



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

September 2024

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

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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, 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.

The Charter initially involved traditional reporting by States Parties. 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 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.

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](#)

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 member States' commitments under the Charter. As implied by the Committee of Ministers in its decision of 15 March 2023, 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 Slovenia in the context of the non-accepted provisions of the European Social Charter

Slovenia ratified the revised Charter on 7 May 1999, accepting 95 out of 98 paragraphs. It has currently not accepted the following three provisions: Article 13§1, Article 13§4, and Article 18§2. Slovenia accepted the system of collective complaints on 7 May 1999 but has not yet made a declaration enabling national NGOs to submit collective complaints.

The procedure on non-accepted provisions (Articles 13§1, 13§4, and 18§2) was applied to Slovenia for the first time in the context of a meeting between the ECSR and representatives of various ministries in Ljubljana on 15 September 2004. Subsequent examinations of the situation in law and practice in Slovenia took place in 2009, 2015 and 2019.

After examining the written information provided by the Government of Slovenia in June 2019, the European Committee of Social Rights invited the Slovenian authorities to consider the possibility of accepting Article 13§1 of the Charter, and reiterated its opinion that there are no major obstacles to the acceptance of Article 13§4 and Article 18§2 of the Charter and encouraged the Slovenian authorities to accept these provisions without delay. The Committee also invited the Slovenian authorities to consider making the declaration provided for in Article 2 of the 1995 Additional Protocol providing for a system of collective complaints in order to allow national non-governmental organisations to submit such complaints.

3. Current examination

This fifth examination of the non-accepted provisions is based on the adjusted procedure for non-accepted provisions. In terms of this procedure, Slovenia was invited on **7 November 2023** to submit written information before **31 March 2024**. The requested written information was registered on **12 April 2024**, and it was subsequently published on the CoE website⁴.

After examining the written information provided by Slovenia, the ECSR considers that Slovenia can accept Article 13§4 and Article 18§2. As regards Article 13§1, the Committee requested further information so as to be able to assess whether there exist obstacles to the acceptance of this provision.

The Committee also invites Slovenia to make a declaration enabling national NGOs to submit collective complaints, as a step to meet the high interest of domestic NGOs to continuously strengthen the social standards at the national level.

⁴ <https://rm.coe.int/the-5th-national-report-on-the-non-accepted-provisions-of-the-revised-/1680af6854>

The Committee remains at the disposal of the Government for enhanced dialogue⁵ on the Charter provisions and the relevant case law.

It invites Slovenia 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 Slovenia appears in Appendix I.

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

II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS

Article 13§1 - The right to social and medical assistance

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

1 to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition;

Situation in Slovenia

In its written information submitted in April 2024, the Government indicates that social security and social assistance in Slovenia are ensured ‘to all persons legally residing in its territory under conditions laid by the legislation’.⁶ To support this, the Government cites Article 3 of the Social Assistance Payments Act, according to which:

“Beneficiaries in accordance with this Act shall be nationals of the Republic of Slovenia who have permanent residence in the Republic of Slovenia and foreigners who have permanent residence permit and permanent residence in the Republic of Slovenia and persons with granted international protection and their family members who have been granted residence permit in the Republic of Slovenia and have permanent or temporary residence in the Republic of Slovenia on the basis of the right to family reunification.”

The Government also indicates that since 1.1.2024, persons with permanent residence in Slovenia who receive social assistance or are qualified to receive such assistance and are uninsured, have the right to compulsory health insurance, while being exempted from co-payments. Furthermore, co-payments have been abolished in mid-2023, with practical effect from the beginning of 2024. This protection extends to the partners of beneficiaries.

⁵ 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)

⁶ Report of the Republic of Slovenia within the framework of the procedure of on non-accepted provisions of the European Social Charter (revised), available in the following address: <https://www.coe.int/en/web/european-social-charter/slovenia-and-the-european-social-charter>

Finally, the Government indicates that the ratification of Article 13§1 is not currently under consideration in Slovenia. (see for detailed information [The Fifth National Report on the Non-Accepted Provisions of the European Social Charter](#) provided by Slovenia)

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The Charter provides for social security and social assistance in two separate Articles (Articles 12 and 13) carrying different undertakings.⁷ The Committee must therefore take this division into account. The wording of the Charter itself contains no specific indications as to the scope of either of these two notions.⁸ The main criteria to decide whether a particular benefit belongs to social security or to social assistance, is the purpose of that benefit and the conditions attached to it in question.⁹

The Committee thus considers as ‘social assistance’ those benefits for which individual need is the main criterion for eligibility, without any requirement of affiliation to a social security scheme aimed to cover a particular risk, or any requirement of professional activity or payment of contributions.¹⁰ Moreover, as Article 13§1 indicates, assistance is given when no social security benefit ensures that the person concerned has sufficient resources or the means to meet the cost of treatment necessary in their state of health.¹¹

Therefore Article 13§1 provides for the right to benefits, for which individual need is the main criterion for eligibility and which are payable to any person on the sole ground that they are in need.¹²

Conditions for granting assistance

The system of assistance must be universal in the sense that benefits must be payable to “any person” on the sole ground that they are in need.¹³ A minimum age limit may be set on the grant of benefits on condition that the rule ensures that young people below that age limit receive appropriate subsistence assistance,¹⁴⁰⁴ not limited to supplementary or conditional assistance.¹⁴ A condition in respect of length of residence in the country or part of its territory (as distinct from a condition in respect of stay or presence, see below) or excluding from social assistance people dismissed for serious misconduct¹⁵ is not in keeping with Article 13§1.¹⁶

The obligation to provide assistance arises as soon as a person is in need, i.e. unable to obtain “adequate resources”.¹⁷ This means the resources needed to live a decent life and meet basic needs in an adequate manner.¹⁸ Conversely, appropriate assistance is that which enables any person to meet their basic needs (see *below*). The level of resources below which a person is entitled to assistance is assessed by reference to the poverty threshold in the sense defined *infra*.

