework is not fully compatible with the requirements of the Charter.

Finally, the ECSR notes that the Government already reports on Article 17§1(a) and therefore invites Serbia to formally accept it. The ECSR considers that it needs further information with regard to Article 6§4 and encourages the Government to continue its efforts to address the concerns raised in its 2014, 2018, and 2022 Conclusions and to consider lifting its reservation to Article 6§4.

The ECSR also invites Serbia to accept the Additional Protocol providing for a system of collective complaints.

The ECSR remains at the disposal of the Government for enhanced dialogue⁶ on the Charter provisions and the relevant case law.

It invites Serbia 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 Serbia appears in Appendix I.

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

II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS

Article 2§4 – The right to just conditions of work

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

4 to eliminate risks in inherently dangerous or unhealthy occupations, and where it has not yet been possible to eliminate or reduce sufficiently these risks, to provide for either a reduction of working hours or additional paid holidays for workers engaged in such occupations;

Situation in Serbia

⁶ 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)

In its written information submitted in March 2024, the Government indicated that a new law on occupation safety and health was adopted in 2023. In line with this new law, employers are obliged to produce an act of risk assessment, in which they determine the means and deadlines for eliminating and reducing occupational risks. Measures determined by the employer for this purpose, are integrated into all activities of the employer and at all levels (Art. 16 of the Law on Occupation Safety and Health). The same obligation extends with regard to workplaces where students undertake professional practice or practical teaching or learning through work (Art. 16, as above). The Government also reported that a change in the Rulebook on the manner and procedure of risk assessment at the workplace is anticipated by the end of the current year. (see for detailed information the 2024 [Report on Application of Non-ratified Articles of the Revised European Social Charter](#) provided by Serbia)

The ECSR notes from its previous examination regarding non-accepted provisions for Serbia, that labour legislation includes measures to compensate workers at risk through the reduction of working hours or additional leave.⁷

ECSR interpretation ([DIGEST](#))

States Parties to the Charter are required to eliminate risks in inherently dangerous or unhealthy occupations.⁸ The ECSR leaves the national legislature a certain latitude in the choice of occupations to be classed as dangerous or unhealthy.⁹ However some sectors and occupations must be deemed dangerous or unhealthy, such as mining, quarrying, steel making and shipbuilding and occupations exposing employees to ionising radiation, extreme temperatures and noise.¹⁰

Whilst the elimination of dangerous and unhealthy occupations is an ideal to strive for, Article 2§4 requires that specific measures should be taken so long as these occupations still exist.¹¹

If, on the one hand, a constant improvement of the technical conditions in which certain dangerous or unhealthy occupations are carried out represents a major factor for the reduction of the risk of accidents or disease, on the other hand, a decrease in working hours and the granting of additional holidays are equally necessary, as they allow for a reduced accumulation of physical and mental fatigue and a reduction in the exposure to risk, whilst at the same time granting workers longer periods of rest.¹²

In assessing States Parties' compliance with Article 2§4, the ECSR examines firstly what measures have been taken to progressively eliminate the inherent risks in dangerous or unhealthy occupations.¹³ Secondly, it examines what compensatory measures are applied to workers who are exposed to risks that cannot be or have not yet been eliminated or sufficiently reduced, either in spite of the effective application of the preventive measures or because they have not yet been applied.¹⁴

Elimination or reduction of risks

⁷ For more information see the [2nd report on the non-accepted provisions of the European Social Charter](#) for Serbia.

⁸ [Conclusions XX-3 \(2014\) Germany](#)

⁹ [Conclusions II \(1971\), Statement of Interpretation on Article 2§4](#)

¹⁰ [Conclusions XIV-2 \(1998\), Norway; STTK ry and Teh ry v. Finland](#), Complaint No. 10/2000, decision on the merits of 17 October 2001, §27; [Conclusions 2018, Bosnia and Herzegovina](#)

¹¹ [Conclusions V \(1977\), Statement of Interpretation on Article 2§4](#)

¹² [Conclusions V \(1977\), Statement of Interpretation on Article 2§4](#)

¹³ [Conclusions XX-3 \(2014\) Germany](#)

¹⁴ [Conclusions XX-3 \(2014\) Germany](#)

The first part of Article 2§4 requires States Parties to eliminate risks in inherently dangerous or unhealthy occupations.¹⁵ This part is closely linked to Article 3 of the Charter (right to safe and healthy working conditions, see below), under which States Parties undertake to pursue policies and take measures to improve occupational health and safety.¹⁶ Where appropriate, the ECSR will take into account the information provided and the conclusions reached in respect of Article 3 of the Charter.¹⁷

For example, a legislative provision to the effect that the employees' exposure to such agents as radiation that causes hazards or risks to safety or health must be reduced to such a level that no hazard or risk is caused to the employees' safety, health or reproductive health has been found in conformity with Article 2§4.¹⁸ Self-employed workers must be sufficiently covered by occupational health and safety regulations.¹⁹

Measures in response to residual risks

Where risk elimination is not possible or where risks have not been reduced or eliminated, Article 2§4 mentions two forms of compensation, namely reduced daily working hours and additional paid holidays.²⁰ The ECSR stressed the importance of reducing working hours and providing additional holidays both because of the need for workers in hazardous situations to be alert and in order to limit the period of exposure to safety and health risks.²¹

In view of the emphasis in this provision on health and safety objectives, however, other approaches to reducing exposure to risks may also ensure conformity with the Charter.²² Alternative approaches will be assessed on a case-by-case basis.²³

Under no circumstances can financial compensation be considered a relevant and appropriate measure to achieve the aims of Article 2§4.²⁴ Early retirement, wage increases or food supplements are not relevant or appropriate measures to achieve the aims of Article 2§4 of the revised Charter.²⁵

Compensation measures such as one additional day's holiday and a maximum weekly working time of 40 hours have been considered inadequate in that they do not offer workers exposed to risks regular and sufficient time to recover.²⁶

Measures intended to compensate workers for exposure to residual risks must be regulated at the central level and must not be left to the agreements between the social partners.²⁷

¹⁵ [Conclusions 2018, Latvia](#)

¹⁶ [Conclusions 2018, Latvia](#)

¹⁷ [Conclusions XVIII-2 \(2007\), Statement of Interpretation on Article 2§4](#)

¹⁸ [Conclusions 2014, Finland](#)

¹⁹ [Conclusions XX-3 \(2014\), Greece](#)

²⁰ [Marangopoulos Foundation for Human Rights \(MFHR\) v. Greece](#), Complaint No. 30/2005, decision on the merits of 6 December 2006, §236

²¹ [Conclusions III \(1973\), Ireland](#)

²² [Conclusions \(XVIII-2\) 2007, Statement of Interpretation on Article 2§4](#)

²³ [Marangopoulos Foundation for Human Rights \(MFHR\) v. Greece](#), Complaint No. 30/2005, decision on the merits of 6 December 2006, §236

²⁴ [Conclusions XIII-3 \(1995\) Greece](#)

²⁵ [Conclusions 2003, Bulgaria](#) ; [Conclusions 2007, Romania](#)

²⁶ [Conclusions XX-3 \(2014\), Greece](#)

²⁷ [Conclusions 2014, The Netherlands](#)

Opinion of the ECSR

The ECSR recalls that in the examination of compliance with Article 2§4, it considers information provided and conclusions reached in respect of Article 3 of the Charter, because of the close links between these two provisions.

In its previous examination on non-accepted provisions for Serbia in 2019, the ECSR held that further information was needed on implementation of the legislation and the situation in practice in order to assess the adequacy of protection and compliance with the requirements of Article 2§4 of the Charter. This followed a finding of non-conformity with Article 3§2 in Conclusions 2017 and took into account the link between Articles 2§4 and 3§2. In that Conclusion, the ECSR held that the situation in Serbia was not in conformity with the Charter on the grounds that it was not established that the level of protection against ionising radiation was adequate and that domestic workers were not covered by occupational health and safety regulations.

In Conclusions 2021, the ECSR found that the situation was not in conformity with Article 3§2. The ground was that it was not established that: temporary workers, interim workers and workers on fixed-term contracts enjoy the same standard of protection as workers on contracts with indefinite duration; domestic workers are covered by occupational health and safety regulations; consultation with employers' and workers' organisations is ensured.²⁸

Considering the close link between Articles 3§2 and 2§4, as well as the fact that the report submitted by Serbia does not address any of the points raised with the non-conformity Conclusion in 2021 or in the 2019 examination, the ECSR considers that further information is necessary to assess whether the situation in law and practice is in line with the standards of the Charter. It encourages the Government to pursue its efforts and to continue considering accepting Article 2§4 in the near future.

