— Luxembourg and the European Social Charter —

Signatures, ratifications and accepted provisions

Luxembourg ratified the European Social Charter on 10/10/1991, accepting 69 of the Charter's 72 paragraphs.

It has signed the Revised European Social Charter on 11/02/1998 but has not yet ratified it.
It has signed, but has not yet ratified, the Additional Protocol of 1988 and the Amending Protocol of 1991.

It has neither signed nor ratified the Additional Protocol of 1995 providing for a system of 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	3.1	3.2	3.3
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
9	10.1	10.2	10.3	10.4	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	16	17	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
AP1	AP2	AP3	AP4	AP = Additional Protocol				Grey = Accepted provisions			

Monitoring the implementation of the European Social Charter [1]

I. Reporting system [2]

Reports submitted by Luxembourg

Between 1993 and 2024, Luxembourg has submitted 27 reports on the application of the 1961 Charter.

The 26th report, which was submitted on 30/12/2022, concerns the accepted provisions relating to thematic group 4 "children, families and migrants" (Articles 7, 8, 16, 17 and 19).

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

On 10 January 2024, an ad hoc report on the cost-of-living crisis was submitted by Luxembourg[3].

[1] The European Committee of Social Rights ("the Committee") monitors compliance with the Charter under two procedures, the reporting system and the collective complaints procedure, according to Rule 2 of the Committee's rules: « 1. The Committee rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure ».
Further information on the procedures may be found on the HUDOC database and in the Digest of the case law of the Committee.

[2] 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.

[3] 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 [4]

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

►*Article 10§4 – Right to vocational training – Long term unemployed persons*
It has not been established that foreign nationals, lawfully resident, have equal access to financial assistance for vocational training.

► *Article 15§1 – Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement - Education and training for persons with disabilities*
It has not been established that there are adequate remedies in the event of discrimination on grounds of disability in education.

► *Article 15§2 – Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement - Employment of persons with disabilities*
It has not been established that persons with disabilities are guaranteed effective equal access to employment.

Thematic Group 2 "Health, social security and social protection" - Conclusions XXII-2 (2021)

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Thematic Group 3 "Labour rights" - Conclusions XXII-3 (2022)

► *Article 2§4 – Right to just conditions of work - Right to compensatory time off in dangerous occupations.*
Workers exposed to tasks involving residual health risks are not entitled to appropriate compensation measures.

►*Article 4§1 - Right to a fair remuneration - Decent remuneration*
The minimum wage does not ensure a decent standard of living.

► *Article 4§3 – Right to a fair remuneration - Non-discrimination between women and men with respect to remuneration*
It has not been established that adequate compensation is provided for in gender pay discrimination cases.

Thematic Group 4 "Children, families, migrants" - Conclusions XXII-4 (2023)

► *Article 7§3 - Right of children and young persons to protection - Prohibition of employment of young persons subject to compulsory education*
Children who are still subject to compulsory education are not guaranteed an uninterrupted rest period of at least two weeks during the summer holidays.

►*Article 7§5 - Right of children and young persons to protection – Fair pay*
Young workers' wages are not fair and apprentices' allowances not appropriate, since they are calculated on the basis of the minimum wage paid to adults, which is considered insufficient to ensure a decent standard of living.

►*Article 16 – Right of the family to social, legal and economic protection*
Alternative accommodation is not made available in the event of eviction.

►*Article 17 - Right of mothers and children to social and economic protection*
- the rate of children at risk of poverty is too high;

[4] Further information on the situations of non-conformity is available on the HUDOC database.

- children may be detained with adults.

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

- the family members of a migrant worker are not granted an independent right to remain after exercising their right to family reunion;
- social benefits are excluded from the calculation of the income of a migrant worker who has applied for family reunion.

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

The same grounds for non-conformity under Articles 19§6 and 19§9 of the 1961 Charter apply also to self-employed migrants.

The Committee also considered that the failure to provide requested information on Articles 17 and 19§9 amounts to a breach by Luxembourg of its reporting obligations under Article 21 of the 1961 Charter.