The entitlement to the right to social assistance arises when the person is unable to obtain resources “either by their own efforts or from other sources, in particular by benefits under a social security

⁷ Conclusions XIII-4 (1996), Statement of Interpretation on Articles 12 and 13

⁸ Conclusions XIII-4 (1996), Statement of Interpretation on Articles 12 and 13

⁹ Conclusions XIII-4 (1996), Statement of Interpretation on Articles 12 and 13

¹⁰ Conclusions XIII-4 (1996), Statement of Interpretation on Articles 12 and 13

¹¹ Conclusions XIII-4 (1996), Statement of Interpretation on Articles 12 and 13

¹² Conclusions 2013, Bosnia and Herzegovina

¹³ [European Roma Rights Centre \(ERRC\) v. Bulgaria](#), Complaint No. 48/2008, decision on the merits of 18 February 2009, §38 1404 Conclusions XV-1 (2000), France

¹⁴ Conclusions 2009, France

¹⁵ Conclusions XIX-2 (2009), Luxembourg

¹⁶ Conclusions XVI-1 (2003), Spain; see also Conclusions 2013, Bosnia and Herzegovina

¹⁷ Conclusions 2013, Bulgaria

¹⁸ Conclusions XIV-1 (1998), Portugal

scheme”.¹⁹ Where it appears as “a moral value not legally defined”, family solidarity is not regarded as an “other source” of income for persons without resources, as it does not provide persons in need with a clear and precise basis of social support.

The establishment of a link between social assistance and a willingness to seek employment or to receive vocational training is in conformity with the Charter, in so far as such conditions are reasonable and consistent with the aim pursued, that is to say to find a lasting solution to the individual’s difficulties. Reducing or suspending social assistance benefits can only be in conformity with the Charter if it does not deprive the person concerned of their means of subsistence (at least emergency assistance should remain available).²⁰ Furthermore, it must be possible to appeal against a decision to suspend or reduce assistance (see below).²¹

Form of assistance

Social assistance

Article 13§1 does not indicate what form social assistance should take. It may therefore take the form of benefits in cash or in kind. The Committee has observed that “an income guarantee has been established in most States Parties”,²² but has not in theory made the introduction of an income guarantee system a condition of conformity with Article 13§1. However, where States Parties have not introduced a general income guarantee system, they have been found not to be in conformity with Article 13§1 on the ground that their system of assistance does not cover the whole population.²³

Furthermore, even if under domestic law local or regional authorities are responsible for the delivery/provision of social assistance, States Parties to the Charter remain the ultimate duty-bearers in terms of their international obligations, to ensure that those responsibilities are properly exercised.²⁴ Ultimate responsibility for implementation of official policy lies with the state.²⁵ Accordingly, where social welfare services are decentralised, an assessment of compliance with the Charter will include taking into account the effective application by sub-national bodies.²⁶ In this respect, although the Charter does not require the same level of protection across the country, it requires a reasonable uniformity of treatment.²⁷ Regardless of their strategic choices and priorities, the local entities (regions, provinces and/or municipalities) must nevertheless comply with Article 13 of the Charter.²⁸

Insofar as the income guarantee for older people is relevant both to Article 13§1 and Article 23, the level of non-contributory pension paid to a single elderly person without resources is examined from the standpoint of Article 23 of the Charter (the right of elderly people to social protection) for those Contracting States that have accepted this provision. Where States Parties have not accepted Article 23, it will be examined under Article 13§1.²⁹

Medical assistance

¹⁹ [Finnish Society of Social Rights v. Finland](#), Complaint No 88/2012, decision on the merits of 9 September 2014, §111-1411 [Conclusions 2009, France](#)

²⁰ [Conclusions XIV-1 \(1998\)](#), Statement of Interpretation on Article 13§1; [Conclusions 2006; 2009 Estonia](#)

²¹ [Conclusions 2006, Estonia](#)

²² [Conclusions XIII-4 \(1996\)](#), Statement of Interpretation on Article 13§1

²³ [Conclusions 2006, Republic of Moldova](#)

²⁴ [Conclusions 2013, Italy](#)

²⁵ [Conclusions 2013, Italy](#)

²⁶ [Conclusions 2013, Italy](#)

²⁷ [Conclusions 2013, Italy](#)

²⁸ [Conclusions 2013, Italy](#)

²⁹ [Conclusions 2009, Armenia](#)

Everyone who lacks adequate resources must be able to obtain free of charge, in the event of sickness, the care necessitated by their condition.³⁰ In this context, medical assistance includes free or subsidised health care or payments to enable persons to pay for the care required by their condition.³¹

The Committee has not determined what care must cover, nor whether care is limited to treating illness. It has stated that “it is not within its competence to define the nature of the care required, or the place where it is given”.³² It has however considered that the right to medical assistance should not be confined to emergency situations.³³ As such a system that covers expenses for a limited time or does not include primary or specialised outpatient medical care that a person without resources might require, did not sufficiently ensure health care for poor or socially vulnerable persons who become sick.³⁴ Furthermore, the seriousness of the illness in question cannot be a factor in refusing to grant medical assistance.³⁵

Level and duration of assistance

Assistance must be “appropriate”, i.e. make it possible to live a decent life and sufficient to cover the individual’s basic needs.³⁶ In order to assess the level of assistance, basic benefits, additional benefits and the poverty threshold in the country are taken into account.³⁷ (The poverty threshold is set at 50% of the median equivalised disposable income and calculated on the basis on the Eurostat at-risk-of-poverty threshold).³⁸ The equivalised disposable income is calculated by Eurostat on the basis of the income of a household, established by summing all monetary income received from any source by each member of the household and deducting taxes and social contributions paid. In order to reflect differences in household size and composition, this total is divided by the number of “equivalent adults” using a standard scale, the so-called ‘modified OECD scale’. The resulting figure is attributed to each member of the household (Source: Eurostat).³⁹

In the absence of this indicator, the national poverty threshold is taken into account.⁴⁰

Assistance is appropriate where the monthly amount of assistance benefits – basic and/or additional – paid to a person living alone is not manifestly below the poverty threshold in the above sense.⁴¹