Article 10§5 - The right to vocational training

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

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

Situation in Serbia

In the written information submitted to the ECSR, the Government refers to the adoption of active labour market measures, that include measures on vocational education and training. The first of these is the Action Plan 2021-2023 'for the implementation of the Employment Strategy'. In the context of this Action Plan, provision is made for additional education and training measures targeting the needs of the national labour market. Education and training in this context are organised around: Professional practice, Traineeship for young people with higher education, Traineeship for the unemployed with secondary education, Acquisition of practical knowledge, Training for the labour market, Training at

²⁸ [Conclusions 2021, Serbia, Article 3§2](#)

the request of the employer – for the unemployed, etc. In addition, in the period under consideration, the Government of Serbia adopted the Youth Guarantee Implementation Plan 2023-2026. According to the report, this is a pilot scheme that aims at the increase of employment of people up to the age of 30 and to support these persons in their transition between education and employment. Beneficiaries of this pilot scheme will receive ‘a quality job offer, or continued education and training, within four months of entering unemployment status, or leaving or completing formal education’. The Government reported that social partners’ representatives participated in the development of these action plans (see for detailed information the 2024 [Report on Application of Non-ratified Articles of the Revised European Social Charter](#) provided by Serbia).

ECSR interpretation ([DIGEST](#))

i. reducing or abolishing any fees or charges;

States Parties must ensure that vocational training, as defined in paragraph 1, is provided free of charge or that fees are progressively reduced.²⁹ According to the Appendix to the Charter, equality of treatment shall be provided to nationals of other States Parties lawfully resident or regularly working on the territory of the State Party concerned.³⁰ This implies that no length of residence is required from students and trainees admitted to reside in any capacity other than being a student or a trainee, or having authority to reside by reason of their ties with persons lawfully residing, on the territory of the Party concerned before starting training.³¹ This does not apply to students and trainees who, without having the above-mentioned ties, entered the territory with the sole purpose of attending training.³²

The situation is not in conformity with Article 10§5 of the Charter where there is a length of residence requirement of three years for eligibility for financial aid for vocational training.³³

ii. granting financial assistance in appropriate cases;

The granting of financial assistance in appropriate cases means providing financial assistance to persons who would not otherwise be in a position to undergo apprenticeship or training.³⁴ It entails, in addition to free or low-cost training, the provision of assistance in the form of grants, allowances or other arrangements where necessary.³⁵ All issues relating to financial assistance are covered by Article 10§5, including allowances for training programmes in the context of the labour market policy.³⁶ States Parties must provide financial assistance either universally, or subject to a means-test, or awarded on the basis of the merit.³⁷ In any event, assistance should at least be available for those in need and shall be adequate.³⁸ It may consist of scholarships or loans at preferential interest rates.³⁹ The number of beneficiaries and the amount of financial assistance are also taken into consideration for assessing compliance with this provision.⁴⁰

²⁹ [Conclusions 2020, Malta](#)

³⁰ [Conclusions XVI-2 \(2004\), United Kingdom](#)

³¹ [Conclusions XVI-2 \(2004\), United Kingdom](#)

³² [Conclusions XVI-2 \(2004\), United Kingdom](#)

³³ [Conclusions 2020, Andorra](#)

³⁴ [Conclusions XIII-1 \(1993\), Turkey](#)

³⁵ [Conclusions XIII-1 \(1993\), Turkey](#)

³⁶ Conclusions 2016, Italy

³⁷ [Conclusions XIX-1 \(2008\), Turkey](#)

³⁸ [Conclusions XIX-1 \(2008\), Turkey](#)

³⁹ [Conclusions 2016, Italy](#)

⁴⁰ [Conclusions 2016, Italy](#); [Conclusions XIV-2 \(1998\), Ireland](#)

Equal treatment with respect to financial assistance must be guaranteed to non-nationals on the basis of the conditions mentioned under paragraph 1.⁴¹

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

The time spent on supplementary training at the request of the employer must be included in the normal working-hours.⁴² Supplementary training means any kind of training that may be helpful in connection with the current occupation of the workers and aimed at increasing their skills.⁴³ It does not imply any previous training.⁴⁴ The term “during employment” means that the worker shall be currently under a working relationship with the employer requiring the training.⁴⁵

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

States Parties must evaluate their vocational training programmes for young workers, including the apprenticeships.⁴⁶ In particular, the participation of employers’ and workers’ organisations is required in supervising the effectiveness of training schemes.⁴⁷

Opinion of the ECSR

The ECSR the new developments and measures adopted in the period under consideration by the Government. In order to be able to assess, however, whether the situation in law and practice is in line with the standards of the Charter, it asks for further information, in particular regarding: whether programmes under the new action plans are free of charge; where programmes are not free of charge, whether financial support is provided; and whether citizens, permanent residents and lawful residents can benefit from these measures. It encourages the Government to pursue its efforts and to continue considering accepting Article 10§5 in the near future.

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

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

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

Situation in Serbia

The report submitted by Serbia makes mention to recent initiatives aiming to help the inclusion of migrants and refugees students into the Serbian education system. An elective course ‘Serbian as a foreign language’ has been introduced, available to students non-Serbian speaking students and to students who do not know enough Serbian for it to be their language of instruction. In the same context, the Government reported that they have trained teachers to implement this new curriculum

⁴¹ [Conclusions 2003, Slovenia](#)

⁴² [Conclusions 2020, Turkey](#)

⁴³ [Conclusions 2020, Turkey](#)

⁴⁴ [Conclusions 2020, Turkey](#)

⁴⁵ [Conclusions 2020, Turkey](#)

⁴⁶ [Conclusions 2020, Lithuania](#)

⁴⁷ [Conclusions XIV-2 \(1998\), United Kingdom](#)

of Serbian as a foreign language. In addition, the Government reported that the Ministry of Education, together with UNICEF, have implemented a school support programme with the aim of advancing the quality of education for students that are migrants and refugees ("Supporting the learning of refugee and migrant children through formal education in the Republic of Serbia"). (See for detailed information the 2024 [Report on Application of Non-ratified Articles of the Revised European Social Charter](#) provided by Serbia).

ECSR interpretation ([DIGEST](#))

Under this provision, States Parties should promote and facilitate the teaching of the national language to children of school age, as well as to the migrants themselves and to members of their families who are no longer of school age. The teaching of the national language of the receiving state is the main means by which migrants and their families can integrate into normal employment and society at large.⁴⁸

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.⁴⁹

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§11.⁵⁰ 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.⁵¹

States Parties shall encourage the teaching of the national language in the workplace, in the voluntary sector or in public establishments such as universities.⁵² Such services shall be free of charge so as not to exacerbate the disadvantaged position of migrant workers in the labour market.⁵³

Opinion of the ECSR

The ECSR recalls that 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§11.⁵⁴

The ECSR also recalls that the personal scope of Article 19§11 not only refers to school students, but also to migrants and the members of their families who are no longer of school age. The report submitted by the Government contains no information on this important aspect of Article 19§11. The ECSR further notes that relevant information was also lacking in previous examinations of non-accepted provisions.

⁴⁸ [Conclusions 2002, France](#)

⁴⁹ [Conclusions 2011, Norway](#)

⁵⁰ [Conclusions 2002, France](#)

⁵¹ [Conclusions 2002, France](#)

⁵² [Conclusions 2002, France](#)

⁵³ [Conclusions 2002, France](#)

⁵⁴ [Conclusions 2002, France](#)

In view of these requirements, the ECSR considers that further information is necessary to assess whether the situation in law and practice is in line with the standards of the Charter. It encourages the Government to pursue their efforts and to continue considering accepting Article 19§11 of the Charter.

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

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

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

Situation in Serbia

The ECSR notes that children of foreign citizens residing in Serbia have the right to attend classes of their native language and culture, free of charge, in the premises of the institution designated by the local self-government unit. (See for detailed information the 2024 [Report on Application of Non-ratified Articles of the Revised European Social Charter](#) provided by Serbia). The ECSR also notes from its previous report that children of migrants and foreign citizens originating from countries that are the home countries of main national minorities may attend pre-school education in other languages, while opportunities exist to attend optional subjects and programmes in 16 languages and higher education curricula in 11 other languages.⁵⁵

ECSR interpretation ([DIGEST](#))

States Parties should promote and facilitate the teaching of the languages most represented among the migrants present on their territories within their school systems or in other contexts such as voluntary associations or non-governmental organisations.⁵⁶

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

- statistics on major migrant groups,⁵⁷
- 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,⁵⁸
- 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,⁵⁹
- 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.⁶⁰

⁵⁵ [2nd report on the non-accepted provisions of the European Social Charter](#)

⁵⁶ [Conclusions 2002, Italy; Conclusions 2011, Armenia; Conclusions 2011, Statement of Interpretation on Article 19§12](#)

⁵⁷ [Conclusions 2019, Albania](#)

⁵⁸ [Conclusions 2019, Albania](#)

⁵⁹ [Conclusions 2019, Albania](#)

⁶⁰ [Conclusions 2019, Albania](#)

Opinion of the ECSR

In its previous examination the ECSR held that there were no major obstacles to the ratification of Article 19§12 by Serbia and invited the Government to accept the provision. The ECSR reiterates its finding and again invites the authorities to accept this provision without delay.

