

# ACTIVITY REPORT 2023



## European Committee of Social Rights



European  
Social  
Charter

Charte  
sociale  
européenne

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

# Activity Report 2023

European Committee  
of Social Rights

The European Committee of Social Rights rules on the conformity of the situation in States with the European Social Charter.

The Committee adopts “conclusions” in respect of national reports submitted annually by the States Parties, and it adopts “decisions” in respect of collective complaints lodged by the social partners and non-governmental organisations.

The Committee is composed of 15 independent, impartial members who are elected by the Committee of Ministers of the Council of Europe for a term of office of six years, renewable once.

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## Introduction

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2023 has been a year of significant progress for social rights within the Council of Europe system.

### Social Rights after Reykjavik

A very important development was the prominent place given to social rights and the European Social Charter (ESC) in the agenda for the Council of Europe that emerged from the Fourth Summit of Heads of State and Government of the Council of Europe held in May 2023. Central to this historic Summit was the adoption of the Reykjavik Declaration, entitled “United around our values”, which expressed resounding support for the core principle that “social justice is crucial for democratic stability and security” and reaffirmed the full commitment of member States to the protection and strengthening of social rights as guaranteed by the European Social Charter system. In it, the Heads of State and Government committed to considering the organisation of a high-level conference on the European Social Charter, “as a step to take further commitments under the Charter where possible”.

Building on this momentum, the Lithuanian Chairmanship of the Council of Europe will host a high-level conference on the European Social Charter in Vilnius on **4 July 2024**. This conference will constitute a key opportunity for Member States to reaffirm the crucial importance of the Charter and its monitoring procedures and to advance the collective, cross-European pursuit of social justice.

## Progress in Budgetary Terms

Another very positive development for the ESC system was the increased resourcing earmarked for it in the Council of Europe budget for 2024-2027. The historic under-resourcing of social rights-related work has been a key obstacle to the advancement of the Charter system and social rights both within and beyond the Council of Europe. The vital increase in resources in the new budget, together with new secondments supported by Ireland and Greece, will be invaluable in terms of advancing Charter system work, including starting to tackle the very significant and growing backlog of collective complaints.

## Strengthening the implementation of the Charter and tackling the cost-of-living crisis

2023 saw The Committee continue to push forward its work in terms of the state reporting and collective complaints processes.

In 2023, in the framework of the [reporting procedure](#), the European Committee of Social Rights (ECSR) adopted **799** conclusions: **416** conclusions of conformity with the Charter and **383** conclusions of non-conformity concerning 32 States Parties.

In these conclusions, the ECSR noted with satisfaction positive developments in the States Parties. Many of these related to the Charter rights of children and young persons and included: increased protection measures for children and young people in relation to cyberbullying, cybergrooming or other types of sexual exploitation; improved compliance with labour regulations related to vocational training, indicating increased accountability and enforcement mechanisms; and enhanced safeguards for young workers and enforced compliance with labour laws related to working time.

Nevertheless, the ECSR found many breaches of the Charter. These related to, amongst other things, the nature of accommodation facilities for children in an irregular migration situation (whether accompanied or not), the unequal treatment of migrant workers concerning remuneration, working conditions, and housing, a lack of measures to prevent and reduce homelessness (including a lack of legal prohibitions on evictions and inadequate access to emergency accommodation), the lack of an independent right to remain for family members after reunion; inadequate protection of women against dismissal during pregnancy or while on maternity leave, as well as a lack of information on the situation of Roma children in education and on measures taken to facilitate access to education for children from vulnerable families.

The ECSR also noted that in many countries the rate of children at risk of poverty remains too high and produced a detailed Statement of Interpretation on Child Poverty. In it, the Committee stated that the prevalence of child poverty in a State Party, whether defined or measured in either monetary or multidimensional terms, is an important indicator of the effectiveness of state efforts to ensure the right of children and young persons to social, legal and economic protection under Article 17.

A problem again in this cycle – despite the ECSR's use of targeted questions and detailed guidance for states – was a failure on the part of a significant number of states not to provide requested information. This was of course, very disappointing.

In these cases, the ECSR ultimately made findings that the situation in the relevant State Party was not in conformity with the Charter. It also considered that the failure to provide information amounted to a breach of the State's reporting obligations under Articles 21 and C of the 1961 and 1996 Charter, respectively.

In its work on follow-up to collective complaints, the ECSR also published its Findings 2023 in respect of eight States Parties (Belgium, Bulgaria, Finland, France, Greece, Ireland, Italy, and Portugal). The ECSR found that, although there has been some progress and efforts made to bring national situations into conformity with the Charter following collective complaints decisions, significant violations of the Charter remain. Amongst other issues, the gender pay gap, housing for Roma, health care discrimination, and inclusive education for children with intellectual disabilities remain persistent problems for which measurable progress needs to be achieved in order to bring the situation in the State in question into conformity with the Charter.

The year 2023 also marked an important moment for the ESC system procedurally following the reform decisions approved by the Committee of Ministers in September 2022. Against the backdrop of the cost-of-living crisis which has increased significantly the number and range of people living in poverty and unable to afford essential household costs in Europe, the ECSR requested ad hoc reports from all States Parties on the subject. These reports, due in December 2023, will be examined by the ECSR in 2024.

As set out in the [2022 decision from the Committee of Ministers](#), the ECSR will examine the information provided by the States concerned, following which it will provide a general overview of the situation and a broad legal analysis from the Charter's perspective. The outcome of the ad hoc reporting procedure will not be Conclusions on the conformity of the situation in States Parties with the Charter. The report that emerges in 2024 will, however, provide guidance to States Parties and others about how the Charter applies to the cost-of-living crisis, the standards the ECSR will use when seeking to establish whether the situation in a specific State satisfies the requirements of the Charter in this regards, as well as examples of best practice.

As per Rule 21A of the ECSR [Rules](#), various organisations, institutions and entities may submit comments on States' ad hoc reports: trade unions and employers' organisations, civil society organisations, national human rights institutions and equality bodies. These comments will be taken into account by the ECSR when preparing its report on the cost of living crisis.

## Looking forward

As we embark on the comprehensive follow-up to the Reykjavik Summit, the ECSR's vision remains steadfast: to ensure that social rights and social justice remain at the forefront of the quest for democratic stability and security in Europe.

The ECSR shares the objectives of the High-level Conference and welcomes the expressed intention of member States to consider adopting further commitments, focusing on ratification of the 1996 Revised Charter by all member States, acceptance



of the collective complaints procedure and the acceptance of additional provisions of the Revised Charter, so as to strengthen this treaty as an effective source of European and international law.

The strengthening of the Charter system is intimately linked to the ECSR's own role as the independent and authoritative monitoring body of the Charter. The ECSR's jurisprudence (decisions and conclusions) represents an authoritative interpretation of the Charter's provisions. States Parties' have an obligation to cooperate with the ECSR and its decisions and conclusions that arises from the application of the principle of good faith to the observance of all treaty obligations. In order to further develop and consolidate the ECSR's role, the ECSR invites member States to recognise the authoritative nature of the ECSR's monitoring and to pledge to abide by that body's decisions and conclusions. This would create legal clarity and strengthen the impact of the ECSR's decisions.

On a more practical note, the removal of the 4-month embargo on publication of ECSR decisions on the merits in collective complaints could have a significant positive impact, not only by shortening the procedure but also by enhancing communication and the visibility of the outputs of the collective complaints procedure. Finally, an increase in the number of ECSR members (which has remained static since 2005) also deserves serious consideration in order to enable the ECSR to cope with its increasing workload and to broaden the range of expertise in different national legal systems available within this treaty body.

I would like to conclude by welcoming the newly elected members of the ECSR in 2023: Ms Alla Fedorova, nominated by Ukraine, and Mr Grega Strban, nominated by Slovenia.

Aoife Nolan,  
President of the European Committee of Social Rights

# Overview and key figures

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**T**he European Committee of Social Rights (ECSR) was set up by Article 25 of the 1961 Charter and its function is to rule on the conformity of the law and practice of the States Parties under the 1996 revised European Social Charter, the 1988 Additional Protocol and the initial 1961 European Social Charter<sup>1</sup>. It is made up of 15 independent members elected by the Committee of Ministers (see below for its composition)<sup>2</sup>.

The ECSR exercises its supervision by means of two distinct but complementary procedures: the reporting procedure, in which it examines written reports submitted by States Parties at regular intervals, and the collective complaints procedure, which allows certain national and international non-governmental organisations to lodge complaints against States Parties that have agreed to be bound by this procedure.<sup>3</sup>

The national reports and the collective complaints are examined during the ECSR's sessions, of which there were seven in 2023:

- ▶ 332nd Session 23-27 January 2023
- ▶ 333rd Session 20-24 March 2023
- ▶ 334th Session 22-26 May 2023
- ▶ 335th Session 3-7 July 2023
- ▶ 336th Session 11-15 September 2023
- ▶ 337th Session 16-20 October 2023
- ▶ 338th Session 4-8 December 2023

The ECSR examined 34 national reports presented by States Parties to the Charter describing how they implement the Charter in law and in practice as regards the provisions covered by the thematic group "Children, families and migrants":

- ▶ 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 social, legal and economic protection (Article 19),
- ▶ the right of workers with family responsibilities to equal opportunities and equal treatment (Article 27);
- ▶ the right to housing (Article 31).

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1. See Appendix 1: Signatures and ratifications of the European Social Charter

2. See Appendix 2: Composition of the European Committee of Social Rights at 1 January 2024

3. In response to national reports, the Committee adopts conclusions; in response to collective complaints, it adopts decisions.

The national reports cover the period from 1 January 2018 until 31 December 2021.

The ECSR published its Conclusions 2023 on the provisions of the Charter relating to thematic group “Children, families and migrants” on 20 March 2024.

In the context of the reporting procedure, the ECSR adopted 799 conclusions<sup>4</sup> in respect of the 32 States examined, including 415 conclusions of non-conformity to the Charter and 384 conclusions of conformity.