In conducting this assessment, the level of medical assistance is also taken into account.⁴²

Social assistance must be provided for as long as the situation of need persists and cannot therefore be subject to time-limits.⁴³ Subject to participating in training or accepting employment (see above), the right to social assistance must be conditional only on the criterion of necessity, and the availability of

³⁰ [European Roma Rights Centre \(ERRC\) v. Bulgaria](#), Complaint No. 46/2007, decision on the merits of 3 December 2008, §44

³¹ [European Roma Rights Centre \(ERRC\) v. Bulgaria](#), Complaint No. 46/2007, decision on the merits of 3 December 2008, §44

³² Conclusions XIII-4 (1996), Statement of Interpretation on Article 13

³³ [Conclusions 2009, Armenia](#)

³⁴ [European Roma Rights Centre \(ERRC\) v. Bulgaria](#), Complaint No. 46/2007, decision on the merits of 3 December 2008, §44

³⁵ [Conclusions XIII-4 \(1996\), Greece](#)

³⁶ [Conclusions XIX-2 \(2009\), Latvia](#)

³⁷ [Conclusions XIX-2 \(2009\), Latvia](#)

³⁸ [Conclusions XIX-2 \(2009\), Latvia](#)

³⁹ [Finnish Society of Social Rights v. Finland](#), Complaint No 88/2012, decision on the merits of 9 September 2014, §62

⁴⁰ [Conclusions 2009, Armenia](#)

⁴¹ [Finnish Society of Social Rights v. Finland](#), Complaint No 88/2012, decision on the merits of 9 September 2014, §113, citing [Conclusions 2004, Lithuania](#)

⁴² [Conclusions 2009, Lithuania](#)

⁴³ [European Roma Rights Centre \(ERRC\) v. Bulgaria](#), Complaint No. 48/2008, decision on the merits of 18 February 2009, §39

adequate resources must be the sole criterion according to which assistance may be denied, suspended or reduced.⁴⁴

Individual right supported by a right of appeal

The right to assistance may not depend solely on the discretion of the administrative authorities: it must constitute an individual right laid down in law and be supported by an effective right of appeal.⁴⁵ In particular, making certain forms of social assistance conditional on budgetary resources is not compatible with the Charter.⁴⁶

Statutory right

The law must lay down objective criteria and phrase them in sufficiently precise terms so as not to leave the assessment of the state of need and the necessity of assistance entirely in the hands of the competent authority,⁴⁷ the law must define the elements taken into account in order to assess the state of need and make the criteria for assessment of that need clear, as well as the procedure for determining whether a person lacks adequate resources, including the methods used to investigate resources and needs.⁴⁸ In the absence of a precise legal threshold below which a person is considered in need, or of a common core of criteria underlying the granting of benefits, a one-off allowance cannot be deemed to be a sufficient income guarantee for persons without resources.⁴⁹

Effective appeal

The right secured by Article 13§1 places an obligation on states “which they may be called on in court to honour”.⁵⁰ This does not have to be a court within the country’s judicial system, or a judicial body in the institutional sense. The Committee focuses on the judicial role of the review body, which is to rule on cases within its jurisdiction and hand down binding decisions based on the law.⁵¹ The body may therefore be an ordinary court or an administrative body, provided that it offers the guarantees mentioned below:

- It must be a body independent of the executive and of the parties. In deciding whether a body may be considered independent, the manner of appointment of its members is examined, the duration of their term of office and existing safeguards against outside pressures (rules governing removal from office, dismissal, instructions, qualifications required, etc.).⁵²
- All unfavourable decisions concerning the granting and maintenance of assistance must be subject to appeal, including decisions to suspend or reduce assistance benefits, for example in the event of refusal by the person concerned to accept an offer of employment or training.⁵³
- The review body must have the power to judge the case on its merits, not merely on points of law.⁵⁴

⁴⁴ [Conclusions XVIII-1 \(2006\), Spain](#)

⁴⁵ [Conclusions I \(1969\), Statement of Interpretation on Article 13§1](#); [Conclusions XIII-4 \(1996\), Statement of Interpretation on Article 13](#)

⁴⁶ [Conclusions XV-1 \(2000\), Spain](#)

⁴⁷ [Conclusions XIII-4 \(1996\), Statement of Interpretation on Article 13](#)

⁴⁸ See also the [Conclusions XIII-4 \(1996\), Statement of Interpretation on Article 13](#)

⁴⁹ [Conclusions XIX-2 \(2009\), Greece](#)

⁵⁰ [Conclusions 2009, Andorra](#)

⁵¹ [Conclusions 2009, Andorra](#)

⁵² [Conclusions XVIII-1 \(2006\), Iceland](#)

⁵³ [Conclusions XVIII-I \(2006\), Hungary](#); [Conclusions 2009, Andorra](#)

⁵⁴ [Conclusions XIII-4 \(1996\), Statement of Interpretation on Article 13](#)

In order to guarantee applicants the effective exercise of their right of appeal, legal aid must be provided.⁵⁵

Personal scope

Nationals of States Parties legally residing or regularly working

In accordance with the Appendix to the Charter, foreigners who are nationals of States Parties and are lawfully resident or working regularly in the territory of another Party and lack adequate resources must enjoy an individual right to appropriate assistance on an equal footing with nationals,⁵⁶ without the need for reciprocity.⁵⁷ The appendix to the 1961 Charter requires States Parties to grant “to refugees as defined in the Convention relating to the Status of Refugees, signed at Geneva on 28th July 1951, and lawfully staying in its territory, treatment as favourable as possible, and in any case not less favourable than under the obligations accepted by the State Party under the said Convention and under any other existing international instruments applicable to those refugees”.⁵⁸ The Charter extends that requirement to stateless persons within the meaning of the New York Convention of 1954 on the status of stateless persons, as well as to persons de facto stateless because of the lack of documents.⁵⁹