The Committee has been unable to assess compliance with the following provisions and has invited the Luxembourg Government to provide more information in the next report:

Thematic Group 1 "Employment, training and equal opportunities"

► Article 1§2 - Conclusions XXII-1 (2020)
► Article 1§4 - Conclusions XXII-1 (2020)
► Article 10§1 - Conclusions XXII-1 (2020)
► Article 10§3 - Conclusions XXII-1 (2020)

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

► Article 3§1 - Conclusions XXII-2 (2021)
► Article 3§2 - Conclusions XXII-2 (2021)
► Article 11§3 - Conclusions XXII-2 (2021)
► Article 12§1 - Conclusions XXII-2 (2021)
► Article 12§3 - Conclusions XXII-2 (2021)
► Article 13§1 - Conclusions XXII-2 (2021)
► Article 13§4 - Conclusions XXII-2 (2021)
► Article 14§2 - Conclusions XXII-2 (2021)

Thematic Group 3 "Labour rights"

► Article 6§3 - Conclusions XXII-3 (2022)

Thematic Group 4 "Children, families, migrants"

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

Thematic Group 1 "Employment, training and equal opportunities"

►Adoption of an Anti-Discrimination Act which comprises a general ban on direct and indirect discrimination in society on grounds including disability (28 November 2006).

►Adoption of an Anti-Discrimination Act which prohibits direct and indirect discrimination on the ground of disability in relations between public-sector workers and their employers (29 November 2006).

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

►The first National Action Plan for the promotion of LGBTI rights was adopted on 13 July 2018. This multi-year plan sets out a comprehensive approach in the field. It includes eight thematic chapters covering different spheres of life, including education, employment and work, health, family, reception and integration, discrimination, hate crimes and hate speech, transgender equality and intersex equality. The plan consists of numerous awareness-raising and training activities on the issues of sexual orientation, gender identity and gender variations. These measures are aimed at the general public and specific groups (e.g., children, young people and health professionals).

Thematic Group 3 "Labour rights"

►National legislation did not enable trade unions to choose their candidates for joint works council elections freely, regardless of nationality, i.e. candidates for joint works councils had to be an EU national. The Law of 23 July 2015 amended the situation and candidates no longer have to be EU nationals.

Thematic Group 4 "Children, families, migrants"

►Pursuant to Article L. 343-2 of the Labour Code, young workers are subject to medical examinations at recruitment and periodically thereafter, during employment, in accordance with the legislation on occupational health services.

►A number of amendments were introduced in the legislation as regards sexual exploitation of minors, such as the criminalisation of Internet viewing of child pornography (Article 384 of the Criminal Code) and the criminalisation of soliciting children for sexual purposes (Article 358-2).

►The Act on the fight against sexual abuse and sexual exploitation of children was adopted on 21 February 2013. It transposes Directive 2011/93 and aims at strengthening the protection of children against sexual abuse, sexual exploitation and child pornography, as well as at ensuring the effective prosecution of offenses, protection of the rights of victims and finally putting in place effective control systems.

►Referring to a judgment of the Court of Justice of the European Communities of 29 October 2009, the Luxembourg Court of Appeal recognised, in its judgment of 31 March 2011, that Article L.337-1 of the Labour Code was discriminatory because it did not provide for the possibility for a pregnant woman dismissed during her pregnancy to take legal action for damages whereas this remedy was available for any other employee who had been dismissed.

►A legal framework for mediation in civil and commercial matters was set up in 2012 (Act of 24 February 2012).

►The legal framework set by the Law of 29 August 2008 on the free movement of persons and immigration was fleshed out by the Grand-Ducal Regulations of 2 September 2011 establishing requirements and arrangements for the implementation of reception and integration contracts; that of 15 November 2011 on the organisation and functioning of local consultative committees; and that of 15 November 2011 on the arrangements for the appointment of representatives of foreign nationals on the National Council for Foreign Nationals.

►The Law of 23 July 2015 reforming social dialogue within companies did away with joint works councils. Under Section 5, paragraph 2 of the Law of 23 July 2015, the existing committees and works councils will remain in place until the next elections of representatives.

►The Grand-Ducal Regulation of 10 February 2009 on the medical examination of foreign nationals indicated the content of the checks and the health problems which are clearly incompatible with the purpose of staying in the country within the meaning of the Law of 29 August 2008 on the free movement of persons and immigration.

►In accordance with the law of 15 December 2017, the duration of postnatal leave increased from 8 to 12 weeks.