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

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

1 to take appropriate measures:

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

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

c to develop or promote services, public or private, in particular child daycare services and other childcare arrangements;

Situation in Serbia

The ECSR notes from the information submitted by Serbia that labour legislation explicitly prohibits direct and indirect discrimination of persons with family obligations. This prohibition applies to conditions of employment and selection of job candidates, working conditions and all rights stemming from the employment relationship, vocational training and development, promotion in employment and termination of employment (Labour Law, Articles 18-23). Same legislation regulates parental leave, as well as flexible working arrangements for parents of children with special care needs (Labour Law, Articles 94, 94a, 96, 97) (See for detailed information the 2024 [Report on Application of Non-ratified Articles of the Revised European Social Charter](#) provided by Serbia).

ECSR interpretation ([DIGEST](#))

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.⁶¹

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.⁶²

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.⁶³

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

⁶¹ [Conclusions 2005, Sweden](#)

⁶² Conclusions 2005, Estonia

⁶³ [Conclusions 2003, Sweden](#)

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.⁶⁴

Measures need to be taken concerning the length and organisation of working time.⁶⁵ Furthermore, workers with family responsibilities should be allowed to work part-time or to return to full-time employment.⁶⁶ These measures should apply equally to men and women.⁶⁷

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).⁶⁸

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.⁶⁹

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

The aim of Article 27§1c is to develop or promote services, in particular child day care services and other childcare arrangements, that are available and accessible to workers with family responsibilities.⁷⁰ Preschool education should be free of charge and, if it is not, measures must be taken to make it financially accessible for vulnerable families.⁷¹

Where a State has accepted Article 16, childcare arrangements are dealt with under that provision.⁷²

In any event, under Article 27§1 parents should be allowed to reduce or cease work because of the serious illness of a child.⁷³

Opinion of the ECSR

As regards the situation in Serbia, the ECSR takes note of the explicit legal prohibition of discrimination in employment on the ground of family responsibilities. It also takes note of its previous examination, where it gave a positive assessment with regard to this element of Article 27§1 but, however, asked for more information on other elements of Article 27§1, in particular as regards aspects of social security. The report submitted by the Government contains no relevant information.

In addition, no relevant information has been submitted by the Government on availability and accessibility of childcare services. In the meantime, the ECSR notes from its 2023 Conclusions on Article 16 when it assessed childcare arrangements (which relates to Article 27§1) – that, in case of insufficient places in pre-school childcare facilities, there is support offered to parents. In particular, a system of co-financing of children's pre-school education and training is introduced, with parents

⁶⁴ Conclusions 2005, Statement of Interpretation on Article 27§1b; see e.g. [Conclusions 2005, Estonia](#)

⁶⁵ Conclusions 2005, Statement of Interpretation on Article 27§1b; see e.g. [Conclusions 2005, Estonia](#)

⁶⁶ Conclusions 2005, Statement of Interpretation on Article 27§1b; see e.g. Conclusions 2005, Estonia.

⁶⁷ Conclusions 2005, Lithuania

⁶⁸ Conclusions 2019, Belgium

⁶⁹ [Conclusions 2003, Sweden](#)

⁷⁰ Conclusions 2005, Statement of Interpretation on Article 27§1c; see e.g. [Conclusions 2005, Estonia](#)

⁷¹ Conclusions 2019, Armenia

⁷² Conclusions 2003, Italy

⁷³ [Conclusions 2003, Italy](#)

paying the full cost of a private pre-school childcare facility, and the municipality or city reimbursing parents 80% of the economic cost.⁷⁴

In view of these requirements, the ECSR considers that further information is necessary to assess whether the situation in law and practice is in line with the standards of the Charter. It encourages the Government to pursue its efforts and to continue considering accepting Article 27§1 in the near future.

Article 27§2 – The right of workers with family responsibilities to equal opportunities and equal treatment

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

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;

Situation in Serbia

The Government indicates that the labour legislation provides for a right to maternity leave and leave for childcare for a duration of 365 days for the first and second child, or two years for the third and each subsequent child. Maternity leave lasts until the end of three months from the day of delivery, and after the expiration of the maternity leave, the leave from work to care for the child continues uninterrupted until the end of the period of 365 days, or two years, counting from the day the maternity leave began (Labour Law, Articles 94 and 94a). According to the report, the child's father can use the right to maternity leave in case the mother abandons the child, dies, or is prevented from using that right for other justified reasons (serving a prison sentence, serious illness, etc.). The right to leave from work to take care of the child can be used by the child's father, in agreement with the child's mother, instead of the employed mother. During maternity leave and leave from work to care for a child, an employed woman or father of a child have the right to wage compensation (Law on Financial Support for Families with Children). Foster parents are entitled to parental leave of up to eight months (Labour Law, Article 97). (See for detailed information the 2024 [Report on Application of Non-ratified Articles of the Revised European Social Charter](#) provided by Serbia).

ECSR interpretation ([DIGEST](#))

Article 27§2 provides for the right to parental leave which is distinct from maternity leave.⁷⁵ (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.⁷⁶

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.⁷⁷ With a view to promoting equal opportunities and equal treatment

⁷⁴ [Conclusions 2023, Serbia, Article 16](#)

⁷⁵ [Conclusions 2011, Armenia](#)

⁷⁶ [Conclusions 2011, Armenia](#)

⁷⁷ [Conclusions 2011, Armenia](#)

between men and women, the leave should, in principle, be provided on a non-transferable basis to each parent.⁷⁸

The States Parties are under a positive obligation to encourage the use of parental leave by either parent.⁷⁹

Remuneration of parental leave plays a vital role in the take up of childcare leave, in particular for fathers or lone parents.⁸⁰ States Parties shall ensure that an employed parent is adequately compensated for their loss of earnings during the period of parental leave.⁸¹ 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.⁸² Regardless of the modalities of payment, the level must be adequate.⁸³

Unpaid parental leave is not in conformity with Article 27§2.⁸⁴

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.⁸⁵ Indications are that women's employment has been placed at greater risk than men's by the pandemic.⁸⁶ 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.⁸⁷ 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.⁸⁸ Faced with this situation, States Parties must take all necessary measures to apply and reinforce as appropriate Charter rights such as Article 27.⁸⁹

Opinion of the ECSR

In its previous examination on non-accepted provisions by Serbia, the ECSR held that legislation for equal opportunities and treatment for workers with family responsibilities and the prevention of discrimination is in place, however assessed that it needed further information including on non-transferability of parental leave, social security and pension rights. On this point, the ECSR recalls that 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.⁹⁰

From the information provided by the Government, it appears there is no individual right to parental leave for either parent, but, instead, paid leave for care of a child is transferable. The requirements of Article 27§2 are, therefore, not satisfied.

⁷⁸ [Conclusions 2011, Armenia](#)

⁷⁹ [Conclusions 2015, Statement of interpretation on Article 27§2](#)

⁸⁰ [Conclusions 2011, Armenia](#)

⁸¹ [Conclusions 2015, Statement of interpretation on Article 27§2](#)

⁸² [Conclusions 2015, Statement of interpretation on Article 27§2](#)

⁸³ [Conclusions 2015, Statement of interpretation on Article 27§2](#)

⁸⁴ [Conclusions 2019, Ireland, Malta](#)

⁸⁵ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁸⁶ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁸⁷ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁸⁸ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁸⁹ [Statement on Covid-19 and social rights adopted on 24 March 2021](#)

⁹⁰ [Conclusions 2011, Armenia](#)

In the light of the above information, the ECSR considers that the current legal and/or practical framework is not fully compatible with the requirements of the Charter. However, the ECSR encourages the Government to take the necessary steps to be able to accept this provision in the future.

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

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

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

Situation in Serbia

The ECSR notes from the written information submitted by the Government that labour legislation affords protection to employees against dismissal because of or during parental leave (Labour Law, Article 183 and 187). Termination of employment in violation of this protection is null and void if the employer was aware of the existence of these circumstances, or if the employee, within 30 days from the date of termination employment relationship, informed the employer about the existence of these circumstances (Labour Law, Article 187). (See for detailed information the 2024 [Report on Application of Non-ratified Articles of the Revised European Social Charter](#) provided by Serbia).