Equality of treatment must be guaranteed once the foreigner has been given permission to reside lawfully or to work regularly in the territory of a State Party. The Charter does not regulate procedures for admitting foreigners to the territory of States Parties, and the rules governing “resident” status are left to national legislation. This stems in particular from the appendix to the Charter in respect of Article 18§1: “It is understood that these provisions [Article 18§1 and paragraph 18 of Part I] are not concerned with the question of entry into the territories of [States which have ratified the Charter] and do not prejudice the provisions of the European Convention on Establishment, signed at Paris on 13th December 1955.”⁶⁰ As a result, the resident status may be made subject to a condition of length of residence or presence in the territory in order to enjoy equality of treatment, always provided that it is not manifestly excessive.⁶¹

The guarantee of equal treatment in terms of assistance must be enshrined in legislation. The Committee has however accepted that this condition is fulfilled when equality of treatment is provided by an administrative circular.⁶²

Equality of treatment means that entitlement to assistance benefits, including income guarantees, is not confined in law to nationals or to certain categories of foreigners and that the criteria applied in practice for the granting of benefits do not differ by reason of nationality.⁶³ Equality of treatment also implies that additional conditions such as length of residence, or conditions which are harder for foreigners to meet, may not be imposed on them.⁶⁴

Repatriation

⁵⁵ Conclusions XVI-1 (2003), Ireland

⁵⁶ Conclusions XIII-4 (1996), Statement of Interpretation on Article 13²

⁵⁷ [Conclusions VII \(1981\), Statement of Interpretation on Article 13§4](#)

⁵⁸ Appendix to the 1961 Charter, European Treaty Series - No. 35, §2

⁵⁹ [Conclusions 2013, Serbia](#)

⁶⁰ Appendix to the 1961 Charter, European Treaty Series - No. 35, §2; Appendix to the 1996 Charter, European Treaty Series – No. 163

⁶¹ [Conclusions XVIII-1 \(2006\), Czech Republic](#)

⁶² [Conclusions XIV-1 \(1998\), Greece](#)

⁶³ [Conclusions XVIII-1 \(2006\), Belgium](#); [Conclusions XVIII-1 \(2006\), Germany](#)

⁶⁴ [Médecins du Monde - International v. France](#), Complaint No. 67/2011, decision on the merits of 11 September 2012, §176; [Conclusions XVIII-1 \(2006\), Denmark](#)

Foreigners lawfully resident in the territory of a State Party cannot be repatriated on the sole ground that they are in need of assistance.⁶⁵ As long as their lawful residence or regular work continues, they enjoy equal treatment.⁶⁶ Where such persons are migrant workers, they also enjoy the protection afforded by Article 19§8, which does not permit expulsion on the ground of needing assistance.⁶⁷

Once the validity of the residence and/or work permit has expired, States Parties have no further obligation towards foreigners covered by the Charter, even if they are in a state of need.⁶⁸ However, this does not mean that a country's authorities are authorised to withdraw a residence permit solely on the grounds that the person concerned is without resources and unable to provide for the needs of their family.⁶⁹

Foreigners in an irregular situation

Article 13§1 also provides for the right to emergency social and medical assistance to foreigners in an irregular situation, in a limited and exceptional way.⁷⁰ It is the same type of emergency social and medical assistance applicable under Article 13§4, to foreigners who are not resident.⁷¹

Opinion of the ECSR

The Committee recalls that Article 13§1 guarantees an individual right to adequate social and medical assistance to all nationals and resident foreigners who are without adequate resources. Need is the only criterion referred to in Article 13§1 and any restrictive condition, such as nationality and length of residence requirements is contrary to the Charter.

The Committee acknowledges the measures taken to expand medical assistance to persons who receive, or are qualified to receive, social assistance and their partners.

The Committee takes note that, in accordance with the Social Assistance Payment Act, beneficiaries include foreigners with permanent residence permit and permanent residence in the country, as well as persons granted international protection and their family members who have been granted residence permits in the country and have permanent or temporary residence based on the right to family reunification.

The Committee also recalls the obligation of EU Member States, including Slovenia, which are bound by the Charter, to provide workers who are nationals of other Member States the same social and tax advantages as national workers. Such an obligation stems from Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union (Article 7). Social assistance may be among such social advantages for moving workers.

This means that social assistance is conditioned by nationality, permanent residency status or international protection, or EU moving worker's status. This provision does not explicitly extend equal

⁶⁵ [Conclusions 2017, Bosnia and Herzegovina](#)

⁶⁶ [Conclusions XIV-1 \(1998\), Statement of Interpretation on Article 13](#)

⁶⁷ [Conclusions XIV-1 \(1998\), Statement of Interpretation on Article 13](#)

⁶⁸ [Conclusions XXI-2 \(2017\), Denmark](#)

⁶⁹ [Conclusions XIV-1 \(1998\), Norway; Conclusions XXI-2 \(2017\), Denmark](#)

⁷⁰ [Conclusions 2013, Statement of Interpretation on Article 13§1 and 13§4](#)

⁷¹ [Conclusions XXI-2 \(2017\), Spain](#)

treatment to persons with lawful, yet not permanent, residency⁷², or to persons who are permitted to work in the Republic of Slovenia.

On this point, the Committee recalls that restrictive conditions on the right to social assistance, such as length of residence, are contrary to Article 13§1 of the Charter. In its report, the Government of Slovenia itself considers the regulation of temporary residence currently in force in Slovenia to be an obstacle to the ratification of Article 13§1.

The Committee, however, notes from the information provided by the Government with regard to Article 13§4 that persons with temporary residency may be entitled to financial assistance. On this point, the Government refers to the Foreigners Act. The Committee asks the Government to provide information on the conditions and level of protection provided to persons with temporary residency, as well as on whether this protection is equal to that provided for citizens and residents with permanent residency status.

In view of the above, the Committee considers that further information is necessary in order 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 consider accepting of Article 13§1 in the near future.

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

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

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

Appendix: Governments not Parties to the European Convention on Social and Medical Assistance may ratify the Charter in respect of this paragraph provided that they grant to nationals of other Parties a treatment which is in conformity with the provisions of the said convention.⁷³

Situation in Slovenia

In the written information submitted in April 2024, the Government indicates that access to social assistance is available to all persons present in the Republic of Slovenia that find themselves in situations of distress.