The ECSR also presented its Findings 2023 in respect of eight States (Belgium, Bulgaria, Finland, France, Greece, Ireland, Italy and Portugal) bound by the collective complaints procedure concerning the follow-up given to decisions on the merits of collective complaints in which the ECSR had found a violation. The ECSR examined a total of 58 decisions; the highest number in respect of Greece (13 decisions), followed by France (11), and the lowest number in respect of Portugal, with 2 decisions examined. The ECSR found that the situation had been brought into full conformity with the Charter in respect of 11 decisions and into partial conformity in respect of 5 decisions.

As regards the collective complaints procedure, 14 new complaints were lodged in 2023 against eight States Parties to the Charter: Spain (four), France (four), Belgium (one), Bulgaria (one), Czechia (one), Italy (one), Norway (one) and Sweden (one); eight complaints were submitted by national trade unions and six by international NGOs.

During the seven sessions held in 2023, the ECSR adopted 10 decisions on the merits, including two decisions on joint complaints, and 15 decisions on admissibility, including one decision on joint complaints and one decision on inadmissibility.

With regard to decisions adopted during 2023, the average processing time was 8.8 months for the 15 admissibility decisions and 33.6 months for the 10 decisions on the merits. In comparison, the average times for the whole period from 1998 to 2023 were 6.3 months for admissibility decisions and 21.3 months for decisions on the merits.

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4. [Conclusions 2022 of the European Committee of Social Rights.](#)

# Composition of the European Committee of Social Rights

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**T**he composition of the ECSR is governed by Article 25 of the Charter. Its 15 members are required to be “*independent experts of the highest integrity and of recognised competence in international social questions*”. They are nominated by States Parties and elected by the Committee of Ministers for a six-year period, renewable once.

Elections take place once every two years, with a third of the seats (five) to be filled at each election.

Two new members joined the [European Committee of Social Rights](#) in 2023. Ms Alla Fedorova (Ukrainian) was elected during the Minister’s Deputies 1461st meeting on 29 March 2023, with immediate effect and for a term of office which will expire on **31 December 2024**. Ms Fedorova was nominated by Ukraine. The election of Ms Fedorova followed the resignation of Ms Ekaterina Torkunova (Russian) on 22 March 2022.

Mr Grega Strban (Slovenian) was elected as a member of the [European Committee of Social Rights](#) during the Ministers’ Deputies 1477th meeting on 4 October 2023, with immediate effect and for a term of office which will expire on **31 December 2028**. Mr Strban was nominated by Slovenia. The election of Mr Strban followed the resignation of Monika Šimůnková (Czech) on 1 July 2023.



# Collective complaints procedure

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## Overview

Fourteen new complaints were lodged in 2023<sup>5</sup>. During the 7 sessions held in 2023, the ECSR adopted ten decisions on the merits including two decisions on joint complaints, and fifteen decisions on admissibility, including one decision on the admissibility of joint complaints and one decision on inadmissibility.

The fourteen complaints registered in 2023 were lodged against eight States Parties: Spain (four), France (four), Belgium (one), Bulgaria (one), Czechia (one), Italy (one), Norway (one) and Sweden (one); eight complaints were submitted by national trade unions and six by International NGOs.

With regard to decisions adopted during 2023, the average processing time was 8.8 months for the fifteen admissibility decisions and 33.6 months for the ten decisions on the merits. In comparison, the average times for the whole period from 1998 to 2023 were 6.3 months for admissibility decisions and 21.3 months for decisions on the merits.

## Decisions made public in 2023

In 2023, the following twelve decisions on the merits were made public:

- ▶ **The decision on the merits in *Confédération générale du travail (CGT) v. France, Complaint No. 155/2017, became public on 14 February 2023.***

CGT alleged that France was in breach of its obligations under Article 6§4 (the right to bargain collectively) of the Charter concerning the right to strike because the “indivisible thirtieth” rule is applicable to strikes lasting less than one day in the state civil service and the national public services (staff of an administrative nature of State and State bodies).

In its decision on the merits, adopted on 14 September 2022, the ECSR concluded:

- unanimously, that there was a violation of Article 6§4 of the Charter;
- by 7 votes to 6, that there was a violation of Article E in conjunction with Article 6§4 of the Charter.

The Committee of Ministers adopted Recommendation CM/RecChS(2023)2<sup>6</sup> on 6 September 2023.

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5. See Appendix 3: Collective Complaints registered in 2022

6. [CM/RecChS\(2023\)2](#): Recommendation - *Confédération générale du travail (CGT) v. France, Complaint No. 155/2017* (Adopted by the Committee of Ministers on 6 September 2023 at the 1473rd meeting of the Ministers' Deputies)

► **The decision on the merits in *Finnish Society of Social Rights v. Finland*, Complaint No. 172/2018, became public on 15 February 2023.**

The Finnish Society of Social Rights alleged that the minimum level of several social security and social assistance benefits and the labour market subsidy is in breach of Article 12§§1 and 3 (right to social security) and 13§1 (right to social and medical assistance) of the Charter.

In its decision on the merits, adopted on 14 September 2022, the ECSR concluded:

- unanimously that there is a violation of Article 12§1 of the Charter;
- unanimously that there is no violation of Article 12§3 of the Charter;
- unanimously that there is a violation of Article 13§1 of the Charter.

The Committee of Ministers adopted Recommendation CM/RecChS(2023)<sup>17</sup> on 14 June 2023.

► **The decision on the merits in *Confederazione Generale Sindacale (CGS) & Federazione Lavoratori Pubblici e Funzioni Pubbliche (FLP) v. Italy*, Complaint No. 161/2018, became public on 22 February 2023.**

CGS and FLP alleged that Italy has violated Articles 5 (right to organise), 6§2 (right to bargain collectively), 21(a) and (b), (right to information and consultation), 22 (a), (b) and (c) (right to take part in the determination and improvement of the working conditions and working environment), as well as Articles E (non-discrimination) and G (restrictions) in conjunction with each of the aforementioned provisions of the Charter, on the ground that the National Collective Agreement of 12 February 2018 for public sector workers and public functions of the Central Functions Branch for the three-year period 2016-18 deprived them of their trade union rights by excluding them from any subsequent participation in collective bargaining as a result of their decision not to sign this agreement.

In its decision on the merits, adopted on 19 October 2022, the ECSR decided to assess this complaint exclusively under Article 6§2 of the Charter and concluded:

- unanimously that there was no violation of Article 6§2 of the Charter.

The Committee of Ministers adopted Resolution CM/ResChS(2023)<sup>18</sup> on 22 February 2023.

► **The decision on the merits in *Associazione nazionale sindacato professionisti sanitari della funzione infermieristica - Nursing Up v. Italy*, Complaint No. 169/2018, became public on 22 February 2023.**

Nursing Up alleged that, pursuant to Legislative Decree No. 165/2001 and the Collective Agreement for the Public Health-Sector Workers (NCLA) of 21 May 2018, representative trade unions – Nursing Up among them – have been excluded from

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7. [CM/RecChS\(2023\)1](#): Recommendation - *Finnish Society of Social Rights v. Finland*, Complaint No. 172/2018 (Adopted by the Committee of Ministers on 14 June 2023 at the 1469th meeting of the Ministers' Deputies)

8. [CM/ResChS\(2023\)1](#): Resolution - *Confederazione Generale Sindacale (CGS) and Federazione dei Lavoratori Pubblici e Funzioni pubbliche (FLP) v. Italy*, Complaint No. 161/2018 (Adopted by the Committee of Ministers on 22 February 2023 at the 1457th meeting of the Ministers' Deputies)

any subsequent participation in collective bargaining because of their refusal to sign the NCLA. The complainant trade union alleged that this situation violates Articles 5 (right to organise), 6§2 (right to bargain collectively) 21(a) and (b), (right to information and consultation), 22 (a), (b) and (c) (right to take part in the determination and improvement of the working conditions and working environment) as well as Articles E (non-discrimination) and G (restrictions) in conjunction with each of the aforementioned provisions of the Charter.

In its decision on the merits, adopted on 19 October 2022, the ECSR decided to assess this complaint exclusively under Article 6§2 of the Charter and concluded:

- unanimously that there is no violation of Article 6§2 of the Charter.

The Committee of Ministers adopted Resolution CM/ResChS(2023)2<sup>9</sup> on 22 February 2023.

- ▶ **The decision on the merits in *Syndicat CFDT général des transports et de l'environnement de l'Aube v. France, Complaint No. 181/2019* and *Syndicat CFDT de la métallurgie de la Meuse v. France, Complaint No. 182/2019*, became public on 10 March 2023.**

In both complaints, the complainant trade unions alleged that the French Labour Code, as amended by Ordinance No. 2017-1387 of 22 September 2017, and more particularly the provisions in Articles L. 1233-2, L. 1233-4, L. 1233-4, L. 3133-1, L. 3133-3, L. 3133-4, L. 3133-5, L. 3253-8, L. 3253-9, L. 3253-10, L. 3253-14, L. 3253-17 and D 3253-5 of the Labour Code are in breach of Articles 2 (the right to just conditions of work), 24 (the right to protection in case of dismissal), 25 (the right of workers to the protection of their claims in the event of the insolvency of their employer) and 29 (the right to information and consultation in collective redundancy procedures) of the Charter.

In its decision on the merits, adopted on 19 October 2022, the ECSR concluded:

- unanimously that there is no violation of Article 2§2 of the Charter;
- unanimously that there is no violation of Article 24.a of the Charter;
- unanimously that there is a violation of Article 24.b of the Charter;
- unanimously that there is no violation of Article 25 of the Charter;
- unanimously that there is no violation of Article 29 of the Charter.

The Committee of Ministers adopted Recommendation CM/RecChS(2023)3<sup>10</sup> on 6 September 2023.

