



March 2018

European Social Charter

European Committee of Social Rights

Conclusions XXI-2 (2017)

General Introduction

This text may be subject to editorial revision.

GENERAL INTRODUCTION

1. The European Committee of Social Rights, established by Article 25 of the European Social Charter, composed of:

Mr Giuseppe PALMISANO (Italian)
President
Professor of International Law
Director of the Institute for International Legal Studies
National Research Council of Italy, Rome (Italy)

Ms Monika SCHLACHTER (German)
Vice-President
Professor of Civil, Labour and International Law
Director of Legal Studies Institute for Labour Law and Industrial Relations in the European Community
University of Trier (Germany)

Ms Karin LUKAS (Austrian)
Vice-President
Senior Legal Researcher and Head of Team
Ludwig Boltzmann Institute of Human Rights, Vienna (Austria)

Ms Eliane CHEMLA (French)
General Rapporteur
Conseiller d'Etat honoraire
State Council, Paris (France)

Ms Birgitta NYSTRÖM (Swedish)
Professor of Private Law
University of Lund (Sweden)

Mr Petros STANGOS (Greek)
Professor of European Union law,
Holder of the Jean Monnet Chair "European human rights law"
School of Law, Department of International studies
Aristotle University, Thessaloniki (Greece)

Mr József HAJDÚ (Hungarian)
Dean for International Affairs and Science
University of Szeged (Hungary)

Mr Marcin WUJCZYK (Polish)
Lecturer in Labour Law and Social Policy
Jagiellonian University, Cracow (Poland)

Ms Krassimira SREDKOVA (Bulgarian)
Professor of Labour Law and Social Security
University of Sofia (Bulgaria)

Mr Raul CANOSA USERA (Spanish)
Professor of Constitutional Law
University Complutense, Madrid (Spain)

Ms Marit FROGNER (Norwegian)
Judge
Labour Court of Norway, Oslo (Norway)

Mr François VANDAMME (Belgian)
Former Director International Affairs, Federal Public Service Employment, Labour and Social Dialogue, Brussels
Former visiting professor, College of Europe (Bruges, 1998-2012, "Enjeux sociaux et gouvernance de l'Europe")
Former invited "Maître de conférences" (2008-2014) in Labour Law, Catholique University of Louvain, Louvain-la-Neuve, (Belgium)

Ms Barbara KRESAL (Slovenian)
Professor of Labour law and Social Security
University of Ljubljana (Slovenia)

Ms Kristine DUPATE (Latvian)
Associate Professor, International and European law
Faculty of Law, University Latvia, (Latvia)

Ms Aoife NOLAN (Irish)
Professor of International Human Rights Law School of Law, University of Nottingham (United Kingdom)

assisted by Mr Régis BRILLAT, Executive Secretary,

between January 2017 and December 2017 examined the reports of the States Parties on the application of the 1961 European Social Charter.

2. The role of the European Committee of Social Rights is to rule on the conformity of the situations in States with the European Social Charter (revised), the 1988 Additional Protocol and the 1961 European Social Charter.

3. Following the changes to the reporting system adopted by the Committee of Ministers at the 1996th meeting of the Ministers' Deputies on 2-3 April 2014 the system henceforth comprises three types of reports. Firstly, the reports on a thematic group of Charter provisions, secondly simplified reports every two years on follow-up to collective complaints for States bound by the collective complaints procedure and, thirdly, reports on conclusions of non-conformity for lack of information adopted by the Committee the preceding year.

4. Thus, the conclusions adopted by the Committee in December 2017 concern firstly the accepted provisions of the following articles of the 1961 European Social Charter ("the Charter") belonging to the thematic group " Health, social security and social protection " on which the States Parties had been invited to report by 31 October 2016:

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

5. The following States Parties submitted a report: Czech Republic, Denmark, Germany, Greece, Iceland, Luxembourg, Poland, Spain and the United Kingdom.

6. Greece, Iceland and Luxembourg have submitted their report too late for examination and adoption in December 2017. Therefore, the Conclusions in respect of these States will be made public in April 2018.

7. As noted above, States which have accepted the collective complaints procedure shall henceforth submit a simplified report every two years. In order to avoid excessive fluctuations in the workload of the Committee from year to year, the 15 States which have accepted the complaints procedure were divided into two groups as follows:

- Group A, made up of eight States: France, Greece, Portugal, Italy, Belgium, Bulgaria, Ireland, Finland¹;
- Group B, made up of seven States: the Netherlands, Sweden, Croatia, Norway, Slovenia, Cyprus, the Czech Republic².