Persons under international protection and their family members that have residence in Slovenia, are protected under the general system of social assistance. In addition, foreigners with temporary residence and other categories of nationals of other countries (victims of human trafficking, victims of illegal employment and victims of domestic violence), may be entitled to financial assistance.

⁷² According to the official website (<https://www.gov.si/en/topics/entry-and-residence/>), PERMANENT residency can only be obtained after 5 years of (simple) residency. In that sense the legislation precludes the lawfully residents that have not established PERMANENT status.

⁷³ Appendix to the 1961 Charter, European Treaty Series - No. 35; Appendix to the 1996 Charter, European Treaty Series – No. 163

Furthermore, the Health Care and Health Insurance Act, enshrines access to emergency treatment to foreign nationals and to persons who are not covered by compulsory health insurance in Slovenia or are not insured by a foreign health insurance institution.

Finally, the Government of indicates that ratification of Article 13§4 of the Charter is currently not under consideration. (see for detailed information [The Fifth National Report on the Non-Accepted Provisions of the European Social Charter](#) provided by Slovenia)

ECSR case law ([DIGEST](#))

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

Personal scope of Article 13§4

The personal scope of Article 13§4 differs from that of other Charter provisions. In fact, paragraph 1 of the Appendix concerning the Charter's personal scope, states that Articles 1 to 17 and 20 to 31 apply to foreigners "only in so far as they are nationals of other Parties lawfully resident or working regularly within the territory of the Party concerned", but adds that this rule is "without prejudice to Article 12§4, and Article 13§4". Article 13§4 therefore refers to "nationals of other States Parties lawfully within their territories". Accordingly, the beneficiaries of this are foreign nationals who are lawfully present in a particular country but don't have resident status. By definition, no condition of length of presence can be set on the right to emergency assistance.⁷⁴

Content of emergency assistance

States Parties are required to provide non-resident foreigners without resources – whether legally present or in an irregular situation - emergency social and medical assistance (accommodation, food, emergency care and clothing) to cope with an urgent and serious state of need (without interpreting too narrowly the "urgency" and "seriousness" criteria).⁷⁵ States Parties are not *required* to apply the guaranteed income arrangements under their social protection systems.⁷⁶

The provision of free emergency medical care must be governed by the individual's particular state of health.⁷⁷ Migrant minors in an irregular situation in a country are entitled to receive health care extending beyond urgent medical assistance and including primary and secondary care, as well as psychological assistance.⁷⁸

Right of appeal

Emergency social assistance should be supported by a right to appeal to an independent body. There must be a functioning appeal mechanism before an independent judicial body in order to determine the proper administration of shelter distribution. This right must also be effective in practice.⁷⁹

⁷⁴ [European Federation of National Organisations working with the Homeless \(FEANTSA\) v. the Netherlands](#), complaint No. 86/2012, decision on the merits of 2 July 2014, §171

⁷⁵ [Conclusions XIV-1 \(1998\), The Netherlands; Médecins du Monde - International v. France](#), complaint No. 67/2011, decision on the merits of 11 September 2012: §178; [Conclusions XX-2 \(2013\), Czech Republic](#)

⁷⁶ [Conclusions XIII-4 \(1996\), Statement of Interpretation on Article 13](#)

⁷⁷ [Conclusions XX-2 \(2013\), Czech Republic; Conclusions 2013, Sweden; Conclusions XIV-1 \(1998\), Iceland](#)

⁷⁸ [Defence for Children International \(DCI\) v. Belgium](#), complaint No. 69/2011, decision on the merits of 23 October 2012, §128

⁷⁹ [European Federation of National Organisations working with the Homeless \(FEANTSA\) v. the Netherlands](#), complaint No. 86/2012, decision on the merits of 2 July 2014, §187

Conditions governing repatriation (links with the 1953 Convention)

The personal and material scope of Article 13§4 is defined by the text of the appendix and that of Article 13§4 itself. Accordingly, such scope is not affected by the reference to the 1953 Convention. The only link between Article 13§4 and the 1953 Convention concerns the conditions under which States Parties can repatriate non-resident foreigners without resources on the ground that they are in need of assistance, namely that the persons are in a fit state of health to be transported (Article 7.a.ii of the 1953 Convention). This option may only be applied in the greatest moderation and then only where there is no objection on humanitarian grounds (Article 7.b of the 1953 Convention, see also Articles 8 to 10).⁸⁰

The abovementioned conditions for repatriation of non-resident nationals of other States Parties in state of need apply also in respect of States Parties that have not ratified the 1953 Convention.⁸¹

The other conditions set in Article 7 of the 1953 Convention do not apply, insofar as nationals of other States Parties who work regularly or reside legally within the territory of another State Party cannot be repatriated on the sole ground that they are in need of assistance. As long as their legal residence or regular work continues, they enjoy equal treatment laid down in the Appendix. Where such persons are migrant workers, they are also protected by Article 19§8, which would not permit expulsion on the ground of needing social assistance.⁸²

Opinion of the ECSR

The Committee notes that since 2004 it has held that there are no major obstacles in Slovenian law and practice to acceptance of Article 13§4. For this reason, the Committee has previously invited the Republic of Slovenia on multiple occasions to consider the ratification of the provision.⁸³

The Committee recalls that the provision of free emergency medical care must be governed by the individual's particular state of health. Especially when it comes to migrant minors in an irregular situation in a country, they are entitled to receive health care extending beyond urgent medical assistance and including primary and secondary care, as well as psychological assistance.

As regards the situation in Slovenia, the Committee notes that, while legislation exists for the provision of social and medical assistance, no information has been submitted on migrant minors' access to medical assistance and treatment beyond emergency care.

In the light of the information provided by the Government, and subject to more detailed information on the situation in law and practice, the Committee considers that there are no major obstacles to the acceptance by Slovenia of Article 13§4 of the Charter.