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9. [CM/ResChS\(2023\)2](#): Resolution - *Associazione nazionale sindacato professionisti sanitari della funzione infermieristica - Nursing Up v. Italy*, Complaint No. 169/2018 (Adopted by the Committee of Ministers on 22 February 2023 at the 1457th meeting of the Ministers' Deputies)

10. [CM/RecChS\(2023\)3](#): Recommendation - *Confédération générale du travail force ouvrière (CGT-FO) v. France*, Complaint No. 160/2018 and *Confédération générale du travail (CGT) v. France*, Complaint No. 171/2018 ; *Syndicat CFDT de la métallurgie de la Meuse v. France*, Complaint No. 175/2019; *Syndicat CFDT général des transports et de l'environnement de l'Aube v. France*, Complaint No. 181/2019, and *Syndicat CFDT de la métallurgie de la Meuse v. France*, Complaint No. 182/2019 (Adopted by the Committee of Ministers on 6 September 2023 at the 1473rd meeting of the Ministers' Deputies).



► **The decision on the merits in *European Disability Forum (EDF) and Inclusion Europe v. France*, Complaint No. 168/2018, became public on 17 April 2023.**

EDF and Inclusion Europe alleged that, by failing to implement measures to guarantee sufficient and effective access for persons with disabilities to personal assistance, services and facilities, including those necessary for the inclusion of children with disabilities into mainstream education, France does not respect the right of persons with disabilities to live an independent life within the community, social integration and full participation in the life of the community in violation of Article 15§3 of the Charter. According to the complainant organisations, this situation also prevents the effective enjoyment by persons with disabilities of the right to benefit from social welfare services (Article 14§1), the right to protection from poverty and social exclusion (Article 30), the right to housing (Article 31§1 and 3) and the right to protection of health (Article 11§1). Moreover, EDF and Inclusion Europe alleged that, in the absence of effective access for persons with disabilities to an independent life within the community, many families are placed in a vulnerable situation in violation of both their right to social, legal and economic protection (Article 16) and the right of workers with family responsibilities (namely those who support their disabled family member(s)) to equal opportunities and equal treatment (Article 27§1). Lastly, the complainant organisations also alleged that the lack of effective access for persons with disabilities to an independent life within the community constitutes discrimination in violation of Article E of the Charter, in conjunction with each of the substantive articles that they invoke except Article 30.

In its decision on the merits, adopted on 19 October 2022, the ECSR concluded:

- unanimously that there is a violation of Article 15§3 of the Charter;
- unanimously that there is a violation of Article 15§1 of the Charter;
- unanimously that there is a violation of Article 11§1 of the Charter;
- unanimously that there is a violation of Article 16 of the Charter.

The Committee of Ministers adopted Recommendation CM/RecChS(2023)4<sup>11</sup> on 6 September 2023.

► **The decision on the merits in *Sindacato autonomo Pensionati Or.S.A. v. Italy*, Complaint No. 167/2018, became public on 14 June 2023.**

S.A.P. Or.S.A alleged that the situation in Italy is in violation of Article 12§3 of the Charter due to the complete or partial suspension of the automatic indexation of a large proportion of pensions initially applied in 2011 and as amended in 2015, resulting in a substantial drop in statutory retirement pensions and their purchasing power in violation of the principle of progressivity of Article 12§3. According to the complainant organisation, the suspension could not be justified by the financial circumstances present in 2015 and by the need to preserve equilibrium in the budget, since the macroeconomic and financial framework was stable at that time.

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11. [CM/RecChS\(2023\)4](#): Recommendation - *European Disability Forum (EDF) and Inclusion Europe v. France*, Complaint No. 168/2018 (Adopted by the Committee of Ministers on 6 September 2023 at the 1473rd meeting of the Ministers' Deputies)

In its decision on the merits, adopted on 7 December 2022, the ECSR concluded:

- unanimously that there was no violation of Article 12§3 of the Charter.

The Committee of Ministers adopted Resolution CM/ResChS(2023)5<sup>12</sup> on 6 September 2023.

► **The decision on the merits in *European Roma Rights Centre (ERRC) v. Belgium*, Complaint No. 185/2019, became public on 16 June 2023.**

ERRC alleged that, following a large-scale search operation carried out by the Belgian police on 7 May 2019 targeting nineteen halting sites for Travellers throughout Belgium, many families belonging to this community, including children, elderly and disabled persons, had their caravans, vehicles and property seized and their bank accounts frozen. These actions were based on a suspicion that the persons concerned were all involved in criminal activities. ERRC alleged that with these actions the Belgian authorities have deprived the persons concerned of social, medical, legal and economic protection and assistance in violation of Articles 1§2 (the right to work), 11§1 (the right to the protection of health), 12§1 (the right to social security), 13§1 (the right to social and medical assistance), 15§3 (the right of persons with disabilities to independence, social integration and participation in the life of the community), 16 (the right of the family to social, legal and economic protection) and 17 (the right of children and young persons to social, legal and economic protection) of the Revised European Social Charter. ERRC also considered that this operation amounted to ethnically targeted collective punishment, in breach of Article E (non-discrimination) in conjunction with each of the aforementioned provisions of the Charter.

In its decision on the merits, adopted on 8 December 2022, the ECSR concluded:

- by 10 votes against 4 that there is no violation of Article 13§1 of the Charter;
- by 9 votes against 5 that there is a violation of Article E taken in conjunction with Article 16 of the Charter.

A separate dissenting opinion and a separate concurring opinion were appended to the decision.

The Committee of Ministers adopted Recommendation CM/RecChS(2023)5<sup>13</sup> on 18 October 2023.

► **The decision on the merits in *Validity Foundation v. Finland*, Complaint No. 197/2020, became public on 25 August 2023.**

Validity alleged that some measures taken by the Government to tackle the Covid-19 pandemic in spring 2020 violated the rights of persons with disabilities under Article 11 (the right to health), Article 14 (the right to social services), and Article 15

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12. [CM/ResChS\(2023\)5](#): Resolution - *Sindacato autonomo Pensionati Or.S.A. v. Italy*, Complaint No. 167/2018 (Adopted by the Committee of Ministers on 6 September 2023 at the 1473rd meeting of the Ministers' Deputies)

13. [CM/RecChS\(2023\)5](#): Recommendation - *European Roma Rights Centre (ERRC) v. Belgium*, Complaint No. 185/2019 (Adopted by the Committee of Ministers on 18 October 2023 at the 1478th meeting of the Ministers' Deputies)

(the right to independence and inclusion in the community) as well as Article E (non-discrimination) in conjunction with each of the invoked provisions of the Charter.

In its decision on the merits, adopted on 22 March 2023, the ECSR concluded:

- unanimously that there is no violation of Article 11§§1 and 3 of the Charter;
- unanimously that there is no violation of Article E taken in conjunction with Article 11§1 and 3 of the Charter;
- by 13 votes against 1 that there is no violation of Article 15§3 of the Charter.

The Committee of Ministers adopted Resolution CM/ResChS(2023)6<sup>14</sup> on 6 September 2023.

▶ **The decision on the merits in *Association of Secondary Teachers Ireland (ASTI) v. Ireland*, Complaint No. 180/2019, became public on 2 October 2023.**

ASTI alleged that the Irish Government, in according favourable treatment to a rival trade union, the Teachers Union of Ireland (“TUI”), as regards pay and increments for the latter union’s members, interferes with Article 5 (the right to organise) of the Charter. In particular, ASTI claimed that this favourable treatment influences the choice of teachers as to the trade union they should join or in which they should remain, contrary to the provisions of the Charter.

In its decision on the merits, adopted on 24 May 2023, the ECSR concluded:

- unanimously that there was no violation of Article 5 of the Charter.

The Committee of Ministers adopted Resolution CM/ResChS(2023)8<sup>15</sup> on 18 October 2023.

▶ **The decision on the merits in *Associação Sindical dos Profissionais da Polícia ASPP/PSP v. Portugal*, Complaint No. 179/2019, became public on 18 December 2023.**

ASPP/PSP alleged that the exercise of the right to organise and the right to protection of some of its trade union representatives were violated on the ground that they have suffered reprisals because of their trade union activities in the form of the refusal to renew their secondment to the Special Police Unit (Unidade Especial de Polícia – UEP) in Faro, in violation of Articles 5 (the right to organise) and 28 (the right of workers’ representatives to protection in the undertaking and facilities to be accorded to them) of the Charter.

In its decision on the merits, adopted on 4 July 2023, the ECSR concluded:

- by 12 votes to 1 that there is a violation of Article 28 of the Charter;
- by 12 votes to 1 that there is a violation of Article 5 of the Charter.

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14. [CM/ResChS\(2023\)6](#): Resolution - *Validity Foundation v. Finland*, Complaint No. 197/2020 (Adopted by the Committee of Ministers on 6 September 2023 at the 1473rd meeting of the Ministers’ Deputies)

15. [CM/ResChS\(2023\)8](#): Resolution - *Association of Secondary Teachers Ireland (ASTI) v. Ireland*, Complaint No. 180/2019 (Adopted by the Committee of Ministers on 18 October 2023 at the 1478th meeting of the Ministers’ Deputies)

The Committee of Ministers adopted Recommendation CM/RecChS(2024)<sup>16</sup> on 14 February 2024.

- ▶ **The decision on the merits in *Confédération française démocratique du travail (CFDT) v. France*, Complaint No. 189/2020, became public on 19 December 2023.**

CFDT alleged that Articles L. 2232-21, L. 2232-22, L. 2232-22-1 and L. 2232-23 of the Labour Code enable employers in small companies to avoid collective bargaining with trade union representatives, in breach of Article 6§2 (the right to bargain collectively) of the Charter.

In its decision on the merits, adopted on 5 July 2023, the ECSR concluded:

- by 9 votes to 3 that there is no violation of Article 6§2 of the Charter.

A separate dissenting opinion was appended to the decision.

The Committee of Ministers adopted Resolution CM/ResChS(2023)<sup>9</sup><sup>17</sup> on 13 December 2023.