ECSR interpretation ([DIGEST](#))

Family responsibilities must not constitute a valid ground for termination of employment. In this context, the notion of “family responsibilities” is to be understood as obligations in relation to dependent children as well as other members of the immediate family who need care and support (for instance elderly parents).⁹¹ 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.⁹²

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.²³²⁸ 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.⁹³

Any ceiling on compensation that may preclude damages from being commensurate with the loss suffered and sufficiently dissuasive are proscribed.⁹⁴ If there is a ceiling on compensation for pecuniary damage, the victim must be able to seek unlimited compensation for non-pecuniary damage through other legal avenues (e.g. anti-discrimination legislation), and the courts competent for awarding compensation for pecuniary and non-pecuniary damage must decide within a reasonable time.⁹⁵

⁹¹ Conclusions 2003, Statement of Interpretation on Article 27§3; see e.g. [Conclusions 2003, Bulgaria](#)

⁹² Conclusions 2003, Statement of Interpretation on Article 27§3; see e.g. Conclusions 2003, Bulgaria.

⁹³ [Conclusions 2007, Finland](#)

⁹⁴ [Conclusions 2011, Statement of Interpretation on Articles 8§2 and 27§3](#)

⁹⁵ [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

Opinion of the ECSR

The ECSR takes note of the written information provided by the Government and it considers that further information is necessary to assess whether the situation in law and practice is in line with the standards of the Charter. In particular, it needs clarification of the legal situation with regard to the rights to reinstatement and compensation, should protection for employees against dismissal because of and during parental leave, be not observed. In the meantime, it encourages the Government to pursue their efforts and to continue considering accepting Article 27§3 of the Charter.

Article 31§1 – The right to housing

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

1 to promote access to housing of an adequate standard;

Situation in Serbia

The Government indicates that the Constitution of the Republic of Serbia does not explicitly protect the right to housing. However, Article 18 guarantees human and minority rights by the generally accepted rules of international law. Also, establishes a right to social protection for citizens and families who need social assistance to meet their basic life needs (which includes housing), while respecting their human dignity. Serbia is bound by the right to housing through ratification international legal instruments: the Universal Human Rights Declaration (Article 25) and the International Covenant on Economic, Social and Cultural Rights (Article 11). There are also relevant General Comments of the UN Committee on Economic, Social and Cultural Rights (CESCR): General Comment 3 (E/1991/23) the Nature of State Parties' Obligations; General Comment 4 (E/1992/23) on the Right to Adequate Housing; and General Comment 7 (E/1998/22) on Forced Evictions.

At the legislative level, the Law on Housing and Building Maintenance regulates protection against and during forced evictions, the eligibility criteria for receiving housing support and provides definition on what is considered as appropriate housing. In the written information submitted by the Government, the latter report that reliable and sustainable sources of financing housing policy measures, especially housing support and incentives for non-profit housing organizations are missing.

Financially larger housing projects are not implemented on the basis of the Law on Housing and Building Maintenance, but on the basis of special legislation. These include the housing of refugees, housing projects for security forces and housing projects for scientists (See for detailed information the 3rd National [Report on Application of Non-ratified Articles of the Revised European Social Charter](#) and the [2nd report on the non-accepted provisions of the European Social Charter](#)).

The National Housing Strategy 2012-2022 was completed during the period under consideration. In their written information, the Government submitted an assessment of this plan, where they list the competent institutions for the implementation of this strategy, outcomes of its implementation, key problems and recommendations, and general recommendations for the improvement of housing rights in Serbia (See for detailed information the 3rd National [Report on Application of Non-ratified Articles of the Revised European Social Charter](#)). A new national housing strategy is in proposal stage. Other housing strategies targeting vulnerable groups were implemented during the period under examination or are still being implemented, in particular the 'National Strategy for resolving the issue of refugees and internally displaced persons 2015-2020' and the 'Strategy for Social Inclusion of Roma in the Republic of Serbia 2016-2025'.

ECSR interpretation (**DIGEST**)

Personal scope

Refugees come under the personal scope of Article 31 and should be treated as favourably as possible and, in any event, not less favourably than the treatment accorded to aliens generally in the same circumstances.⁹⁶ States are not obliged to provide alternative accommodation in the form of permanent housing within the meaning of Article 31§1 for migrants in an irregular situation. However, Article 31§2 applies to migrants in an irregular situation.⁹⁷ The right to shelter should be guaranteed to persons present in an irregular manner, including children, for as long as they are within the jurisdiction of the State.⁹⁸

Material scope

The ECSR has previously stated that Article 31 cannot be interpreted as imposing on States Parties an obligation of “results”,⁹⁹ rather it concerns an “obligation of means” (namely, the taking of suitable measures).¹⁰⁰ The rights recognised in the Social Charter must take a practical and effective, rather than purely theoretical, form.¹⁰¹ This implies that, for the situation to be in conformity with Article 31, States Parties must:

- a) adopt the necessary legal, financial and operational means of ensuring steady progress towards achieving the goals laid down by the Charter;¹⁰²
- b) maintain meaningful statistics on needs, resources and results;¹⁰³
- c) undertake regular reviews of the impact of the strategies adopted;¹⁰⁴
- d) establish a timetable and not defer indefinitely the deadline for achieving the objectives of each stage;¹⁰⁵

⁹⁶ [Conclusions 2015, Statement on Interpretation on the Rights of Refugees](#)

⁹⁷ [European Federation of National Organisations working with the Homeless \(FEANTSA\) v. the Netherlands](#), Complaint No. 86/2012, decision on the merits of 2 July 2014, §61

⁹⁸ [European Federation of National Organisations working with the Homeless \(FEANTSA\) v. the Netherlands](#), Complaint No. 86/2012, decision on the merits of 2 July 2014, §61

⁹⁹ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 58-60; [European Federation of National Organisations Working with the Homeless \(FEANTSA\) v. France](#), Complaint No. 39/2006, decision on the merits of 5 December 2007 §§ 52-53; [Médecins du Monde - International v. France](#), Complaint No. 67/2011, decision on the merits 11 September 2012, §55 citing [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §59

¹⁰⁰ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007 §58; [European Federation of National Organisations Working with the Homeless \(FEANTSA\) v. France](#), Complaint No. 39/2006, decision on the merits of 5 December 2007 §52

¹⁰¹ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §59; [European Federation of National Organisations Working with the Homeless \(FEANTSA\) v. France](#), Complaint No. 39/2006, decision on the merits of 5 December 2007 §53; [Médecins du Monde - International v. France](#), Complaint No. 67/2011, decision on the merits 11 September 2012, §55 citing [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §59

¹⁰² [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 58-60

¹⁰³ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 58-60

¹⁰⁴ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 58-60

¹⁰⁵ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 58-60

- e) pay close attention to the impact of the policies adopted on each of the categories of persons concerned, particularly the most vulnerable.¹⁰⁶

As concerns the means of ensuring steady progress towards achieving the goals laid down by the Charter, implementation of the Charter requires States Parties not merely to take legal action but also to make available the resources and introduce the operational procedures necessary to give full effect to the rights specified therein.¹⁰⁷

When one of the rights in question is exceptionally complex and particularly expensive to implement, States Parties must take steps to achieve the objectives of the Charter within a reasonable time, with measurable progress and making maximum use of available resources.¹⁰⁸

The requirement to maintain statistics is particularly important in the case of the right to housing because of the range of policy responses involved, the interaction between them and the unwanted side-effects that may occur as a result of this complexity.¹⁰⁹ However statistics are only useful if resources made available and results achieved or progress made can be compared with identified needs.¹¹⁰

The authorities must also pay particular attention to the impact of their housing policy choices on the most vulnerable groups, in this case individuals and families suffering exclusion and poverty.¹¹¹

Article 31 must be considered in the light of relevant international instruments that served as inspiration for its authors or in conjunction with which it needs to be applied: the European Convention on Human Rights and the United Nations Covenant on Economic, Social and Cultural Rights.¹¹²

The fact that the right to housing is stipulated under Article 31 of the Charter does not preclude a consideration of relevant housing issues arising under Article 16, which addresses housing in the context of securing the right of families to social, legal and economic protection.¹¹³ The notions of adequate housing and forced eviction are identical under Articles 16 and 31.¹¹⁴

¹⁰⁶ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 58-60

¹⁰⁷ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §61

¹⁰⁸ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §62; [European Roma and Travellers Forum \(ERTF\) v. France](#), Complaint No. 64/2011, decision on the merits of 24 January 2012, §96

¹⁰⁹ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §63

¹¹⁰ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §63

¹¹¹ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §67, citing [International Association Autism Europe v. France](#), Complaint No. 13/2002, decision on the merits of 4 November 2003,

§53; [European Roma and Travellers Forum \(ERTF\) v. France](#), Complaint No. 64/2011, decision on the merits of 24 January 2012, §96

¹¹² [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 68-71

¹¹³ [European Roma Rights Center \(ERRC\) v. Bulgaria](#), Complaint No. 31/2005, decision on admissibility of 10 October 2005, §9

¹¹⁴ [European Roma Rights Center \(ERRC\) v. Bulgaria](#), Complaint No. 31/2005, decision on the merits of 18 October 2006, §17

Under Article 31§1 of the Charter, States Parties shall guarantee to everyone the right to housing and shall promote access to adequate housing.¹¹⁵ States must take the legal and practical measures which are necessary and adequate for the effective protection of the right in question.¹¹⁶ 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.¹¹⁷

States Parties must guarantee to everyone the right to adequate housing.¹¹⁸ 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.¹¹⁹

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;¹²⁰
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;¹²¹
3. a dwelling with secure tenure supported by the law. This issue is covered by Article 31§2.¹²²

The definition of adequate housing must be applied not only to new constructions, but also gradually to the existing housing stock.¹²³ It must also be applied to housing available for rent as well as to housing owner occupied housing.¹²⁴

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.¹²⁵ They, therefore, require special protection.¹²⁶ 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.¹²⁷

¹¹⁵ [European Roma and Travellers Forum \(ERTF\) v. France](#), Complaint No. 64/2011, decision on the merits of 24 January 2012, §95

¹¹⁶ [European Roma and Travellers Forum \(ERTF\) v. France](#), Complaint No. 64/2011, decision on the merits of 24 January 2012, §95

¹¹⁷ [European Roma and Travellers Forum \(ERTF\) v. France](#), Complaint No. 64/2011, decision on the merits of 24 January 2012, §95.