On this basis, the States belonging to Group B were invited to submit reports on follow-up to collective complaints by 31 October 2016. The findings adopted by the Committee in this respect thus concern the following States bound by the 1961 Charter: Croatia and Czech Republic. They were published in September 2017.

8. Finally, certain States were invited to report by 31 October 2016 on conclusions of non-conformity for repeated lack of information in Conclusions XX-4 (2015). The conclusions in this respect may concern both States reporting on the thematic group of provisions and those reporting on follow-up to complaints.

The States concerned in Conclusions XXI-2 (2017) are the Czech Republic, Germany, Poland and Spain.

9. In addition to the state reports, the Committee had at its disposal comments on the reports submitted by different trade unions and non-governmental organisations (see introduction to the individual country chapters). The Committee wishes to acknowledge the importance of these various comments, which were often crucial in gaining a proper understanding of the national situations concerned.

10. The Committee's conclusions as outlined above are published in chapters by State. They are available on the website of the European Social Charter and in the case law database that is also available on this site. A summary table of the Committee's Conclusions XXI-2 (2017) as well as the state of signature and ratification of the Charter and the 1961 Charter appear below. In addition, each country chapter highlights selected positive developments concerning the implementation of the Charter at national level identified by the Committee in its conclusions.

Working group on Article 12

11. During the examination of the national situations in respect of Article 12§1, the Committee reviewed the normative content of Article 12 and the interrelationship between this provision and other provisions of the Charter also providing for certain aspects of the right to social security.

In particular, during the current cycle, the Committee decided that:

- as regards benefits related to work accidents/professional diseases, it would restrict its examination to the minimum level of benefit relating to temporary incapacity;

¹ France, Portugal, Italy, Belgium, Bulgaria, Ireland and Finland are Parties to the Revised Charter.

² The Netherlands, Sweden, Norway, Slovenia and Cyprus are Parties to the Revised Charter.

- as regards invalidity benefits, it agreed that the minimum level to be taken into account should be the one corresponding to a level of incapacity which would be deemed, in the country concerned, to be incompatible with the exercise of a professional activity.

The Committee furthermore decided to streamline its conclusions on Article 12§1.

It already followed the practice to refer, whenever possible and appropriate, to the assessment done under Article 8§1 in respect of maternity benefits and to Article 16 in respect of family benefits. It decided likewise to refer to the assessment done under Article 23, as regards old age benefits, and to the assessment done under Article 13§1, as regards social assistance benefits. In this connection, it decided that a conclusion of non-conformity under Article 23, due to the inadequate level of old-age pensions, would be mentioned under Article 12§1 but would not entail a finding of non-conformity on the same ground.

Considering that the different issues raised concerning the assessment of Article 12§1 deserved further discussion, the Committee eventually decided not to formalize its approach by yet issuing a statement of interpretation on the matter, but instead to continue its examination of the matter after the adoption of Conclusions 2017.

In this perspective, it set up a working group, which would pursue its consideration of the different problems concerning Article 12§1

Statement on information in national reports and information provided to the Governmental Committee

12. The Committee draws the attention of the States Parties to the obligation to systematically include replies to information requests by the Committee in the national reports. Moreover, the Committee invites the States Parties to always include in the report any relevant information previously provided to the Governmental Committee, whether in writing or orally, or at least to refer to such information, and of course to indicate any developments or changes that may have intervened in the period since the information was provided to the Governmental Committee.

Next reports

13. The next reports on the accepted provisions, which were due before 31 October 2017, concern the following Articles belonging to the thematic group "Labour rights": 2, 4, 5, 6 and Article 2 and 3 of the 1988 Additional protocol. States having accepted the collective complaints procedure and belonging to Group A were due to submit a simplified report on follow-up to complaints also before 31 October 2017. Finally, by the same date States concerned are to report on any conclusions of non-conformity for lack of information adopted in Conclusions XXI-1 (2016).