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

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

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

⁸⁰ Conclusions XIII-4 (1996), Statement of Interpretation on Article 13

⁸¹ Conclusions XIV-1 (1998), Statement of Interpretation on Article 13§4

⁸² Conclusions XIV-1 (1998), Statement of Interpretation on Article 13§4

⁸³ See the 1st, 2nd, 3rd and 4th reports of the European Committee of Social Rights on non-accepted provisions of the Charter by Slovenia on the following address: <https://www.coe.int/en/web/european-social-charter/slovenia-and-the-european-social-charter>

Situation in Slovenia

The Government of the Republic of Slovenia indicates that the provisions of the Employment Relationships Act apply fully to migrant workers employed in the Republic of Slovenia. The Government confirms that, under this Act, foreigners are guaranteed equal treatment regarding employment and conditions of employment, including payment. The Government further indicates that amendments to the Employment, Self-employment and Work of Foreigners Act, adopted in 2023, have sought to remove administrative obstacles and to speed up the process of issuing permits and certificates. Finally, the Government indicates that it will consider the ratification of Article 18§2 in the near future. (see for detailed information [The Fifth National Report on the Non-Accepted Provisions of the European Social Charter](#) provided by Slovenia)

ECSR case law ([DIGEST](#))

Formalities and dues and other charges are one of the aspects of regulations governing the employment of workers also covered by Article 18§3 but are dealt with specifically under this provision.⁸⁴

With regard to the formalities to be completed, conformity with Article 18§2 presupposes the possibility of completing such formalities in the country of destination as well as in the country of origin and obtaining the residence and work permits at the same time and through a single application.⁸⁵ It also implies that the documents required (residence/work permits) will be delivered within a reasonable time.⁸⁶ An average time of two months for the granting of both work/residence visa for employees as well as self-employed is in compliance with Article 18§2.⁸⁷

Situations where work permits and residence permits are issued under two separate procedures, and foreign nationals are not allowed to submit their applications from within the country, thereby lengthening the time taken to obtain residence permits, are not in conformity with Article 18§2 of the Charter.⁸⁸

States Parties are under an obligation to reduce or abolish chancery dues and other charges paid either by foreign workers or by their employers.⁸⁹ In order to comply with such an obligation, States must, first of all, not set an excessively high level for the dues and charges in question that is a level likely to prevent or discourage foreign workers from seeking to engage in a gainful occupation, and employers from seeking to employ foreign workers.⁹⁰ Fees of €48 charged to employers for obtaining a work permit for a foreign worker, and of €108 for temporary residence or €264 for permanent residence, are considered excessive and therefore not in conformity with Article 18§2.⁹¹ Fees ranging from €266 to €1536 for work permits are also not in conformity with Article 18§2.⁹² In addition, States Parties have to make concrete efforts to progressively reduce the level of fees and other charges payable by foreign workers or their employers.⁹³ States are required to demonstrate that they have taken measures towards achieving such a reduction.⁹⁴ Otherwise, they will have failed to demonstrate that they serve the goal of facilitating the effective exercise of the right of foreign workers to engage in a gainful occupation in their territory.⁹⁵ The Committee considers, however, that increases in chancery dues or other charges can be

⁸⁴ [Conclusions IX-1 \(1990\), United Kingdom](#)

⁸⁵ [Conclusions 2016, Armenia](#); [Conclusions XVII-2 \(2005\), Finland](#)

⁸⁶ [Conclusions XVII-2 \(2005\), Portugal](#)

⁸⁷ [Conclusions XVII-2 \(2005\), Portugal](#)

⁸⁸ [Conclusions XXII-1 \(2020\), Iceland](#); see also [Conclusions 2020, Ukraine](#)

⁸⁹ [Conclusions 2012, Statement of Interpretation of Article 18§2](#)

⁹⁰ [Conclusions 2012, Statement of Interpretation of Article 18§2](#)

⁹¹ [Conclusions 2020, Armenia](#)

⁹² [Conclusions XXII-1 \(2020\), United Kingdom](#)

⁹³ [Conclusions 2012, Statement of Interpretation of Article 18§2](#)

⁹⁴ [Conclusions 2012, Statement of Interpretation of Article 18§2](#)

⁹⁵ [Conclusions 2012, Statement of Interpretation of Article 18§2](#)

in conformity with Article 18§2 of the Charter as long as they are made for a good reason (for example in order to cover increased processing costs or inflation) and they are not excessive.⁹⁶

Opinion of the ECSR

The Committee recalls that in the previous examinations of the situation in law and in practice, it has repeatedly taken the view that Article 18§2 of the Charter could be accepted by Slovenia. Based on this finding, the Committee invited the Government to ratify Article 18§2 of the Charter.⁹⁷

The Committee also recalls from its examination on non-accepted provisions in 2015, that, the Aliens Act, as amended in 2014, provided for the simplification of formalities through a single application procedure for a single permit for third-country nationals to reside and work in Slovenia.⁹⁸

The Committee takes note of the more recent efforts by Slovenia to remove administrative barriers in terms of the employment and self-employment of foreign workers. It notes further the Government's expressed intention to accept Article 18§2.

In light of the information provided by the Government and requirements of this provision, the Committee considers that there are no obstacles to the immediate acceptance of Article 18§2 of the Charter.

⁹⁶ [Conclusions XXII-1 \(2020\), Iceland](#)

⁹⁷ See the 1st, 2nd, 3rd and 4th reports of the European Committee of Social Rights on non-accepted provisions of the Charter by Slovenia on the following address: <https://www.coe.int/en/web/european-social-charter/slovenia-and-the-european-social-charter>

⁹⁸ See the 3rd report of the European Committee of Social Rights on non-accepted provisions of the Charter by Slovenia on the following address: <https://www.coe.int/en/web/european-social-charter/slovenia-and-the-european-social-charter>

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— Slovenia and the European Social Charter —

Signatures, ratifications and accepted provisions

Slovenia ratified the Revised European Social Charter on 07/05/1999 and accepted 95 of its 98 paragraphs.