¹¹⁸ Conclusions 2003, France

¹¹⁹ [Conclusions 2003, Italy](#)

¹²⁰ [Conclusions 2003, France](#)

¹²¹ [Conclusions 2003, France](#)

¹²² [Conclusions 2003, France](#)

¹²³ [Conclusions 2003, France](#)

¹²⁴ [Conclusions 2003, France](#)

¹²⁵ [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 39-40

¹²⁶ [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 39-40

¹²⁷ [Centre on Housing Rights and Evictions \(COHRE\) v. Italy](#), Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 39-40

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.¹²⁸

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.¹²⁹

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§1.¹³⁰ These facilities do not offer the quality standards necessary for the long-term accommodation of unaccompanied children.¹³¹

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.¹³² 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.¹³³ Public authorities must also limit against the interruption of essential services such as water, electricity and telephone.¹³⁴

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.¹³⁵ Thus, ultimate responsibility for policy implementation, involving at a minimum supervision and regulation of local action, lies with the Government which must be able to show that both local authorities and itself have taken practical steps to ensure that local action is effective.¹³⁶

Legal protection

¹²⁸ [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

¹²⁹ [European Roma Rights Center \(ERRC\) v. Portugal](#), Complaint No. 61/2010, decision on the merits of 30 June 2011, §48

¹³⁰ [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

¹³¹ [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

¹³² [Conclusions 2003, France](#)

¹³³ [Conclusions 2019, Turkey, Ukraine](#)

¹³⁴ [Conclusions 2003, France](#)

¹³⁵ [European Roma Rights Center \(ERRC\) v. Italy](#), Complaint No. 27/2004, decision on the merits of 7 December 2005, §26, citing [European Roma Rights Centre \(ERRC\) v. Greece](#), Complaint No. 15/2003, decision on the merits of 8 December 2004, §29

¹³⁶ [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

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.¹³⁷ Any appeal procedure must be effective.¹³⁸

Opinion of the ECSR

The ECSR notes from the information submitted by the Government regarding the assessment of the outcomes of the National Housing Strategy 2012-2022, that with regard to development of instruments for the development of social housing, especially stable financial sources, and of the public housing fund for affordable rent, results have been assessed as negative (3rd National [Report on Application of Non-ratified Articles of the Revised European Social Charter](#)).

The ECSR recalls that Article 31 is linked to and overlaps, to some extent, with Article 16, which concerns the right of the family to social, legal, and economic protection. The ECSR notes that in its Conclusion 2023 on Article 16, it held that the situation in Serbia was not in conformity with the Charter including on aspects of the Article related to housing, because *inter alia* the right to housing is not adequately and effectively guaranteed for low-income families.¹³⁹ This finding is also relevant for the ECSR's assessment in terms of Article 31§1, which requires that States Parties must guarantee to everyone the right to adequate housing.¹⁴⁰

On the basis of the information provided by the Government in the written report, the ECSR considers that the current situation in Serbia is not fully compatible with the requirements of Article 31§1 of the Charter. It encourages the Government to pursue its efforts with regard to ensure access to adequate and social housing and in particular to groups in vulnerable situations such as low-income persons. It also urges the Government to strengthen the effectiveness of the right to adequate housing and to consider accepting Article 31§1 in the near future.

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 Serbia

Written information submitted by the Government is summarized under Article 31§1.

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§1.¹⁴¹

¹³⁷ [Conclusions 2003, France](#)

¹³⁸ [Conclusions 2015, Austria, Article 16](#)

¹³⁹ [Conclusions 2023, Serbia, Article 16](#)

¹⁴⁰ [Conclusions 2003, France](#)

¹⁴¹ [Conclusions 2003, Italy; Conference of European Churches \(CEC\) v. the Netherlands, Complaint No. 90/2013, decision on the merits of 1 July 2014, §135](#)

Article 31§2 obliges States Parties to gradually reduce homelessness with a view to its elimination.¹⁴² 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.¹⁴³

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).¹⁴⁴

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.¹⁴⁵

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.¹⁴⁶

States Parties must set up procedural safeguards to limit the risk of eviction.¹⁴⁷

Illegal occupation of a site or dwelling may justify the eviction of the illegal occupants.¹⁴⁸ 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.¹⁴⁹

Legal protection for persons threatened by eviction must include, in particular, an obligation to consult the parties affected in order to find alternative solutions to eviction and the obligation to fix a reasonable notice period before eviction.¹⁵⁰ A notice period of one month in case of eviction due to insolvency or wrongful occupation is not reasonable.¹⁵¹

When evictions do take place, they must be carried out under conditions that respect the dignity of the persons concerned.¹⁵² The law must prohibit evictions carried out at night or during the winter

¹⁴² [Conclusions 2003, Sweden](#)

¹⁴³ [Conclusions 2003, Sweden](#)

¹⁴⁴ [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](#)

¹⁴⁵ [Conclusions 2007, Italy](#)

¹⁴⁶ [Conclusions 2003, Sweden; Conclusions 2019, Ukraine](#)

¹⁴⁷ [Conclusions 2005, Lithuania](#)

¹⁴⁸ [European Roma Rights Centre \(ERRC\) v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, §51](#)

¹⁴⁹ [European Roma Rights Centre \(ERRC\) v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, §51](#)

¹⁵⁰ [Conclusions 2003, Sweden](#)

¹⁵¹ [Conclusions 2019, Ukraine](#)

¹⁵² [Conclusions 2003, Sweden](#)

period.¹⁵³ When an eviction is justified by the public interest, authorities must adopt measures to re-house or financially assist the persons concerned.¹⁵⁴

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.¹⁵⁵

Right to shelter

According to Article 31§2, homeless persons must be offered shelter as an emergency solution.¹⁵⁶ 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.¹⁵⁷ Another basic requirement is the security of the immediate surroundings.¹⁵⁸ 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.¹⁵⁹

States Parties shall foresee sufficient places in emergency shelters¹⁶⁰ and the conditions in the shelters should be such as to enable living in keeping with human dignity.¹⁶¹

The temporary supply of shelter, however adequate, cannot be considered satisfactory.¹⁶² Individuals who are homeless should be provided with adequate housing within a reasonable period.¹⁶³ In addition, measures should be taken to help such people overcome their difficulties and to prevent them from returning to a situation of homelessness.¹⁶⁴

The right to shelter should be adequately guaranteed for migrants, including unaccompanied migrant children, and asylum-seekers.¹⁶⁵ States Parties are required to provide adequate shelter to children unlawfully present in their territory for as long as they are within their jurisdiction.¹⁶⁶ As the scope of Articles 31§2 and 17 overlap to a large extent, the ECSR assesses the issue of the right to a shelter of unaccompanied foreign minors under the scope of Article 31§2 when States Parties have accepted both provisions.¹⁶⁷ The housing of people in reception camps and temporary shelters which do not

¹⁵³ [Conclusions 2003, Sweden](#)

¹⁵⁴ [Conclusions 2003, Sweden](#)

¹⁵⁵ [Conclusions 2003, Sweden](#)

¹⁵⁶ [Defence for Children International \(DCI\) v. the Netherlands](#), Complaint No. 47/2008, decision on the merits of 20 October 2009, §46

¹⁵⁷ [Defence for Children International \(DCI\) v. the Netherlands](#), Complaint No. 47/2008, decision on the merits of 20 October 2009, §62

¹⁵⁸ [Defence for Children International \(DCI\) v. the Netherlands](#), Complaint No. 47/2008, decision on the merits of 20 October 2009, §62

