



European  
Social  
Charter

Charte  
sociale  
européenne

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

## — Montenegro and the European Social Charter —

### Signatures, ratifications and accepted provisions

Montenegro ratified the Revised European Social Charter on 3 March 2010, accepting 66 of its 98 paragraphs.

It has not accepted the 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	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				

\* only subparagraph (a) of Article 27.1 was accepted.

### Reports on non-accepted provisions

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

The Committee considered that there were no legal obstacles to the acceptance of Article 2 §§ 4, 5 and 7; Article 7§10, Article 10 § 5; Article 18 §§ 1, 2, 3 and 4; Article 19§§1, 2, 3, 5, 7, 9 and 10; Article 21, Article 22 and Article 26§2 of the Charter.

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

# Monitoring the implementation of the European Social Charter <sup>1</sup>

## I. Reporting system <sup>2</sup>

### Reports submitted by Montenegro

Between 2010 and 2023, Montenegro has submitted 12 reports on the application of the Revised Charter.

The [11<sup>th</sup> report](#), submitted on 27/05/2022, concerns the accepted provisions relating to thematic group 3 "Labour Rights" (Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29).

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

The [12<sup>th</sup> report](#), which was submitted on 28/04/2023, covers the accepted provisions of the Social Charter relating to thematic group 4 "Health, social security and social protection", namely:

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

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

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<sup>1</sup> 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](#).

<sup>2</sup> Detailed information on the Reporting System is available on the [relevant webpage](#). The reports submitted by States Parties may be consulted in the [relevant section](#).

## Situations of non-conformity<sup>3</sup>

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

► *Article 1§1 – Right to work – Policy of full employment*

Employment policy efforts have not been adequate in combatting unemployment and promoting job creation.

► *Article 1§2 – Right to work – Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)*

- Nationals of the other States Parties do not have access to certain jobs, which constitutes a discrimination on grounds of nationality;
- It has not been established that the national authorities have fulfilled their obligations to prevent forced labour and labour exploitation, to protect victims, to effectively investigate the offences committed, and to punish those responsible for forced labour offences.

► *Article 1§4 – Right to work - Vocational guidance, training and rehabilitation*

- It has not been established that the right to vocational guidance within the education system and in the labour market is guaranteed and the right to equal treatment of nationals of other Contracting Parties is not guaranteed;
- It has not been established that that the right to vocational training and retraining is guaranteed for all workers;
- It has not been established that the right of persons with disabilities to mainstream training is effectively guaranteed.

► *Article 9 – Right to vocational guidance*

- It has not been established that the right to vocational guidance within the education system and in the labour market is guaranteed;
- Equal treatment of all nationals of other contracting parties is not guaranteed.

► *Article 10§1 – Right to vocational training - Technical and vocational training; access to higher technical and university education*

It has not been established that the right to vocational education is effectively guaranteed.

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

It has not been established that that the right to vocational training and retraining is guaranteed for all workers.

► *Article 10§4 – Right to vocational training - Long term unemployed persons*

Special measures for the retraining and reintegration of the long-term unemployed have not been effectively provided or promoted.

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

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

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

It has not been established that equal access to employment is effectively guaranteed to persons with disabilities.

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

Women are not permitted to work in all professions which constitutes discrimination based on sex (during the reference period).

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<sup>3</sup> Further information on the situations of non-conformity is available on the [HUDOC database](#).

## **Thematic Group 2 "Health, social security and social protection" - Conclusions 2021**

### ► *Article 352 – Right to safe and healthy working conditions – Safety and health regulations*

It has not been established that levels of prevention and protection required in relation to the establishment, alteration and upkeep of workplaces are in line with the international reference standards.

### ► *Article 353 – Right to safe and healthy working conditions – Enforcement of safety and health regulations*

- It has not been established that accidents at work and occupational diseases are monitored effectively;
- It has not been established that the activities of the labour inspectorate are effective in practice.

### ► *Article 1251 – Right to social security – Existence of a social security system*

- The minimum level of unemployment benefit is inadequate;
- The duration of unemployment benefit for the insurance period of up to five years is too short.

### ► *Article 1252 - Right to social security - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security*

It has not been established that Montenegro maintains a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security.

### ► *Article 1351 – Right to social and medical assistance – Adequate assistance for every person in need*

- The right to social assistance is not guaranteed to any single person without resources;
- The level of social assistance is manifestly inadequate.

### ► *Article 1354 - Right to social and medical assistance - Specific emergency assistance for non-residents*

Not all non-resident foreign nationals lawfully present in the territory in need are entitled to emergency social assistance.

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

The level of the minimum old-age pension is inadequate.

## **Thematic Group 3 "Labour rights" – Conclusions 2022**

### ► *Article 453 - Right to a fair remuneration - Non-discrimination between women and men with respect to remuneration*

It has not been established that adequate remedies are available in the event of dismissal following a claim for equal pay.

### ► *Article 455 – Right to a fair remuneration – Limits to deduction from wages*

It has not been established that workers cannot waive their right to the limitation on deductions from wages.

### ► *Article 654 - Right to bargain collectively - Collective action*

- Only representative trade unions have the right to initiate branch-level or general strikes;
- The range of sectors in which the right to strike may be restricted is too extensive and it has not been established that the restrictions on the right to strike fall within the limits set by Article G of the Charter.

### ► *Article 2651 - Right to dignity in the workplace - Sexual harassment*

It has not been established that appropriate and effective redress (compensation and reinstatement) is guaranteed in cases of sexual harassment.