It accepted the system of collective complaints on 07/05/1999 but has not yet made a declaration enabling national NGOs to submit collective complaints.

The Charter in domestic law

Automatic incorporation into domestic law.

Table of accepted provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22
23	24	25	26.1	26.2	27.1	27.2	27.3	28	29	30	31.1
31.2	31.3						Grey = accepted provisions				

Reports on non-accepted provisions

The European Committee of Social Rights ("the Committee") examines the situation of non-accepted provisions of the Revised Charter every 5 years after the ratification. It adopted [reports concerning Slovenia](#) in 2004, 2009, 2015 and 2019.

The Committee invites the Slovenian authorities to accept the following provisions: 13§1, 13§4 and 18§2.

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

Monitoring the implementation of the European Social Charter ⁹⁹

I. Collective complaints procedure ¹⁰⁰

Collective complaints (under examination)

/

Collective complaints (proceedings completed)

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

a. Inadmissibility

/

b. No violation

/

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

Association for the Protection of All Children (APPROACH) Ltd v. Slovenia (Complaint No. 95/2013)

- Violation of Article 17§1 of the Charter (the right of children and young persons to social, legal and economic protection)

[Decision on the merits of 5 December 2014.](#)

Follow up:

- [Resolution Res/CM ChS \(2015\)10 on 17 June 2015](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow up](#) (20 May 2016).
- [2nd Assessment of the European Committee of Social Rights on the follow up](#) (13 September 2017).

Fédération européenne des associations nationales travaillant avec les Sans-abri (FEANTSA) v. Slovenia (Complaint No. 53/2008)

- Violation of Articles 31 (right to housing) and 16 (the right of the family to social, legal and economic protection) in conjunction with Article E of the Revised Charter

[Decision on the merits of 8 September 2009.](#)

Follow up:

- [Resolution CM/ResChS\(2011\)7 on 15 June 2011](#) of the Committee of Ministers.
- [Assessment of the European Committee of Social Rights on the follow up](#) (20 May 2016).
- [2nd Assessment of the European Committee of Social Rights on the follow up](#) (13 September 2017).
- [3rd Assessment of the European Committee of Social Rights on the follow up](#) (31 January 2020).

3. Complaints where the Committee has found a violation and where progress has been made but not yet examined by the Committee

/

⁹⁹ 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](#).

¹⁰⁰ Detailed information on the Collective Complaints Procedure is available on the [relevant webpage](#).

4. Complaints where the Committee has found a violation and where progress has been made but which has not yet been remedied

/

5. Complaints where the Committee has found a violation which has not yet been remedied

University Women of Europe (UWE) v. Slovenia (Complaint No. 137/2016)

- Violation of Article 4§3 (Right to a fair remuneration - non-discrimination between women and men with respect to remuneration)
- Violation of Article 20 (Right to equal opportunities and treatment in employment and occupation without sex discrimination)

[Decision on the merits of 5 December 2019.](#)

Follow up:

Recommendation [CM/RecChS\(2021\)14](#) (Adopted by the Committee of Ministers on 17 March 2021 at the 1399th meeting of the Ministers' Deputies)

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

II. Reporting system ¹⁰¹

Reports submitted by Slovenia

Between 2000 and 2024, Slovenia has submitted 23 reports on the application of the Revised Charter.

The [22nd report](#), which was submitted on 19/07/2023, concerns the accepted provisions relating to thematic group 4 "Children, families and migrants" (Articles 7, 8, 16, 17, 16, 19, 27 and 31).

Conclusions with respect to these provisions have been published in March 2024.

On 13 February 2024, an [ad hoc report on the cost-of-living crisis was submitted by Slovenia](#)¹⁰².

¹⁰¹ 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](#).

¹⁰² In accordance with the [decision of the Ministers' Deputies](#) adopted on 27 September 2022 concerning the [new system](#) for the presentation of reports under the European Social Charter, the European Committee of Social Rights and the Governmental Committee have decided to request an *ad hoc* report on the cost-of-living crisis to all State parties.

Situations of non-conformity ¹⁰³

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

► *Article 10§5 – Right to vocational training - Full use of facilities available*

Equal treatment of nationals of other States Parties residing or working lawfully in Slovenia is not guaranteed with regard to fees and to financial assistance for training.

► *Article 15§2– Right of persons with disabilities to independence, social integration and participation in the life of the community – Employment of persons with disabilities*

It has not been established that persons with disabilities are guaranteed an effective access to employment.

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

- Pay transparency is not ensured;
- There is no sufficient measurable progress in respect of the obligation to promote the right to equal pay.

Thematic Group 2 “Health, social security and social protection” - Conclusions 2021

► *Article 3§4 - Right to safe and healthy working conditions - Occupational health services*

It has not been established that there is a strategy to progressively provide access to occupational health services for all workers in all sectors of the economy.

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

The duration of unemployment benefit for the insurance period of 10 months to five years is too short.

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

The maintenance of accruing rights is not ensured.

Thematic Group 3 “Labour rights” - Conclusions 2018

According to the applicable rules, Conclusions 2022 only refer to the information submitted by the Slovenian Government on the follow-up given to the relevant decisions of the European Committee of Social Rights in the framework of the collective complaints procedure (see above).

For the most recent Conclusions adopted concerning the relevant Articles, see Conclusions 2018.

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

In some collective agreements on-call time spent at home in readiness for work during which no effective work is undertaken is assimilated to rest periods.

► *Article 4§4 – Right to a fair remuneration – Reasonable notice of termination of employment*

Notice periods applicable in ordinary dismissals for economic reasons or incompetence are not reasonable for workers with more than five years of service.

Thematic Group 4 “Children, families, migrants” - Conclusions 2023

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

During school holidays children under 15 years of age can work seven hours a day and 35 hours a week, which is excessive and therefore, cannot be regarded as light.

¹⁰³ Further information on the situations of non-conformity is available on the [HUDOC database](#).

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

The duration of light work for children subject to compulsory education during school holidays is excessive and therefore, may deprive them of the full benefit of education.