¹⁵⁹ [Defence for Children International \(DCI\) v. the Netherlands](#), Complaint No. 47/2008, decision on the merits of 20 October 2009, §62

¹⁶⁰ [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

¹⁶¹ [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

¹⁶² [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

¹⁶³ [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

¹⁶⁴ [Conclusions 2003, Italy](#)

¹⁶⁵ [Conclusions 2019, Greece](#)

¹⁶⁶ [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

¹⁶⁷ [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

satisfy the standards of human dignity is in violation of the aforementioned requirements.¹⁶⁸ States should develop detailed guidelines on standards of reception facilities, assuring adequate space and privacy for children and their families.¹⁶⁹

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.¹⁷⁰

The ECSR considers that eviction from shelters without the provision of alternative accommodation must be prohibited.¹⁷¹

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.¹⁷²

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.¹⁷³

Opinion of the ECSR

The ECSR notes that the information submitted by the Government mentions that provision is made in law for protection from and during evictions. However, no information is given regarding the type of protection, its personal and material scope, as well as remedies that may be accessed from persons subjected to forced evictions. The ECSR notes that in its Conclusion 2023 on Article 16, it held that the situation in Serbia was not in conformity with the Charter including on failure to provide information with regards to the judicial remedies available and access to legal aid for evicted persons and on whether there is a ban on evictions at night or in winter.¹⁷⁴

In addition, the ECSR notes from the information submitted by the Government regarding the assessment of the outcomes of the National Housing Strategy 2012-2022, that no progress has been made with regard to development of instruments against homelessness (3rd National [Report on Application of Non-ratified Articles of the Revised European Social Charter](#)).

On the basis of the information provided by the Government in the written report, the ECSR considers that the current legal and/or practical framework is not fully compatible with the requirements of Article 31§2 of the Charter. It encourages the Government to pursue its efforts to remove these obstacles and to consider accepting Article 31§2 in the near future.

¹⁶⁸ [Defence for Children International \(DCI\) v. the Netherlands](#), Complaint No. 47/2008, decision on the merits of 20 October 2009, §62

¹⁶⁹ [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

¹⁷⁰ [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

¹⁷¹ [Conclusions 2015, Statement of Interpretation on Article 31§2](#)

¹⁷² [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

¹⁷³ [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

¹⁷⁴ [Conclusions 2023, Serbia, Article 16](#)

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 Serbia

The Government reported that the 2012 National Strategy for Social Housing is no longer valid and has not yet been replaced by a new overarching housing strategy. A new National Housing Strategy is currently in the proposal stage. In the absence of a comprehensive framework, housing policy has become fragmented, focusing mainly on vulnerable groups through ad-hoc, special laws—a practice deemed ineffective. Other strategic documents, such as the Strategy for Resolving Issues of Refugees and Internally Displaced Persons (2015–2020) and the Strategy for Social Inclusion of Roma (2016–2025), also influence housing policy.

The Government indicated that an evaluation of the 2012–2022 implementation period of the National Housing Strategy highlighted several issues:

- Only 41% of the planned social housing budget (IPA, CEB, RS funds) was spent.
- Housing solutions achieved were only 25% of the planned number.
- There was little progress in developing key instruments for social housing, including stable financing and a public housing fund for affordable rent.
- No progress was made in addressing homelessness.
- The majority of support went to creditworthy individuals with some public assistance, rather than the most vulnerable.

(3rd National [Report on Application of Non-ratified Articles of the Revised European Social Charter](#)).

ECSR interpretation ([DIGEST](#))

An adequate supply of affordable housing must be ensured for persons with limited resources.¹⁷⁵

[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.¹⁷⁶ 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.¹⁷⁷

States Parties must:

¹⁷⁵ [Conclusions 2003, Sweden](#)

¹⁷⁶ [Conclusions 2003, Sweden](#)

¹⁷⁷ [FEANTSA v. Slovenia](#), Complaint No. 53/2008, decision on the merits of 8 September 2009, §72.

- adopt appropriate measures for the provision of housing, in particular social housing.¹⁷⁸ Social housing should target, in particular, the most disadvantaged;¹⁷⁹
- adopt measures to ensure that waiting periods for the allocation of housing are not excessive;¹⁸⁰ judicial or other remedies must be available when waiting periods are excessive;¹⁸¹

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.¹⁸²

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.¹⁸³ Housing benefit is an individual right: all qualifying households must receive it in practice; legal remedies must be available in case of refusal.¹⁸⁴

The right to affordable housing must not be subject to any kind of discrimination on any grounds mentioned by Article E of the Charter.¹⁸⁵

Opinion of the ECSR

The ECSR notes from the information submitted by the Government that the assessment of the implementation of the National Housing Strategy 2012-2022 has been indicated negative results in terms of elaboration of instruments for the development of social housing, especially stable financial sources, and of the public housing fund for affordable rent. Furthermore it notes that the Strategy's assessment indicated no progress in the development of instruments against homelessness, and that the greatest support was received by categories of the population that are creditworthy with a degree of public support. (3rd National [Report on Application of Non-ratified Articles of the Revised European Social Charter](#)).

The ECSR recalls that Article 31 is linked with and overlaps to some extent with Article 16 on the right of family to social, legal and economic protection. The ECSR notes that in its Conclusion 2023 on Article 16, it held that the situation in Serbia was not in conformity with the Charter including with regard to housing-related aspects of the Article referring to housing because the right to housing is not adequately and effectively guaranteed for low-income families.¹⁸⁶ This finding is also relevant for the assessment under Article 31§3, which requires that an adequate supply of affordable housing must be ensured for persons with limited resources.¹⁸⁷

¹⁷⁸ [Conclusions 2003, Sweden](#)

¹⁷⁹ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 98-100

¹⁸⁰ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §131

¹⁸¹ [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §131

¹⁸² [International Movement ATD Fourth World v. France](#), Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 149155; [Conclusions 2019, France](#)

¹⁸³ [Conclusions 2003, Sweden](#); [Conclusions 2019, Greece](#)

¹⁸⁴ [Conclusions 2003, Sweden](#)

¹⁸⁵ [Conclusions 2019, Turkey](#)

¹⁸⁶ [Conclusions 2023, Serbia, Article 16](#)

¹⁸⁷ [Conclusions 2003, Sweden](#)

On the basis of the information provided by the Government in the written report, the ECSR considers that, although a legal and policy framework is in place, the current practical implementation is not fully compatible with the requirements of the Charter. It therefore reiterates its encouragement to the Government to pursue its efforts to address these difficulties and to consider accepting Article 31§3 in the near future.

III. RESERVATIONS

Article 6§4 – The right to bargain collectively

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:

4 the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

Situation in Serbia

Serbia has accepted Article 6 of the revised Charter, except with regard to paragraph 4 as it applies to professional members of the Serbian Armed Forces. In their written submission, the Government informed the ECSR that there are no plans to extend the application of this provision to members of the Armed Forces.

ECSR interpretation ([DIGEST](#))

The right to strike of certain categories of public officials, such as members of the armed forces, may be restricted.¹⁸⁸ Concerning the armed forces, the need to be able to maintain the command operational in the most extreme situations of military exposure may not justify the absolute prohibition of the right to strike, because it is not proportionate to the legitimate aim pursued and, therefore, is not necessary in a democratic society.¹⁸⁹ Minimum services may be imposed in the defense sector in the event of a strike.¹⁹⁰ Other measures may be provided for by law, such as an effective and regular procedure of negotiation at the highest level between the members of the armed forces and the command authority regarding not only the material and salary conditions but also the work organisation, or conciliation or arbitration procedure.¹⁹¹ With such measures - minimum services and/or an effective procedure of negotiation or conciliation - the prohibition on the exercise of the right to strike would be proportionate.¹⁹²

The margin of appreciation accorded to States Parties in terms of the right to strike of the armed forces is greater than that afforded to States Parties in respect of the police.¹⁹³

¹⁸⁸ [European Organisation of Military Associations \(EUROMIL\) v. Ireland](#), Complaint No. 112/2014, decision on the merits of 12 September 2017, §113

¹⁸⁹ [Confederazione Generale Italiana del Lavoro \(CGIL\) v. Italy](#), Complaint No. 140/2016, decision on the merits of 22 January 2019, §152

¹⁹⁰ [Confederazione Generale Italiana del Lavoro \(CGIL\) v. Italy](#), Complaint No. 140/2016, decision on the merits of 22 January 2019, §152

¹⁹¹ [Confederazione Generale Italiana del Lavoro \(CGIL\) v. Italy](#), Complaint No. 140/2016, decision on the merits of 22 January 2019, §152

¹⁹² [Confederazione Generale Italiana del Lavoro \(CGIL\) v. Italy](#), Complaint No. 140/2016, decision on the merits of 22 January 2019, §152

¹⁹³ [European Organisation of Military Associations \(EUROMIL\) v. Ireland](#), Complaint No. 112/2014, decision on the merits of 12 September 2017, §116

Opinion of the ECSR

The ECSR noted that the Government did not provide written information regarding this Article but indicated that there are no plans to extend the application of the aforementioned provision to members of the Serbian Armed Forces.