### Further decisions adopted in 2023

In addition, the following decisions adopted by the European Committee of Social Rights in 2023 were made public in 2024:

- ▶ The decision on the merits in ***Union Syndicale Solidaires SDIS v. France*, Complaint No. 176/2019 and *Union Syndicale Solidaires SDIS v. France*, Complaint No. 193/2020**, which was adopted on 12 September 2023, became public on 14 February 2024.
- ▶ The decision on the merits in ***SMB Norge v. Norway*, Complaint No. 198/2021 and *Fellesforbundet for Sjøfolk (FFFS) v Norway*, Complaint No. 209/2022**, which was adopted on 13 September 2023, became public on 14 February 2024. The Committee of Ministers adopted Resolution CM/ResChS(2023)<sup>10</sup><sup>18</sup> on 13 December 2023.
- ▶ The decision on the merits in ***Sindacato autonomo Pensionati Or.S.A. v. Italy*, Complaint No. 187/2019**, which was adopted on 17 October 2023, became public on 9 April 2024. The Committee of Ministers adopted Resolution CM/ResChS(2024)<sup>2</sup><sup>19</sup> on 13 December 2023.

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16. [CM/RecChS\(2024\)1](#): Recommendation - *Associação Sindical dos Profissionais da Polícia (ASPP/PSP) v. Portugal*, Complaint No. 179/2019 (Adopted by the Committee of Ministers on 14 February 2024 at the 1489th meeting of the Ministers' Deputies)

17. [CM/ResChS\(2023\)9](#): Resolution - *Confédération française démocratique du travail (CFDT) v. France*, Complaint No. 189/2020 (Adopted by the Committee of Ministers on 13 December 2023 at the 1484th meeting of the Ministers' Deputies)

18. [CM/ResChS\(2023\)10](#): Resolution - *SMB Norge v. Norway*, Complaint No. 198/2021 *et Fellesforbundet for Sjøfolk (FFFS) v. Norway*, Complaint No. 209/2022 (Adopted by the Committee of Ministers on 13 December 2023 at the 1484th meeting of the Ministers' Deputies)

19. [CM/ResChS\(2024\)2](#): Resolution - *Sindacato autonomo Pensionati Or.S.A. v. Italy*, Complaint No. 187/2019 (Adopted by the Committee of Ministers on 10 April 2024 at the 1495th meeting of the Ministers' Deputies)

- ▶ The decision on the merits in **Validity Foundation – Mental Disability Advocacy Centre v. Czechia, Complaint No. 188/2019**, which was adopted on 17 October 2023, became public on 14 February 2024, following the adoption of Resolution CM/ResChS(2024)<sup>120</sup> by the Committee of Ministers.
- ▶ The decision on the merits in **Amnesty International (AI) v. Italy, Complaint No. 178/2019**. The Committee of Ministers will adopt a Resolution or a Recommendation in the course of 2024<sup>21</sup>.
- ▶ The decision on the merits in European **Roma Rights Centre (ERRC) v. Czechia, Complaint No. 190/2020**. The Committee of Ministers will adopt a Resolution or a Recommendation in the course of 2024<sup>22</sup>.

## Follow-up to decisions of the European Committee of Social Rights by the Committee of Ministers

In the event that the ECSR's decisions identify violations of the Charter, the Committee of Ministers of the Council of Europe examines the follow-up to be given to the decisions and the respondent States are invited to provide information on the measures taken or planned to bring the situation into conformity. Under Article 9 of the Protocol providing for a system of collective complaints, the Committee of Ministers shall adopt a recommendation to the respondent State by a two-thirds majority of those voting or a resolution, by a majority of those voting, notably when the respondent States announce that specific steps have already been taken or will be taken in order to bring the situation into conformity. In cases where the ECSR finds no violation of the Charter, the Committee of Ministers adopts a resolution closing the procedure.

The Committee of Ministers' decisions on follow-up are based on social and economic policy considerations. The Committee of Ministers cannot reverse the legal assessment made by the European Committee of Social Rights.

In 2023, the Committee of Ministers adopted five recommendations concerning nine complaints where the ECSR identified one or more violations of the Charter:

### ▶ CM/RecChS(2023)1

Recommendation - *Finnish Society of Social Rights v. Finland* - Complaint No. 172/2018 (Adopted by the Committee of Ministers on 14 June 2023 at the 1469th meeting of the Ministers' Deputies)

### ▶ CM/RecChS(2023)2

Recommendation - *Confédération générale du travail (CGT) v. France* - Complaint No. 155/2017 (Adopted by the Committee of Ministers on 6 September 2023 at the 1473rd meeting of the Ministers' Deputies)

20. CM/ResChS(2024)1: Resolution - Validity Foundation – Mental Disability Advocacy Centre v. Czechia, Complaint No. 188/2019 (Adopted by the Committee of Ministers on 14 February 2024 at the 1489th meeting of the Ministers' Deputies)

21. **At the time of writing, the dates of adoption and publication of some decisions are still confidential**

22. **At the time of writing, the dates of adoption and publication of some decisions are still confidential**

► **CM/RecChS(2023)3**

Recommendation - *Confédération générale du travail - force ouvrière (CGT-FO) v. France*, Complaint No. 160/2018 and *Confédération générale du travail (CGT) v. France*, Complaint No. 171/2018 - *Syndicat CFDT de la métallurgie de la Meuse v. France*, Complaint No. 175/2019 - *Syndicat CFDT général des transports et de l'environnement de l'Aube v. France*, Complaint No. 181/2019, and *Syndicat CFDT de la métallurgie de la Meuse v. France*, Complaint No. 182/2019 (Adopted by the Committee of Ministers on 6 September 2023 at the 1473rd meeting of the Ministers' Deputies)

► **CM/RecChS(2023)4**

Recommendation - *European Disability Forum (EDF) and Inclusion Europe v. France*, Complaint No. 168/2018 (Adopted by the Committee of Ministers on 6 September 2023 at the 1473rd meeting of the Ministers' Deputies)

► **CM/RecChS(2023)5**

Recommendation on *European Roma Rights Centre (ERRC) v. Belgium* - Complaint No. 185/2019 (Adopted by the Committee of Ministers on 18 October 2023 at the 1478th meeting of the Ministers' Deputies)

In 2023, the Committee of Ministers also adopted seven resolutions concerning eight complaints where the ECSR found no violations of the Charter:

► **CM/ResChS(2023)1**

Resolution - *Confederazione Generale Sindacale (CGS) and Federazione dei Lavoratori Pubblici e Funzioni pubbliche (FLP) v. Italy* - Complaint No. 161/2018 (Adopted by the Committee of Ministers on 22 February 2023 at the 1457th meeting of the Ministers' Deputies)

► **CM/ResChS(2023)2**

Resolution - *Associazione nazionale sindacato professionisti sanitari della funzione infermieristica - Nursing Up v. Italy* - Complaint No. 169/2018 (Adopted by the Committee of Ministers on 22 February 2023 at the 1457th meeting of the Ministers' Deputies)

► **CM/ResChS(2023)5**

Resolution - *Sindacato autonomo Pensionati Or.S.A. v. Italy* - Complaint No. 167/2018 (Adopted by the Committee of Ministers on 6 September 2023 at the 1473rd meeting of the Ministers' Deputies)

► **CM/ResChS(2023)6**

Resolution - *Validity v. Finland* - Complaint No. 197/2020 (Adopted by the Committee of Ministers on 6 September 2023 at the 1473rd meeting of the Ministers' Deputies)

► **CM/ResChS(2023)8**

Resolution - *Association of Secondary Teachers Ireland (ASTI) v. Ireland* - Complaint No. 180/2019 (Adopted by the Committee of Ministers on 18 October 2023 at the 1478th meeting of the Ministers' Deputies)

► **CM/ResChS(2023)9**

Resolution - *Confédération française démocratique du travail (CFDT) v. France*, Complaint No. 189/2020 (Adopted by the Committee of Ministers on 13 December 2023 at the 1484th meeting of the Ministers' Deputies)

► **CM/ResChS(2023)10**

Resolution - *Norwegian Association of Small and Medium Enterprises (SMB Norge) v. Norway*, Complaint No. 198/2021 and *Fellesforbundet for Sjøfolk (FFFS) v. Norway*, Complaint No. 209/2022 (Adopted by the Committee of Ministers on 13 December 2023 at the 1484th meeting of the Ministers' Deputies)

## **Reform of the system of reporting on the follow-up to decisions in the collective complaints procedure**

In the context of the reporting procedure, every other year, States Parties bound by the collective complaints procedure submit so-called “simplified reports” (instead of the ordinary thematic reports on accepted provisions) dealing exclusively with the follow-up given to decisions on the merits of collective complaints in which the Committee found a violation.<sup>23</sup>

In 2023, the ECSR examined the simplified reports submitted by Belgium, Bulgaria, Finland, France, Greece, Ireland, Italy and Portugal.<sup>24</sup>

The ECSR found that of the 58 decisions examined in these findings, the situation had been brought fully or partially into conformity with the Charter for 16 decisions concerning Finland, France, Greece, Ireland, Italy and Portugal.

This system for presenting simplified reports came to an end in 2023. The 2023 Findings were therefore the last under the system for presenting simplified reports on the follow-up to decisions in collective complaints, which had been operating since 2015. The 2023 Findings will be transmitted to the Committee of Ministers, which may decide on any further follow-up.

In the future, there will be only one single State report on follow-up and one single assessment by the ECSR for each decision on the merits.<sup>25</sup>

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23. For details of this type of reporting, see the Social Charter website: <https://www.coe.int/en/web/european-social-charter/reporting-system>

24. *Findings 2023* of the European Committee of Social Rights

25. The single report will be requested two years after the adoption of the recommendation by the Committee of Ministers, cf. the reform package aimed at modernising the European Social Charter system (CM(2022)114-final).

# Reporting procedure

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## Overview

Following the changes to the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, the system comprises two types of reports. First, the reports on the four thematic groups of Charter provisions and, second, simplified reports every two years on the follow-up to collective complaints for States Parties bound by the collective complaints procedure (see above).

The conclusions adopted by the ECSR in January 2024 concern the accepted provisions of the Revised European Social Charter ("the Charter") belonging to the thematic group "Children, families and migrants":

- ▶ 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 social, legal and economic protection (Article 19);
- ▶ the right of workers with family responsibilities to equal opportunities and equal treatment (Article 27);
- ▶ the right to housing (Article 31).