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

The daily and weekly 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*

Apprentices allowances at the end of the apprenticeship are not appropriate.

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

Family benefits do not constitute a sufficient income supplement for a significant number of families.

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

Immediate expulsion of children in an irregular migration situation can be carried out by the authorities without providing them with any assistance.

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

Equal treatment is not secured for migrant workers with respect to access to housing, and in particular to assisted rental schemes and subsidies.

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

- The required length of residence of two years for migrant workers before their family members can join them is excessive;
- Family members of the migrant workers do not have an independent right to stay and that they can be deported as a consequence of the migrant worker's expulsion;
- Social benefits, with the exception of parental protection insurance and benefits resulting from the migrant worker's inability to work, are excluded from the calculation of income of the migrant worker for the purposes of family reunion.

► *Article 19§8 – Right of migrant workers and their families to protection and assistance – Guarantees concerning deportation*

Migrant workers may be expelled in situations where they do not endanger national security or offend against public interest or morality.

► *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§4, 19§6, 19§8, and 19§9 apply also to self-employed migrants.

► *Article 31§1 – Right to housing – Adequate housing*

- The supervision of housing standards is not adequate;
- The measures taken by public authorities to improve the substandard housing conditions of a considerable number of Roma are insufficient.

► *Article 31§2 – Right to housing – Reduction of homelessness*

- The measures in place to reduce the number of homeless persons are inadequate in quantitative terms;
- The absence of sufficient measures in place to ensure that evictions of Roma are carried out in conditions respecting the dignity of the persons concerned;
- The law does not prohibit eviction from emergency accommodation/shelters without the provision of alternative accommodation.

► *Article 31§3 – Right to housing – Affordable housing*

- The supply of social housing is inadequate;
- The remedies in case of excessive waiting periods for social housing are not effective;

- Nationals of other states parties lawfully residing or working regularly are not entitled to equal treatment regarding eligibility for social housing.

The Committee also considered that the failure to provide requested information on Article 19§4 amounts to a breach by Slovenia of its reporting obligations under Article C of the Charter.

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

Thematic Group 1 "Employment, training and equal opportunities"

- ▶ Article 1§2 - Conclusions 2020
- ▶ Article 15§1 - Conclusions 2020
- ▶ Article 15§3 - Conclusions 2020

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

- ▶ Article 3§2 - Conclusions 2021
- ▶ Article 3§3 - Conclusions 2021
- ▶ Article 11§3 - Conclusions 2021
- ▶ Article 23 - Conclusions 2021

Thematic Group 3 "Labour Rights"

- ▶ Article 2§2 - Conclusions 2018
- ▶ Article 2§5 - Conclusions 2018
- ▶ Article 4§1 - Conclusions 2018
- ▶ Article 4§3 - Conclusions 2018
- ▶ Article 4§5 - Conclusions 2018
- ▶ Article 26§1 - Conclusions 2018
- ▶ Article 26§2 - Conclusions 2018
- ▶ Article 29 - Conclusions 2018

Thematic Group 4 "Children, families, migrants"

-

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

Thematic Group 1 “Employment, training and equal opportunities”

- ▶ The Employment Act (2002) contains provisions against discrimination in employment.
- ▶ Article 14 of the Constitution has been amended in order to guarantee equality irrespective of personal circumstances, including disability. The Principle of Equal Treatment Act guarantees equal treatment for persons with disabilities in the fields of employment, labour relations, education, etc.
- ▶ Integration and participation of persons with disabilities in the life of the community.
- ▶ The 2003 Employment Relations Act (ERA) prohibits discrimination on the ground of disability with respect to recruitment, employment and work conditions and dismissal in both the public and private sectors
- ▶ A Constitutional Court decision in February 2003 overturned the provision of the existing regulation stipulating that Slovenian nationals were favoured for receiving national grants.

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

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

Thematic Group 3 “Labour Rights”

- ▶ Following the adoption of the new Labour Relations Law which came into force in 2014, the obligatory elements of an employment contract have been expanded to include, in addition to all the elements listed in the previous law (see Conclusions 2014) the reason for temporary employment in a fixed-term contract.
- ▶ The Employment Relationship Law (No. 21/2013) entered in to force in 2013. Under the new law, the employer is obliged to submit organisational general acts to the trade unions to obtain their opinion. If there is no trade union present, the workers may take part through their directly elected worker’s representatives in the adoption of general acts governing workers’ rights. Prior to the adoption of such a general act, an employer must submit the proposition to the works council and/or the worker’s representative to obtain their opinion. The respective body then must submit its opinion within eight days and the employer must examine and take a relevant position on the submitted opinion prior to adopting the act in question. If no works council or worker’s representative is organized, the employer must inform the workers directly about its content prior to adopting the act.

Thematic Group 4 “Children, families, migrants”

- ▶ The Aliens Act which entered into force in November 2002 abolished the housing condition for migrant workers who wished to be joined by their families.
- ▶ The Ministry of Education no longer authorises the creation in schools of special classes for Roma children. A special working group on integration strategies into the school system for Roma has been established.
- ▶ The Parental Care and Family Benefits Act entered into force on 1 January 2002. It contains provisions on maternity leave, paternal leave, childcare leave and adoption leave.

- ▶ The new Employment Relations Act provides protection against notice of termination of contract and dismissal during worker's pregnancy. A woman unlawfully dismissed is entitled to be reinstated.
- ▶ The Parental Care and Family Benefits Act which entered into force on 1 January 2002 abolished the condition of nationality to which the childbirth allowance was subjected.
- ▶ The Employment Relationships Act (ZDR-1), as amended in 2013, prohibits the employer from terminating the worker's employment contract during her pregnancy or when she is breastfeeding a child of up to one year of age, nor may the employer terminate the employment contract of a worker who is on an uninterrupted parental leave, taken in the form of full-time absence from work, and for one month after the end of such leave.
- ▶ Paid nursing breaks have been introduced by the new Parental Protection and Family Benefits Act (ZSDP-1), that entered into force in April 2014 and has been applicable since 1 September 2014.

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



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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.