However, in its previous examination in 2019, the ECSR noted that under Article 6§4 of the Charter the right to strike of certain categories of public officials, such as members of the armed forces, may be restricted. Under Article G, these restrictions should be limited to public officials whose duties and functions are directly related to public interests, national security etc. Concerning police officers, the ECSR has held that an absolute prohibition on the right to strike can be considered in conformity with Article 6§4 only if there are compelling reasons justifying it. A prohibition of the right to strike of the members of the armed forces is not contrary to the Charter.

The ECSR recalls that in its 2014, 2018, and 2022 Conclusions, it found Serbia not in conformity with Article 6§4 of the Charter, due to overly broad restrictions on the right to strike beyond the limits set by Article G of the Charter and unequal involvement of workers in setting minimum service levels during strikes.

In order to assess the situation of the military personnel in relation to Article 6§4, the ECSR asks the Government to provide in the next report information whether there is an established negotiation procedure between the members of the armed forces and the command authority regarding material and salary conditions or work organisation. The ECSR reiterates its encouragement to the Government to pursue its efforts and consider lifting its reservation to Article 6§4.

Article 17§1(a) - The right of children and young persons to social, legal and economic protection

With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:

1 a to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;

Situation in Serbia

The written information submitted by the Government contain no information regarding the intention of Serbia to raise reservations regarding Article 17§1(a).

Opinion of the ECSR

In its previous examination in 2019, the ECSR recalled that under Article 17§1a, States Parties shall ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose. Furthermore, Article 17§1(a) of the Charter that imposes a positive obligation on States, protects the right of the child to grow up in an environment encouraging the development of the child's personality.

The ECSR noted that Serbia has accepted the essence of Article 17§1 and 2, but not alinea a. The ECSR further noted that there is no real distinction among the different alineas of paragraph 1. In its previous examination in 2019, the ECSR had held that there is no reason for non-acceptance of alinea.

Recalling that in 2019 the Ministry of Education expressed its willingness to accept Article 17§1(a) and noting that the Government already reports on this provision, the ECSR reiterates its encouragement for the Government to formally accept it.

ANNEX I



European
Social
Charter

Charte
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— Serbia and the European Social Charter —

Signatures, ratifications and accepted provisions

Serbia ratified the Revised European Social Charter on 14 September 2009 accepting 88 of its 98 paragraphs. It has not yet accepted the system of collective complaints.

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 ¹	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 ²	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			

¹ with the exception of professional military personnel of the Serbian Army

² al. 1 b and 1 c are accepted

Reports on non-accepted provisions

The European Committee of Social Rights ("the Committee") examines the situation of non-accepted provisions of the Revised Charter every 5 years after the ratification. It adopted [reports concerning Serbia](#) in 2015 and in 2019.

The Committee considers that there are no major obstacles to acceptance of the following provisions: Articles 10§5, 19§§11,12, and Article 27§§1–3.

Further information on the reports on non-accepted provisions is available on the [relevant webpage](#).

Monitoring the implementation of the European Social Charter ¹⁹⁴

I. Reporting system ¹⁹⁵

Reports submitted by Serbia

Between 2011 and 2023, Serbia has submitted 12 reports on the application of the Revised Charter.

The [11th report](#), submitted on 17/05/2022, concerns the accepted provisions relating to thematic group 3 "Labour Rights" (Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29).

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

The [12th report](#), which was submitted on 28/03/2023, covers the accepted provisions of the Social Charter relating to thematic group 4 "Health, social security and social protection", namely:

- the right of children and young persons to protection (Article 7);
- the right of employed women to protection of maternity (Article 8);
- the right of the family to social, legal and economic protection (Article 16);
- the right of children and young persons to social, legal and economic protection (Article 17);
- the right of migrant workers and their families to protection and assistance (Article 19);
- the right of workers with family responsibilities to equal opportunities and equal treatment (Article 27);
- the right to housing (Article 31).

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

¹⁹⁴ 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](#).

¹⁹⁵ Detailed information on the Reporting System is available on the [relevant webpage](#). The reports submitted by States Parties may be consulted in the [relevant section](#).

Situations of non-conformity ¹⁹⁶

Thematic Group 1 "Employment, training and equal opportunities" - Conclusions 2020

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

- Restriction on access of nationals of other States Parties to employment in the regional and local governments is excessive, which constitutes a discrimination on grounds of nationality;
- It has not been established that legislation provides for a shift in the burden of proof in discrimination cases.
- It has not been established that the national authorities have fulfilled their positive obligations to prevent forced labour and labour exploitation, to protect victims, to effectively investigate the offences committed, and to punish those responsible for forced labour offences.

► *Article 154 - Right to work - Vocational guidance, training and rehabilitation*

- It has not been established that the right to vocational guidance within the education system is guaranteed;
- It has not been established that the right of an employed person to an individual leave for training is guaranteed;
- It has not been established that the right of persons with disabilities to mainstream training is effectively guaranteed.

► *Article 9 - Right to vocational guidance*

It has not been established that the right to vocational guidance within the education system is guaranteed.

► *Article 10§3 - Right to vocational training - vocational training and retraining of adult workers*

It has not been established that the right of an employed person to an individual leave for training is guaranteed.

► *Article 15§1 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Vocational training for persons with disabilities*

It has not been established that the right of children with disabilities to mainstream education and training is effectively guaranteed.

► *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 the obligation to provide reasonable accommodation is effectively guaranteed.

► *Article 15§3 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Integration and participation of persons with disabilities in the life of the community*

It has not been established that:

- anti-discrimination legislation covers telecommunications;
- persons with disabilities have effective access to transport;
- persons with disabilities have effective access to housing.

¹⁹⁶ Further information on the situations of non-conformity is available on the [HUDOC database](#).

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

It has not been established that the right to compensation is provided for in gender pay discrimination cases.

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*

It has not been established that:

- temporary workers, interim workers and workers on fixed-term contracts enjoy the same standard of protection as workers on contracts with indefinite duration;
- domestic workers are covered by occupational health and safety regulations;
- consultation with employers' and workers' organisations is ensured.

► *Article 11§2 - Right to protection of health - Advisory and educational facilities*

It has not been established that screening for diseases responsible for high levels of mortality (besides cancer) is available to the population as a whole.

► *Article 11§3 - Right to protection of health - Prevention of diseases and accidents*

It has not been established that:

- adequate measures were taken to overcome environmental pollution;
- efficient immunisation and epidemiological monitoring programmes are in place;
- adequate measures were taken to prevent tobacco and alcohol consumption.

► *Article 12§1 - Right to social security – Existence of a social security system*

The duration of unemployment benefit for the insurance period of up to 5 years is too short.

► *Article 12§3 - Right to social security – Development of the social security system*

It has not been established that steps have been taken to raise progressively the system of social security to a higher level.

► *Article 12§4 - Right to social security - Social security of persons moving between States*

- Equal access to family benefit is not guaranteed for all resident children;
- It has not been established that the retention and export of accrued benefits is ensured;
- It has not been established that the maintenance of accruing rights is ensured.

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

- Means of subsistence are not guaranteed to persons in need whose social assistance is withdrawn as penalty for having refused a job offer;
- It is not established that the level of social assistance paid to a single person without resources is adequate;
- It is not established that the right to appeal concerning access and entitlement to social assistance benefits is guaranteed;
- It is not established that foreigners lawfully resident in Serbia are not subject to an excessive length of residence requirement to be entitled to social assistance.

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

It has not been established that:

- equal access to social services is guaranteed to nationals of all States Parties lawfully residing on Serbian territory;
- the quality of social services meets users' needs.

► *Article 14§2 - Right to benefit from social welfare services - Public participation in the establishment and maintenance of social services*

It has not been established that:

- voluntary organisations are adequately supported by subsidies or tax incentives for the creation or maintenance of social services;
- services managed by the private sector are effective and accessible to all.

► *Article 23 – Right of elderly persons to social protection*

Adequate resources are not guaranteed to older persons not in receipt of a pension.

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

There is no adequate overall and coordinated approach in place to combat poverty and social exclusion.

Thematic Group 3 “Labour rights” - Conclusions 2022

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

On-call periods during which no effective work is undertaken are considered as rest periods.

► *Article 2§2 - Right to just conditions of work - Public holidays with pay*

It has not been established that work performed on a public holiday is adequately compensated.

► *Article 2§6 - Right to just conditions of work - Information on the employment contract*

- It has not been established that the amount of paid leave is specified in the employment contract or some other document.
- The length of the periods of notice in case of termination of the contract or the employment relationship is not specified in the employment contract or some other document.