## Conclusions 2023

Andorra, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Cyprus, Estonia, Georgia, Germany, Hungary, Latvia, Lithuania, Malta, the Republic of Moldova, Montenegro, the Netherlands, North Macedonia, Norway, Romania, Serbia, the Slovak Republic, Slovenia, Spain, Sweden, Türkiye and Ukraine.

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Croatia, Czechia, Denmark, Luxembourg, the Netherlands Aruba, the Netherlands Curaçao, Poland, and the United Kingdom.

No report was submitted by Albania, Iceland or by the Netherlands in respect of the Netherlands Sint Marten.

The national reports cover the period from 1 January 2018 until 31 December 2021.



For its examination of the State reports, the ECSR also had at its disposal comments on State reports submitted by different trade unions, national human rights institutions and non-governmental organisations. These comments were often crucial in terms of ensuring that the ECSR had a full, accurate understanding of the national situations concerned.

At its session in January 2024, the ECSR adopted a total of **799** conclusions, including **415** conclusions of conformity and **384** conclusions of non-conformity.

### **Statement of interpretation on Article 17 (child poverty)**

The ECSR also adopted the following statement of interpretation under Article 17:

The prevalence of child poverty in a State Party, whether defined or measured in either monetary or multidimensional terms, is an important indicator of the effectiveness of state efforts to ensure the right of children and young persons to social, legal and economic protection under Article 17 of the Charter. Consistent with its approach in relation to the conceptualisation and measurement of poverty in terms of Article 30, the ECSR's consideration of child poverty for the purposes of Article 17 reflects an understanding of both the income and multi-dimensional nature of poverty (Statement of interpretation, 2013, Article 30). This understanding is reflected in the indicators and elements the ECSR takes into account when assessing a State Party's compliance with Article 17. For those States that have not yet accepted Article 17, child poverty will be addressed under Article 30.

The Eurostat data and the EU-27 rate of children at risk of poverty or social exclusion is used by the ECSR as the key point of reference and indicator of state compliance with Charter rights. The ECSR also takes into account negative trends in the rate of children at risk of poverty or social exclusion in a State Party. In addition, the ECSR takes into consideration non-monetary measures adopted to reduce child poverty and social exclusion such as ensuring access to quality and affordable services in the areas of health, education and housing. When assessing State conformity with Article 17, the ECSR will also bear in mind the extent to which child participation is ensured in initiatives to combat child poverty and social exclusion.

### **Provisions concerned**

An overview of Conclusions 2023 is presented article by article below. A complete table of the Conclusions by country and by article can be found in Appendix 6<sup>26</sup>.

### **Article 7 – The right of children and young persons to protection**

**Article 7§1** of the Charter guarantees of the right of children and young persons to protection. The Parties undertake to provide that the minimum age of admission to employment is 15 years, subject to exceptions for children employed in prescribed light work, i.e. work which does not entail any risk to their health, moral welfare,

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26. See Appendix 6: Summary of the Committee's Conclusions 2023

development or education. The Charter also regulates the duration of light work and limits it to 6 hours a day and 30 hours a week during school holidays.

In the course of the cycle, the ECSR has examined 28 national situations, of which 18 were found not to be in conformity on two grounds, the first relating to the allowed duration of light work and the second one relating to monitoring of child labour.

As regards the first ground, the ECSR found that in a number of States Parties (such as, for example Cyprus, Estonia, Hungary and Slovenia) the daily/weekly duration of light work for children under the age of 15 was excessive since it is permitted beyond 6 hours a day and 30 hours a week during school holidays. The ECSR, therefore, considered that, due to its excessive duration, such work could not be regarded as light.

As regards the second ground, while there have been some improvements in detecting child labour, the ECSR has observed that in some States Parties (such as, for example, **Azerbaijan, Bosnia and Herzegovina, Georgia, Moldova, Montenegro, Serbia**) insufficient measures have been taken by the authorities (e.g. Labour Inspectorates and social services) to detect child labour, including that of children working in the informal economy. For this reason, the ECSR has concluded that, in these States Parties, the prohibition of child labour is not guaranteed in practice since the legislation on the prohibition of employment under the age of 15 is not effectively enforced by enhanced monitoring of child labour.

**Article 7§3** is closely linked to Article 7§1 and concerns children, who are over 15 years of age but are still in compulsory education. Article 7§3 requires States Parties to ensure that the duration of light work of children still subject to compulsory education is not excessive, so that they are not deprived of the full benefit of their education. Children who are still subject to compulsory schooling can carry out light work for two hours on a school day and 12 hours a week outside the hours fixed for school attendance.

The ECSR has examined 29 national situations and found that, in 24 cases, the situation was not in conformity. In the majority of cases, this was due to the excessive duration of light work performed either during school holidays or during the school term (e.g. **Armenia, Malta and Lithuania**). In other cases (such as **Latvia, Luxembourg, Norway**), the ECSR found that children still subject to compulsory education were not guaranteed two consecutive weeks of rest during school holidays, also in violation of Article 7§3 of the Charter.

**Article 7§4** is concerned with the employment of children under sixteen (or under 18, where States are party to the revised Charter) who have left school.

Under this provision, States undertake “to provide that the working hours of persons under 16 years of age (18 years in the revised Charter) shall be limited in accordance with the needs of their development, and in particular their need for vocational training”.

The number of hours a person under 16 may work will be less than that permitted for adults, in accordance with Article 7(4). For example, a forty-hour week of eight hours a day, which would be in accordance with Article 2(1), is excessive unless time off for vocational training is allowed during working hours. An eight-hour day for only

a few days a week, which does not amount to a forty-hour week, is also in breach of Article 7(4). The ECSR has concentrated on the “vocational training” of young workers and has not referred to any other aspect of their development. **Article 33** applies to **Article 754** so that it is complied with by showing that the “great majority of the workers concerned” benefit from its terms. The application of Article 33 means that, despite the wording “to provide”, which has been held to require legislation, this undertaking may be met by collective agreements or other means instead of legislation where this is normal (statistical evidence required). However, legislation is required where this is the usual practice. In the 2023 reporting cycle, there were no targeted questions for this provision.

Conclusions were adopted in relation to the situation in 28 States: 10 non-conformities and 18 conformities. The ECSR concluded that the permissible working time for young workers was excessive in six countries (**Austria, Czechia, Malta, Serbia, Slovenia and Turkey**) and that the monitoring of working time was inadequate in two countries (**Armenia and Montenegro**). Two States were found not to be in conformity due to failure to provide information on the monitoring of the implementation of the right in practice (Austria and Croatia).

Under Article 755, States Parties recognise the right to a fair wage for workers and appropriate allowances for apprentices. According to the ECSR, this right may be implemented through legislation, collective agreements or other equivalent means in the national legal system.

With respect to young workers, their wage may be less than the adult starting or minimum wage, but any difference must be reasonable and the gap must be closed reasonably quickly.

For the 2023 monitoring cycle, the ECSR requested updated information on net minimum wages and allowances paid to persons under the age of 18. In particular, it asked for information on measures taken to ensure that young workers are paid a fair wage:

- ▶ in atypical jobs (part-time work, temporary work, fixed-term work, casual and seasonal work, self-employed people, independent workers and homeworkers.)
- ▶ in the gig or platform economy, and
- ▶ in zero-hour contracts.

The ECSR also requested information on measures taken to ensure that young people’s right to fair pay is effectively enforced (e.g., through Labour Inspectorates and similar enforcement authorities, trade unions).

There were 24 conclusions adopted and only two States were **in conformity (Andorra and Montenegro)**. Most conclusions of non-conformity were due to the lack of reply to targeted questions. Young people’s allowances or wages were found to be inadequate in 15 States (**Austria, Azerbaijan, Bosnia and Herzegovina, Croatia, Czechia, Georgia, Germany, Latvia, the Netherlands, Norway, Romania, Slovenia, Spain, Türkiye and the United Kingdom**).

Under **Article 756**, States Parties undertake to provide that the time spent by young persons in vocational training during normal working hours with the consent of the

employer be considered as constituting part of the working day. Training time must thus be remunerated as normal working time, and there must be no obligation for the young person to make up for the time spent in training, which would effectively increase the total number of hours worked.

There were no targeted questions for this Article in 2023. There were 26 conclusions adopted: nine non-conformities and 17 conformities. The ECSR concluded that in three countries the inclusion of time spent on vocational training in the normal working time of young workers is not effectively monitored (**Armenia, Azerbaijan and Romania**) and that vocational training is not considered as working time in two countries (**Croatia and the Netherlands**). Non-conformity conclusions were delivered for four States because they did not submit information (**Malta, North Macedonia, Türkiye and Ukraine**).

**Article 7§10** of the Charter guarantees the right of children to be protected against physical and moral dangers within and outside the working environment. This includes protecting children against all forms of exploitation and against the misuse of information technologies.

The ECSR had addressed targeted questions to States Parties on measures taken to strengthen the protection of children, including migrant, refugee, and displaced children, from sexual exploitation and abuse (in particular, in response to the risks posed by the Covid-19 pandemic). The ECSR has also requested information on the incidence of such abuse and exploitation, as well as on the protection of children from all forms of violence, exploitation and abuse in the digital environment, in particular sexual exploitation and abuse and solicitation for sexual purposes (grooming).

With regard to Covid-19, States Parties were asked for information on the impact of the pandemic on monitoring the exploitation and abuse of children, as well as information on measures taken to strengthen the monitoring mechanisms.

Of the 29 conclusions under Article 7§10 of the Charter, the ECSR considered that the situation was in conformity with the requirements of this provision in 11 cases (**Andorra, Croatia, Czechia, Germany, Latvia, Lithuania, Luxembourg, Norway, Slovenia, Romania, Serbia**).

In 18 cases (**Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Cyprus, Estonia, Georgia, the Republic of Moldova, North Macedonia, Malta, the Netherlands, Poland, Slovak Republic, Spain, Sweden, Türkiye, the United Kingdom, Ukraine**), the ECSR considered that the situation was not in conformity with this provision of the Charter. The most common grounds of non-conformity were the following:

- ▶ not all acts of sexual exploitation of children are criminalised (**Bosnia and Herzegovina, Georgia, Türkiye**);
- ▶ children are not adequately protected against sexual exploitation (**Malta and Ukraine**);
- ▶ child victims of sexual exploitation are at risk to be criminally prosecuted (**Poland, the United Kingdom**).