CONCLUSIONS XXI-2 (2017)

Article	CZECH REPUBLIC	DENMARK	GERMANY	GREECE	ICELAND	LUXEMBOURG	POLAND	SPAIN	UNITED KINGDOM
Article 3.1		+	-	0	+	+	0	+	-
Article 3.2		+	0	0	+	-	+	-	+
Article 3.3		+	+	+	+	+	+	0	+
Article 7.5	0							+	
Article 8.2	0								
Article 11.1		+	0	0	+	+	-	+	+
Article 11.2		+	0	+	+	+	+	+	+
Article 11.3		+	0	0	+	+	+	+	+
Article 12.1		+	-	-	+	-	-	-	-
Article 12.2		+	+	0	+	+	+	+	
Article 12.3		+	+	-	+	+	0	+	
Article 12.4		-	-	-	-	-	-	-	
Article 13.1		-	-	0	+	0		-	0
Article 13.2		+	+	+	+	+	+	+	+
Article 13.3		+	0	+	+	+	0	+	+
Article 13.4		+	+	0	+	0		+	+
Article 14.1		+	0	-	+	+	-	+	+
Article 14.2		+	0	0	+	0		+	+
Article 16							-	+	
Article 19.1								+	
Article 19.2							+		
Article 19.3								-	
Article 19.4			0						
Article 19.6								-	
P Article 4		0		-				0	

+ conformity	- non-conformity	0 deferral	□ non-accepted provision
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**MEMBER STATES OF THE COUNCIL OF EUROPE
AND THE EUROPEAN SOCIAL CHARTER**

Situation on 31 December 2017

MEMBER STATES	SIGNATURES	RATIFICATIONS	Acceptance of the collective complaints procedure	
Albania	21/09/98	14/11/02		
Andorra	04/11/00	12/11/04		
Armenia	18/10/01	21/01/04		
Austria	07/05/99	20/05/11		
Azerbaijan	18/10/01	02/09/04		
Belgium	03/05/96	02/03/04	23/06/03	
Bosnia and Herzegovina	11/05/04	07/10/08		
Bulgaria	21/09/98	07/06/00	07/06/00	
Croatia	06/11/09	26/02/03	26/02/03	
Cyprus	03/05/96	27/09/00	06/08/96	
Czech Republic	04/11/00	03/11/99	04/04/12	
Denmark	*	03/05/96	03/03/65	
Estonia	04/05/98	11/09/00		
Finland	03/05/96	21/06/02	17/07/98 X	
France	03/05/96	07/05/99	07/05/99	
Georgia	30/06/00	22/08/05		
Germany	*	29/06/07	27/01/65	
Greece	03/05/96	18/03/16	18/06/98	
Hungary	07/10/04	20/04/09		
Iceland	04/11/98	15/01/76		
Ireland	04/11/00	04/11/00	04/11/00	
Italy	03/05/96	05/07/99	03/11/97	
Latvia	29/05/07	26/03/13		
Liechtenstein		09/10/91		
Lithuania	08/09/97	29/06/01		
Luxembourg	*	11/02/98	10/10/91	
Malta	27/07/05	27/07/05		
Moldova	03/11/98	08/11/01		
Monaco	05/10/04			
Montenegro	22/03/05	03/03/10		
Netherlands	23/01/04	03/05/06	03/05/06	
Norway	07/05/01	07/05/01	20/03/97	
Poland	25/10/05	25/06/97		
Portugal	03/05/96	30/05/02	20/03/98	
Romania	14/05/97	07/05/99		
Russian Federation	14/09/00	16/10/09		
San Marino	18/10/01			
Serbia	22/03/05	14/09/09		
Slovak Republic	18/11/99	23/04/09		
Slovenia	11/10/97	07/05/99	07/05/99	
Spain	23/10/00	06/05/80		
Sweden	03/05/96	29/05/98	29/05/98	
Switzerland		06/05/76		
«the former Yugoslav Republic of Macedonia»	27/05/09	06/01/12		
Turkey	06/10/04	27/06/07		
Ukraine	07/05/99	21/12/06		
United Kingdom	*	07/11/97	11/07/62	
Number of States	47	2 + 45 = 47	10 + 33 = 43	15

The **dates in bold** on a grey background correspond to the dates of signature or ratification of the 1961 Charter; the other dates correspond to the signature or ratification of the 1996 revised Charter.

* States whose ratification is necessary for the entry into force of the 1991 Amending Protocol. In practice, in accordance with a decision taken by the Committee of Ministers, this Protocol is already applied.

X State having recognised the right of national NGOs to lodge collective complaints against it.