► *Article 2§7 – Right to just conditions of work – Night work*

- There is no provision in the legislation for compulsory medical examinations prior to employment on night work and regularly thereafter;
- It has not been established that possibilities of transfer to daytime work are sufficiently provided for.

► *Article 4§1 - Right to a fair remuneration - Decent remuneration*

It has not been established that the minimum wage ensures a decent standard of living.

► *Article 4§3 - Right to a fair remuneration - Non-discrimination between women and men with respect to remuneration*

- It has not been established that the right to adequate compensation is provided for in gender pay discrimination cases,
- It has not been established that in equal pay cases domestic law allows for pay comparisons to be made across companies.

► *Article 4§4 - Reasonable notice of termination of employment – Reasonable notice of termination of employment*

- In general, no notice periods are provided for by legislation in case of dismissal;
- The notice period applicable to dismissal on grounds of underperformance, is manifestly unreasonable for workers with more than three months of service;
- The notice period is manifestly unreasonable for workers on probation with more than three months' seniority.

► *Article 5 - Right to organise*

The conditions imposed by legislation in order to form an employers' organisation constitutes an obstacle to the right to organise.

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

- The range of sectors in which the right to strike may be restricted is too extensive and the restrictions on the right to strike go beyond the limits set by Article G of the Charter;
- Workers are not involved on an equal footing with employers in decisions on the minimum service to be provided during strikes.

► *Article 21 - Right of workers to be informed and consulted*

It has not been established that effective remedies are available to employees or their representatives who consider that their right to information and consultation within the undertaking has not been respected.

► *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:

- the right of workers and/or their representatives to participate in the decision-making process within undertakings with regard to working conditions, work organization and working environment, is effectively guaranteed;
- the right of workers and/or their representatives to participate in the organization of social and socio-cultural services within an undertaking is guaranteed, and
- legal remedies are available to workers in the event of infringement of their right to take part in the determination and improvement of working conditions and the working environment.

► *Article 26§1 - Right to dignity in the workplace - Sexual harassment*

- It has not been established that there is adequate prevention of sexual harassment in relation to work;
- It has not been established that there is appropriate and effective redress (compensation and reinstatement) in cases of sexual harassment in relation to work.

► *Article 26§2 - Right to dignity in the workplace - Moral harassment*

It has not been established that there is appropriate and effective redress (compensation and reinstatement) in cases of moral (psychological) harassment in relation to work.

► *Article 29 - Right to information and consultation in procedures of collective redundancy*

It has not been established that there are preventive measures to ensure that redundancies do not take effect until the employers have met their obligation to inform and consult employee representatives.

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

► *Article 7§1 - Right of children and young persons to protection- Prohibition of employment under the age of 15*

The protection of children under the age of 15 against child labour is not guaranteed in practice.

► *Article 7§3 - Right of children and young persons to protection - Prohibition of employment of children subject to compulsory education*

It has not been established that the protection against child labour for children who are still subject to compulsory education is guaranteed.

► *Article 7§4 - Right of children and young persons to protection - Working time*

The duration of working time for young workers under the age of 16 is excessive.

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

Young workers' wages are not fair.

► *Article 7§9 – Right of children and young persons to protection - Regular medical examination*

It has not been established that whether young workers under 18 years of age are guaranteed regular medical check-ups during employment and which is the interval between the check-ups and how the medical examinations are performed in practice.

► *Article 8§5 - Right of employed women to protection of maternity - Prohibition of dangerous, unhealthy or arduous work*

It has not been established that there are adequate regulations on dangerous, unhealthy and arduous work in respect of pregnant women, women who have recently given birth or women who are nursing their infant.

► *Article 17§1 - Right of children and young persons to social, legal and economic protection - Assistance, education and training*

Not all forms of corporal punishment are prohibited in all settings.

► *Article 19§3 – Right of migrant workers and their families to protection and assistance - Co-operation between social services of emigration and immigration states*

It has not been demonstrated that the cooperation between social services in emigration and immigration countries is sufficiently established and promoted.

► *Article 19§4 – Right of migrant workers and their families to protection and assistance - Equality regarding employment, right to organise and accommodation*

It has not been established that migrant workers benefit from access to housing on the equal footing with nationals.

► *Article 19§6 - Right of migrant workers and their families to protection and assistance - Family reunion*

It has not been established that:

- a family member of a migrant worker may not be denied entry to Serbia for the purpose of family reunion for health reasons;
- the level of means required to bring in the family or certain family members is not so restrictive as to prevent any family reunion;
- the restrictions on the exercise of the right to family reunion are subject to an effective mechanism of appeal or review.

► *Article 19§7 - Right of migrant workers and their families to protection and assistance - Equality regarding legal proceedings*

It has not been established that equal treatment in respect of the right to legal aid is guaranteed to migrant workers.

► *Article 19§10 – Right of migrant workers and their families to protection and assistance - Equal treatment for the self-employed*

The grounds of non-conformity under Articles 19§3, 19§4, 19§6 et 19§7 apply also to self-employed migrants.

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

Thematic Group 1 “Employment, training and equal opportunities”

- ▶ Article 1§1 - Conclusions 2020
- ▶ Article 10§1 - Conclusions 2020
- ▶ Article 10§4 - Conclusions 2020
- ▶ Article 18§2 - Conclusions 2020
- ▶ Article 18§4 - Conclusions 2020
- ▶ Article 24 - Conclusions 2020

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

- ▶ Article 3§1 - Conclusions 2021
- ▶ Article 3§3 - Conclusions 2021
- ▶ Article 11§1 - Conclusions 2021
- ▶ Article 13§3 - Conclusions 2021

Thematic Group 3 “Labour rights”

- ▶ Article 4§2 - Conclusions 2022
- ▶ Article 4§5 - Conclusions 2022
- ▶ Article 28 - Conclusions 2022

Thematic Group 4 “Children, families, migrants”

- ▶ Article 7§10 - Conclusions 2019
- ▶ Article 8§1 - Conclusions 2019
- ▶ Article 8§2 - Conclusions 2019
- ▶ Article 8§4 - Conclusions 2019
- ▶ Article 16 - Conclusions 2019
- ▶ Article 17§2 - Conclusions 2019
- ▶ Article 19§1 - Conclusions 2019
- ▶ Article 19§2 - Conclusions 2019
- ▶ Article 19§5 - Conclusions 2019
- ▶ Article 19§8 - Conclusions 2019
- ▶ Article 19§9 - Conclusions 2019

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

Thematic Group 1 "Employment, training and equal opportunities"

- ▶ In 2013, the Labour Code was amended with a view to extending the protection to women on a fixed-term employment contract (Law on Amendments to the Labour Code of 8 April 2013).
- ▶ The Employment of Foreign Nationals Act, adopted in November 2014, enables free access to the Serbian labour market for EU Member State citizens.
- ▶ Law on the Professional Rehabilitation and Employment of Persons with Disabilities (Official Gazette Nos. 36/2009 and 32/2013), which came into force on 23 May 2009 and was amended on 16 April 2013. It prohibits all discrimination against persons with disabilities and aims to create the conditions for equal access for persons with disabilities to the open labour market and to promote professional rehabilitation.

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

- ▶ A new mechanism has been launched at national level for those municipalities and cities which do not have means to launch social care services: the so-called "earmarked transfer", which under the law regulating funding of local governments, can fund several social care services from the State budget.

Thematic Group 3 "Labour rights"

- ▶ Under Article 68 of the amended Labour Code (came into force on 29 July 2014), employees are entitled to annual leave and cannot waive that right. Under Article 114, during annual leave employees are entitled to be paid at the rate of their average salary for the preceding twelve months.
- ▶ Under the amended Article 66 of the Labour Code, employees are entitled to a minimum of 12 hours of uninterrupted rest within each 24-hour period, unless otherwise specified in the Code. Employees who agree to flexible working time arrangements (Article 57) are entitled to a minimum of 11 hours' uninterrupted rest within each 24-hour period. Under Article 67, if employees are required to work on their weekly rest day their employer must grant them an uninterrupted rest period of at least 24 hours in the following week, before their next scheduled weekly rest period.

Thematic Group 4 "Children, families, migrants"

- ▶ In 2013, the Labour Code was amended with a view to extending the protection to women on a fixed-term employment contract (Law on Amendments to the Labour Code of 8 April 2013).
- ▶ A new Employment of Foreign Nationals Act was adopted in November 2014, enabling free access to the Serbian labour market for EU Member State citizens.

APPENDIX II



PRESIDENCY OF LITHUANIA
Council of Europe
May – November 2024
PRÉSIDENCE DE LA LITUANIE
Conseil de l'Europe
Mai – Novembre 2024



MINISTRY
OF SOCIAL SECURITY AND LABOUR
REPUBLIC OF LITHUANIA



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.