A significant number of countries failed to provide information needed for the ECSR's assessment. The most common information shortcoming was in relation to

the protection of children from all forms of violence, exploitation and abuse in the digital environment, in particular with regard to sexual exploitation and abuse and solicitation for sexual purposes (grooming).

## **Article 8 – the right of employed women to maternity protection**

Article 8§1 recognises the right of employed women to maternity leave and to employment benefits. With a view to ensuring the effective exercise of the right of employed women to maternity protection, States Parties undertake to provide, either by paid leave, adequate social security benefits or benefits from public funds, leave for employed women before and after childbirth for a total period of not less than fourteen weeks.

There were no specific questions, so States Parties were only required to respond to previous conclusions of non-compliance, deferrals or pending receipt of requested information.

In 2023, 31 States Parties were reviewed. The ECSR issued 20 conclusions of conformity and 11 conclusions of non-conformity. Some of these conclusions of non-conformity were due to lack of information.

The main grounds for non-compliance related to the insufficient level of the minimum maternity allowance (**Bosnia and Herzegovina, Cyprus, Republic of Moldova and the United Kingdom**).

With a view to ensuring the effective exercise of the right of working women to protection during maternity leave, States Parties undertake, in accordance with Article 8(2), to consider it unlawful for an employer to dismiss a woman during the period from the time she informs her employer that she is pregnant until the end of her maternity leave, or to dismiss her at such a time that the notice period would expire during such a period.

No targeted questions were asked, so States Parties were only required to respond to previous conclusions of non-conformity, deferrals or pending requests for information.

In 2023, 26 States Parties were examined. The ECSR found 12 conclusions of conformity and 14 of non-conformity. Some of these conclusions of non-conformity were due to lack of information.

The main grounds of non-conformity related to inadequate protection against dismissal whilst pregnant or on maternity leave (for example, **Slovak Republic, Türkiye**) and to ceilings on the amount of compensation that may be awarded in the event of unlawful dismissal (**Bosnia and Herzegovina, Spain**).

Under Article 8§3, with a view to ensuring the effective exercise of the right of employed women to maternity protection, the Parties undertake to provide for mothers who are nursing their infants to be entitled to sufficient time off for this purpose.

According to Article 8§3, all employed mothers who breastfeed their babies must be granted time off for this purpose for at least 9 months.

No targeted questions were asked, so States Parties were only required to respond to previous conclusions of non-compliance, deferrals or pending requests for information.

Of the 29 States examined, the ECSR considered the situation in 28 States to be in conformity with the provisions of the Covenant. In one case (Croatia), the situation was not in conformity.

With a view to ensuring the effective exercise of the right of employed women to maternity protection, under Article 854, the States Parties undertake to regulate employment in night work of pregnant women, women who have recently given birth and women nursing their infants.

No targeted questions were asked, so States Parties were only required to respond to previous conclusions of non-conformity, deferrals or pending requests for information.

In 2023, 25 States Parties were examined, 23 of whom are parties to the Revised Charter and two of whom are States Parties to the 1961 Charter. The ECSR concluded that, in 13 States, the situation was in conformity and, in 12 States, the situation was not in conformity.

Reasons for non-conformity: there were many cases where information was missing. In some States, the pay for leave of women unable to work due to health and safety was inadequate (**Estonia, Georgia, Malta, North Macedonia, Romania**).

Under Article 855, with a view to ensuring the effective exercise of the right of employed women to maternity protection, the Parties undertake to prohibit the employment of pregnant women, women who have recently given birth or who are nursing their infants in underground mining, and all other work which is unsuitable due to its dangerous, unhealthy, or arduous nature, and to take appropriate measures to protect the employment rights of these women.

Article 855 applies to all pregnant women, women who have recently given birth or who are nursing their infant, who are in paid employment.

No targeted questions were asked, so States Parties were only required to respond to previous conclusions of non-conformity, deferrals or pending requests for information.

In 2023, 24 States Parties were examined. The ECSR adopted 12 conclusions of conformity and 12 conclusions of non-conformity. The main reasons for non-conformity were either that information was missing or that paid leave for health and safety reasons was inadequate (**Estonia, Georgia, Malta, North Macedonia, Romania, Türkiye**).

## **Article 16 – the right of the family to social, legal and economic protection**

Article 16 guarantees the right of the family to social, legal and economic protection. Under this provision, the ECSR examines housing for families, childcare, family counselling services, participation of associations representing families, rights and obligations of spouses, mediation services, domestic violence against women and family benefits.

For this monitoring cycle, the ECSR had addressed targeted questions to States Parties on various aspects of this article (domestic violence, family benefits, measures in favour of vulnerable families and housing for families).

In 2023, 30 States Parties were examined. The ECSR found that the situation in four States met all the requirements of Article 16 of the Charter: **Lithuania, the Netherlands, Norway, Sweden.**

The ground on which States were most frequently found to be in non-conformity relates to family benefits.

With regard to the adequacy of child/family benefits, the ECSR examines two issues: first, the adequacy of coverage (i.e., the percentage of families covered). Even if there is no obligation to have a universal child benefit system (i.e., the entitlement can be means-tested), it should still be provided to a significant number of families. For instance, if the entitlement is limited only to those families who are below the poverty threshold (very poor families), then the ECSR considers that its coverage is not adequate. The second issue is the adequacy of the level (the amount granted) – here, the ECSR has always considered that if the level of the benefit (the lowest one granted) falls below 5% of median equivalised income, then the situation is regarded as not compatible with the Charter, unless it is made clear that there are other benefits which are also paid to a significant number of families. 15 States (out of 30) do not comply with the requirements for family benefits (**Azerbaijan, Bosnia and Herzegovina, Croatia, Czechia, Latvia, Malta, Republic of Moldova, Montenegro, North Macedonia, Netherlands in respect of Curaçao, Slovenia, Spain, Türkiye, Ukraine, the United Kingdom**).

Ten States (out of 30) are not in conformity on the ground that the entitlement to child/family benefits for nationals of other States Parties is made conditional on a period of length of residence of more than six months. The ECSR accepts a period of up to six months, since the benefit in question is a non-contributory benefit. A period that exceeds six months is not in conformity with the Charter: **Azerbaijan, Bosnia and Herzegovina, Croatia, Czechia, Denmark, Spain, the United Kingdom, Latvia, Netherlands in respect of Aruba, North Macedonia.**

Other violations identified under this provision relate to housing for families. Almost all of the 22 States examined under this point are not in conformity on the aspect of housing for families. It should also be noted that, as soon as it was clear the report did not provide information on the targeted question/previous questions, the ECSR considered the situation not to be in conformity with Article 16.

The specific grounds of non-conformity were:

- ▶ the length of residence required for receipt of housing allowances in certain Länder is excessive: **Austria**;
- ▶ nationals of other States Parties to the Charter residing in Malta who do not hold long-term residence status are not entitled to equal treatment with regard to access to housing allowances (rent subsidy): **Malta**;
- ▶ inadequate legal protection for persons threatened with eviction: Five States: **Luxembourg, Estonia, Hungary, Romania, Netherlands in respect of Aruba**;
- ▶ right to housing, including housing conditions and supply, for vulnerable families (including Roma/Traveller families): Five States: **Netherlands in respect of Curaçao, Hungary, Czechia, Serbia and the Slovak Republic.**

Inadequate measures to combat domestic violence also led to a number of conclusions of non-conformity (**Netherlands in respect of Aruba, Republic of Moldova, Slovak Republic, Türkiye and Ukraine**).

## **Article 17 – the right of children and young persons to social, legal and economic protection**

Article 17 imposes an obligation on States to adopt the necessary measures to ensure that children can effectively exercise their right to grow up in an environment favourable to the development of their personality and their physical and mental abilities.

The ECSR had addressed targeted questions to States Parties asking for information on any measures adopted to protect and assist children in crisis situations and emergencies. It also posed questions about measures taken to reduce statelessness; to facilitate birth registration, particularly for vulnerable groups, such as Roma, asylum seekers and children in an irregular migration situation; to reduce child poverty; to combat discrimination and promote equal opportunities for children from particularly vulnerable groups; and on the extent to which child participation is ensured in work directed towards combatting child poverty and social exclusion.

The ECSR also developed a Statement of Interpretation on child poverty (see above).

Of the 30 conclusions prepared in relation to Article 17 of the Charter, the ECSR considered that the situation was in conformity with the requirements in one case (**Sweden**).

In 29 cases (**Andorra, Armenia, Austria, Bosnia and Herzegovina, Germany, Spain, Estonia, Georgia, Hungary, Lithuania, Latvia, Republic of Moldova, North Macedonia, Malta, Montenegro, Netherlands, Norway, Romania, Serbia, Slovak Republic, Slovenia, Türkiye, Ukraine**), the ECSR considered that the situation was not in conformity with this provision of the Charter. The main grounds of non-conformity were the following:

- ▶ bone testing is used to assess the age of children in an irregular migration situation (**Andorra, Estonia, Lithuania, Republic of Moldova, North Macedonia, Romania, Slovak Republic, Spain, Denmark, Poland**);
- ▶ the length of pre-trial detention of children is excessive (**Andorra, Armenia, Austria, Hungary, Latvia, Lithuania, Republic of Moldova, Slovak Republic, Spain, Türkiye, Ukraine, Denmark, Poland, the United Kingdom**);
- ▶ the immediate expulsion of children in an irregular migration situation can be carried out by the authorities without providing them with any assistance (**Hungary, Latvia, Lithuania, Romania, Slovenia, Spain, Croatia, Poland**);
- ▶ not all forms of corporal punishment of children are prohibited in all settings (**Armenia, Bosnia and Herzegovina, Georgia, Serbia, Slovak Republic, Türkiye, Czechia, the United Kingdom**);
- ▶ the rate of children at risk of poverty is too high (**Armenia, Serbia, Spain, Romania, Montenegro, North Macedonia, Türkiye, Luxembourg, the United Kingdom**);



- ▶ the age of criminal responsibility is too low for some offences (**Hungary, Türkiye**);
- ▶ children may be detained with adults (**Montenegro, Netherlands**).