### ► *Article 28 - Right of workers' representatives to protection in the undertaking and facilities to be accorded to them*

It has not been established that:

- workers' representatives other than trade union representatives are effectively protected against prejudicial acts short of dismissal and,
- facilities granted to workers' representatives are adequate.

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

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

- The legislation on the prohibition of employment under the age of 15 is not effectively enforced;
- Work done at home by children under the age of 15 is not monitored.

► *Article 7§2 - Right of children and young persons to protection - Prohibition of employment under the age of 18 for dangerous or unhealthy activities*

It has not been established that the legislation on the prohibition of employment under the age of 18 for dangerous or unhealthy activities is effectively enforced.

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

The legislation on the prohibition of employment of children subject to compulsory education is not effectively enforced.

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

- The limit of 40 hours' work per week for young workers under the age of 16 is excessive;
- It has not been established that the legislation on working time and rest periods for young workers under 18 years of age is effectively enforced.

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

Young workers' wages are not fair.

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

The legislation does not provide for compulsory regular medical check-ups, for under-eighteen-year olds.

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

- It has not been established that the measures implemented to address the problem of domestic violence have been sufficient;
- Family benefits do not cover a significant percentage of families.

► *Article 17§2 - Right of children and young persons to social, legal and economic protection - Free primary and secondary education - regular attendance at school*

Children without residence permits are not entitled to access education.

► *Article 27§2 – Right of workers with family responsibilities to equal opportunity and treatment - Parental leave*

The legislation does not provide for an individual, non-transferable right to parental leave for each parent.

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

**Thematic Group 1 "Employment, training and equal opportunities"**

- ▶Article 10§2 - Conclusions 2020
- ▶Article 15§3 - Conclusions 2020

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

- ▶Article 11§1 - Conclusions 2021
- ▶Article 11§3 - Conclusions 2021
- ▶Article 12§3 - Conclusions 2021
- ▶Article 12§4 - Conclusions 2021
- ▶Article 14§2 - Conclusions 2021

**Thematic Group 3 "Labour rights"**

- ▶Article 2§1 - Conclusions 2022
- ▶Article 5 - Conclusions 2022
- ▶Article 6§1 - Conclusions 2022

**Thematic Group 4 "Children, families, migrants"**

- ▶Article 17§1 - Conclusions 2019
- ▶Article 19§12 - Conclusions 2019
- ▶Article 27§1 - Conclusions 2019

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

### **Thematic Group 1 "Employment, training and equal opportunities"**

►The Law on Professional Rehabilitation and Employment of Persons with Disabilities (Official Gazette of Montenegro, no. 49/08, 73/10 and 39/11), as amended in 2011, sets out the arrangements and procedures for applying the right to vocational rehabilitation of persons with disabilities. The amendments made to the Law change the system of employment quotas for persons with disabilities.

►Exercise of the right to medical and technical aids is governed by the "Regulation on exercising the right to medical and technical aids" (Official Gazette of Montenegro, no. 24/2013 and 26/2014).

►The Law on Spatial Planning and Construction as amended in 2014 (Official Gazette of Montenegro, no. 51/08, 40/10, 34/11, 35/13, 33/14) provides that public buildings must be accessible.

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

►On 25 July 2014, the Parliament of Montenegro adopted the Law on Safety and Health at Work (Official Gazette No. 34/14), which replaces the former Law on Safety and Health at Work (Official Gazette No. 79/04 and 26/10). According to the new law, the employer is obliged to provide measures of safety and health at work to all employees, by preventing, eliminating and controlling risks at work, informing and training employees, and with proper organisation and the necessary means. In addition, the employer is obliged to provide special safety and health at work to women during pregnancy, persons under 18 years of age, and persons with disabilities.

►During the reference period, Montenegro concluded bilateral social security agreements with Romania and the Slovak Republic.

►A real-time e-Referral and e-Prescription system was implemented radically reducing waiting times.

►In 2019, Montenegro adopted the Law on the restriction of the use of tobacco products, which provides, among other measures, for a ban on smoking at work and in public places, with fines for non-compliance ranging from €500 to €20,000.

►The Law on mediation for job placement and rights during unemployment came into force on 30 April 2019. This law reduced the length of insurance contributions required to be entitled to unemployment benefits. In addition, the amount of unemployment benefits was increased and the duration of benefit payments was extended for some categories of jobseekers.

►The adjustment of retirement and disability pensions, which had been suspended throughout the previous reference period (2012-2015) due to poor economic conditions, resumed in 2016.

### **Thematic Group 3 "Labour rights"**

►In 2014, the Government and the social partners signed a general collective agreement (OG No. 14/14 of 22 March 2014), valid for two years. The contracting parties are responsible for overseeing its application. In 2016, an agreement was signed to extend it for two years (OG No. 39/16 of 29 June 2016). According to this new general collective agreement, employees' wages must be increased by at least 40% per hour of overtime worked.

►Under the new Labour Law (Official Gazette of Montenegro, No. 74/19, which entered into force on 6 January 2020), the prohibition of harassment and sexual harassment at work and in relation to work now also applies in relation to access to vocational guidance, vocational training and advanced vocational training, promotion at work and termination of employment, as well as to other aspects of employment (Article 10(1) of the Labour Law).

**Thematic Group 4 “Children, families, migrants”**

- ▶ New Law on Safety and Health Protection at Work was adopted in 2014.
- ▶ Montenegro abolished all forms of corporal punishment in all settings.