There were also many conclusions of non-conformity on the ground that States failed to answer questions, such as whether **bone testing** is used to determine the age of children (nine States); on whether children in an irregular migration situation, accompanied by their parents or not, could be detained, and, if so, under what circumstances (seven States); on measures taken to ensure that accommodation facilities for children in an irregular migration situation, whether accompanied or not, are appropriate and adequately monitored (seven States); on measures taken to combat discrimination and promote equal opportunities for children from particularly vulnerable groups (five States); on measures taken to find alternatives to detention of children in an irregular migration situation (five States); on measures taken to facilitate birth registration, particularly for vulnerable groups (six States); whether children in an irregular migration situation have access to healthcare (four States); what assistance is given to unaccompanied children in order to protect them from abuse and exploitation (four States); on measures taken to reduce statelessness (five States); on the maximum length of prison sentence that can be imposed on a child (three States).

**Article 17§2** requires States Parties to establish and maintain an education system that is both accessible and effective.

The ECSR had addressed targeted questions to States Parties on measures taken to ensure that state allocation of resources to private education did not negatively impact on the right of all children to access free, quality public education. It also addressed general questions on measures taken to introduce anti-bullying policies in schools, and on measures taken to facilitate child participation across a broad range of decision-making and activities related to education.

With regard to Covid-19, States Parties were asked to provide information on measures taken to address the effects of the pandemic on the education of children (including, in particular, disabled children, Roma and Traveller children, children with health issues and other vulnerable children).

Of the 23 conclusions under Article 17§2 of the Charter, the ECSR considered that the situation was in conformity with the requirements of this provision in 11 cases (**Andorra, Germany, Spain, Estonia, Lithuania, Latvia, Malta, Netherlands, Norway, Slovenia, Sweden**).

In 12 cases (**Armenia, Austria, Bosnia and Herzegovina, Hungary, Republic of Moldova, North Macedonia, Montenegro, Romania, Serbia, Slovak Republic, Türkiye, Ukraine**), the ECSR considered that the situation was not in conformity with this provision of the Charter. The main grounds of non-conformity were the following:

- ▶ the net enrolment rate in secondary education is too low (**Bosnia and Herzegovina, North Macedonia, Romania**);
- ▶ Roma children are subject to segregation in education (**Hungary, Serbia, Ukraine**).

There were also many conclusions of non-conformity because the States in question failed to answer questions on issues including the situation of Roma children in education and on measures taken to facilitate access to education for children from vulnerable families.

## **Article 19 – The right of migrant workers and their families to protection and assistance**

With regard to **Article 19§1** of the Charter, which guarantees the right to free information and assistance to nationals wishing to emigrate and to nationals of other States Parties who wish to immigrate, a few States were found to be in non-conformity for not taking appropriate measures against misleading propaganda in relation to emigration and immigration (**Georgia and Türkiye**) and for failure to provide information on this provision (**Cyprus**).

Under **Article 19§2** of the Charter, States are obliged to adopt special measures beyond those which are provided for nationals for the benefit of migrant workers, to facilitate their departure, journey and reception (Conclusions III (1973), **Cyprus**). The non-conformities identified related to the failure of some States to provide information on assistance, financial or otherwise, available to migrant workers in emergency situations, in particular in response to their food, clothing and shelter needs upon reception (**Austria and Georgia**).

Almost all the State situations examined were in conformity with **Article 19§3**, which concerns co-operation between social services of emigration and immigration States, with the exception of two cases where non-conformities were due to the failure to provide the requested information (**Serbia, Sweden**).

One of the most complex provisions in terms of State compliance is **Article 19§4**, which guarantees the right of migrant workers to a treatment no less favourable than that of nationals in the areas of: (i) remuneration and other employment and working conditions, (ii) trade union membership and the enjoyment of benefits of collective bargaining, and (iii) accommodation.

In the 17 national situations examined under this provision, the ECSR found that the situation was not in conformity in respect of 10 States. Most of the grounds for non-conformity concerned: equal access of migrant workers and their families to accommodation, in particular to assisted rental schemes and subsidised housing (**Armenia, Georgia, Slovenia**), an excessive residence requirement for eligibility to municipal housing applied by some municipalities (**Norway**) or the failure to provide information on access of migrant workers and their families to subsidised housing or housing aids (**Serbia, Slovak Republic, Sweden and Türkiye**); equal access to employment (**Türkiye**); failure to provide information on working conditions and equal treatment of migrant workers, including their remuneration and access to vocational training and promotion (**Armenia**) or information concerning posted workers (**Netherlands, Slovenia**).

According to the ECSR case law, equal treatment of migrant workers in terms of accommodation can only be effective if there is a right of appeal before an independent body against the relevant administrative decision. The ECSR found that in respect of a couple

of States the situation is not in conformity with the Charter on the grounds that the right to equality regarding accommodation of migrant workers and their families is not subject to an effective mechanism of monitoring or judicial review (**Armenia, Georgia**).

On the positive side, all national situations examined were found to be in conformity with **Article 19§5**, which recognises the right of migrant workers to equal treatment in law and in practice in respect of the payment of employment taxes, dues or contributions.

**Article 19§6** commits States parties to facilitating as far as possible the family members of migrant workers, who are lawfully staying in their territory, to join them.

The ECSR examined the situation regarding **Article 19§6** in 19 States Parties with respect to the personal and the material scope of the right to family reunion, in particular as regards conditions governing this right, such as the condition of length of residence (waiting period), housing conditions, means requirement, and integration measures (including various language tests) in view of family reunification. Lastly, the ECSR examined whether the right to family reunification is subject to an effective mechanism of appeal or review.

During the 2023 monitoring cycle, among the 19 countries whose situation was examined by the ECSR with regard to Article 19§6, there were 18 States with a conclusion of non-conformity (**Armenia, Austria, Cyprus, Georgia, Germany, Latvia, Netherlands, North Macedonia, Norway, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Türkiye, Luxembourg, Poland and the United Kingdom**), and one State with a conclusion of conformity (**Estonia**).

Apart from States' failure to provide the required information, the conclusions of non-conformity were based on the following reasons:

- ▶ the personal scope of the right to family reunion not in conformity with the Charter;
- ▶ the age threshold for family reunion of a married couple, which is above the age at which a marriage may be legally recognized in the host state, being an undue hindrance to family reunion;
- ▶ adult dependent children excluded from the scope of family reunion;
- ▶ excessive requirements to prove language proficiency for family reunion;
- ▶ the requirement to pay fees for the necessary language tests and language courses possibly impeding rather than facilitating family reunion;
- ▶ social benefits being excluded from the calculation of sufficient financial means for family reunion;
- ▶ sponsors having to be resident in the host State for more than one year prior to family reunion being granted;
- ▶ family members of a migrant worker not granted an independent right to remain after exercising their right to family reunion;
- ▶ the level of means required to bring in the family or certain family members being so restrictive as to prevent family reunion;
- ▶ prohibitively high fees applicable concerning family reunification, possibly depriving the right guaranteed under Article 19§6 of its substance.

In a number of conclusions, the non-conformity was based on the lack of information in the report on a question previously raised by the ECSR (**Armenia, Cyprus, Georgia, Netherlands, Germany and Sweden**). The most common ground of non-conformity was that the family members of a migrant worker are not granted an independent right to remain after exercising their right to family reunion [14 States out of 19].

In some States, the residence permit of a family member of the sponsor may be revoked if the sponsor's residence permit is terminated and the family member does not yet have an independent right of residence (**Cyprus, Germany, Slovak Republic, Slovenia, the United Kingdom**). In some other countries, the right to independent stay is granted to the family members of a migrant worker only after certain number of years of residence (5 years in **Latvia**, 3 years in **the Netherlands**, 4 years in **North Macedonia** and **Serbia**) and that no such right has been recognized before the expiry of this period of residence. In **Norway**, the authorities consider whether the family member should be granted a permit only in exceptional cases, on "strong human considerations".

The second most common ground of non-conformity was that social benefits are excluded from the calculation of sufficient financial means for family reunion (11 States out of 19). Therefore, requirements, such as in **Austria, Poland or Slovenia**, where the sponsor should have sufficient financial means which must allow them to live without having to claim any social benefits, are not in compliance with Article 19§6. The ECSR reached the same conclusion when social benefits are not listed among the proofs that a foreigner has the means to support their family, such as in **Serbia**.

Concerning **Germany** and **Austria**, the ECSR found that strict language requirements hinder the right to family reunion. In **Austria**, the requirement to pay fees for the necessary language tests and language courses was also found to be in breach as these may impede rather than facilitate family reunion. Concerning **Sweden**, the ECSR reached the same conclusion for failure by the Government to reply to its previous request for information in this respect.

As a result, in almost all States examined, the situation is not in conformity with Article 19§6 (except **Estonia**) and the most common issue is that the family members of a migrant worker are not granted an independent right to remain after exercising their right to family reunion. The next most frequently observed ground is that of the exclusion of social benefits from the calculation of sufficient financial means for family reunion.

No new positive developments in the States since the last reporting cycle have been recorded by the ECSR. It took note, however, that in **Austria**, there were plans to change the legislation regarding age thresholds for family reunification and that in **Cyprus**, there were plans to lift the sponsor's minimum residence period requirement.

Under Article 19§7 of the Charter, States Parties must ensure that migrants have access to courts, to lawyers and legal aid on the same conditions as their own nationals. In 2023, the ECSR examined the situation with regard to **Article 19§7** in 22 countries. There are 19 countries with conformity conclusions and three countries with non-conformity conclusions (the **Republic of Moldova, Serbia and Sweden**).

Concerning the **Republic of Moldova and Sweden**, the non-conformity conclusion is due to the lack of answer/information in response to a previous question raised by the ECSR.

As regards **Serbia**, the non-conformity conclusion is due to the fact that, under the provisions of the Law on Free Legal Aid, only migrant workers who are permanently resident in the country are eligible to receive legal assistance. According to this Law, migrant workers who are temporarily resident in Serbia, are excluded from this right and may therefore not have the same access to courts and legal proceedings as nationals.

In the case of **Georgia**, although the previous conclusion was that of a deferral, the ECSR concluded that the situation is now in conformity following the information supplied by the Government as to assistance provided for interpretation in legal proceedings.

**Article 19§8** of the Charter obliges States Parties to prohibit by law the expulsion of migrants lawfully residing in their territory, except where they are a threat to national security, or offend against public interest or morality.

In 2023, in regard to Article 19§8, the ECSR examined the situation in 18 States. Of these 18 States, eight were found to be in compliance (**Cyprus, Estonia, Georgia, Germany, the Netherlands, North Macedonia, Sweden and Luxembourg**). Ten States were found by the ECSR to be in breach of Article 19§8 (**Armenia, Latvia, Republic of Moldova, Romania, Serbia, Slovenia, Spain, Türkiye, Poland and United Kingdom**).

Apart from the failure to provide the required information, other reasons for conclusions of non-conformity included the following:

- ▶ foreigners whose residence permits have expired are not given sufficient time prior to expulsion, to get a valid residence status, leave the country or lodge an appeal against that decision;
- ▶ courts, when examining the risk of violation of human rights in cases of expulsion, do not take into account the Charter's requirements under Article 19§8;
- ▶ migrant workers may be expelled in situations where they do not endanger national security or offend public interest or morality;
- ▶ a residence permit may be revoked where an individual has insufficient personal resources;
- ▶ the right to appeal against expulsion orders is not effectively guaranteed;
- ▶ a migrant worker may be considered a threat to public order and therefore expelled where s/he has been convicted of a minor crime.
- ▶ a migrant worker may be expelled where there exists reasonable doubt that they will take advantage of the stay for purposes other than those declared;
- ▶ risk to public health in itself constitutes a ground for expulsion.

Concerning **Armenia** and **Spain**, the non-conformity conclusions were due to the lack of information in the report in response to previous questions raised by the ECSR. In the remaining non-conformity conclusions (eight countries), the situation was found to be in breach of Article 19§8 on the ground that migrant workers may be expelled in situations where they do not endanger national security or offend

public interest or morality (**Latvia, the Republic of Moldova, Romania, Serbia, Slovenia, Türkiye, the United Kingdom, Poland**).

In **Romania**, in particular, a migrant worker can be considered a threat to public order and therefore expelled if he or she has been convicted of a minor offence. This ground is similar to the non-conformity ground in relation to **Türkiye**, where a migrant worker may be considered a threat to public order and therefore expelled on the basis of a conviction (resulting in a prison sentence) for any offence and prosecution on the basis of one of the grounds listed in national legislation. The **United Kingdom** was also found to be in breach of Article 19(8) on the grounds that expulsion solely on the basis of the length of the prison sentence (12 months) is not acceptable under the Charter. In Poland, a residence permit can be revoked if a person does not have sufficient personal resources.

The ECSR identified **no new positive developments** in the States since the last cycle, other than in the cases of **Luxembourg** (guarantees against deportation), **Slovenia** (independent right to appeal against deportation orders) and **Poland** (risk to public health is not a ground for expulsion). Following the information and clarifications provided in the reports, the ECSR either concluded that the situation was in conformity (**Luxembourg**) or excluded these grounds from the non-conformity conclusions (**Poland and Slovenia**).

In 2023, the ECSR examined the situation with regard to **Article 19§9** in 21 States. Of these, there were 13 with conclusions of conformity; and 8 with conclusions of non-conformity.

The main ground for a non-conformity conclusion was the lack of information in the national report in response to questions previously raised by the ECSR.

Concerning **Cyprus, Germany, the Netherlands, Serbia, Slovenia, Spain, Sweden and Luxembourg**, the national reports did not provide any answer to a previous ECSR question, namely, whether there are any restrictions on the transfer of the movable property of migrant workers. In the case of **Sweden, Luxembourg and Slovenia**, the missing information also concerned up-to-date descriptions of the situation concerning restrictions on the transfer of money and movable property.

In the case of **Article 19§10**, a conclusion of non-conformity for any of the other paragraphs of Article 19 ordinarily leads to a finding of non-conformity under that paragraph too, because the same grounds for non-conformity also apply to self-employed workers.

In 2023, the ECSR examined the situation in respect of **Article 19§10** in 17 States. Of these 17 States, there were only two with a conclusion of conformity: **Estonia and Lithuania**. In respect of the other 15 States, the situation was considered to be in non-conformity on the grounds of the non-conformity found under the other paragraphs of Article 19 of the Charter.

Under **Article 19§11** of the Charter, with a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake to promote and facilitate the teaching of the national language of the receiving state or, if there are several, one of these languages, to migrant workers and members of their families.

In 2023, the ECSR examined the situation with regard to **Article 19§11** in 16 States. Of these 16 States, there were 13 with conclusions of conformity and three with conclusions of non-conformity (**Armenia, Georgia and Netherlands**).

In the case of **Armenia**, the non-conformity was due to the lack of information/answer in the national report to a previous question raised by the ECSR. In the case of **Georgia**, with the exception of migrants under international protection, the State did not adequately promote and facilitate the teaching of the national language to all migrant workers and members of their families. In the case of **the Netherlands**, the charges for language courses were found as being likely to hinder the integration of migrant workers and their families.

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, as foreseen by **Article 19§11 of the Charter**, the States Parties undertake to promote and facilitate, as far as practicable, the teaching of the migrant worker's mother tongue to the children of the migrant worker.

In 2023, the ECSR examined the situation with regard to **Article 19§12** of the Charter in 14 States. Of these 14 States, there were nine with conclusions of conformity (**Andorra, Armenia, Austria, Cyprus, Estonia, Latvia, Montenegro, Norway and Slovenia**) and five with conclusions of non-conformity (**Georgia, Germany, Spain, Sweden and Türkiye**).

In the cases of **Georgia, Sweden and Türkiye**, the non-conformity conclusion arises from the lack of information/answers in the report in response to a previous ECSR question.

**Germany** ratified the Revised Social Charter on 29 March 2021. The ECSR therefore examined the implementation of **Article 19§12** of the Charter in Germany for the first time. However, the report stated that no information was available about the implementation of **Article 19§12** and the ECSR therefore concluded that the situation was not in conformity with the Charter.

In the case of **Spain**, the report provided information under **Article 19§12** with regard to the teaching of migrants' mother tongue only in relation to the Arabic and Portuguese languages. No information has been provided, in particular, regarding the teaching of Romanian, given that migrants of Romanian origin are the second largest migrant group in Spain, after Moroccans. The ECSR therefore concluded that the situation in Spain was not in conformity with **Article 19§12** of the Charter on the ground that teaching of the mother tongue was not adequately promoted and facilitated for all migrants.

## **Article 27 – The right of workers with family responsibilities to equal opportunities and equal treatment**

In 2023, 22 national reports were examined under **Article 27§1-3** with a total of 56 conclusions: 50 conclusions related to situations already examined in previous cycles, while six were based on the current evaluation; 17 conclusions were adopted under **Article 27§1**, 21 under **Article 27§2** and 18 under **Article 27§3**.

Under Article 27§1, five States Parties were found not to be in conformity (**Armenia, Azerbaijan, Georgia, Germany, and Spain**). The situation in Azerbaijan is not in conformity due to inadequate protection under Article 27§1a regarding the reconciliation of the working and private life for both women and men on an equal footing. Georgia and Spain failed to demonstrate under Article 27§1b that the periods of absence from work of workers with family responsibilities are considered pensionable. Armenia, Germany, and Spain are not in conformity due to insufficient protection under Article 27§1c regarding child day care services and arrangements.

Under **Article 27§2** (the right to parental leave), a conclusion of non-conformity was reached for nine States Parties. These conclusions of non-conformity were reached due to the lack of non-transferability of parental leave (**Georgia, Moldova**), or the inadequate or non-existent remuneration of parental leave (**Cyprus, Malta, Spain**), or on both these grounds (**Armenia, Azerbaijan, Türkiye, Ukraine**). The ECSR noted that **Malta** did not provide information regarding the previous finding of non-conformity.

According to the ECSR's conclusions under **Article 27§3**, six States Parties were not in conformity (**Armenia, Azerbaijan, Cyprus, Türkiye, Germany, and Spain**). In Türkiye and Cyprus, workers are not protected against dismissal in enterprises that do not employ a certain number of workers, while **Armenia, Azerbaijan, Germany, and Spain** did not demonstrate that adequate compensation is awarded in unlawful dismissal cases.

The failure to provide information that amounts to a breach of the State Party's reporting obligations under Article C of the Charter was observed in the case of **Armenia** (all three paragraphs), **Georgia** (paragraph 1), and **Azerbaijan** (paragraph 3), **Germany** (paragraphs 1 and 3) and **Spain** (paragraph 1). These States did not provide the information requested to enable the ECSR to examine their situation.

## **Article 31 – the right to housing**

**Article 31§1** requires States Parties to take measures designed to promote access to housing of an adequate standard.

States Parties were asked to reply to detailed targeted questions for **Article 31§1** of the Charter, as well as, where applicable, to previous conclusions of non-conformity, deferrals, or conformity pending receipt of information. The targeted questions concerned issues such as the criteria for adequate housing or measures in favour of vulnerable groups.

Of the 10 situations examined during the 2023 monitoring cycle, the ECSR adopted three conclusions of conformity and seven conclusions of non-conformity.

The conclusions of non-conformity were based on grounds including insufficient measures taken to improve the housing conditions of Roma (**Netherlands, Slovenia, Latvia, Türkiye**), inadequate supervision of housing standards (**Slovenia, Lithuania**), the large proportion of overcrowded dwellings (**Latvia**), the absence of a comprehensive definition of the notion of adequate housing under the national law (**Latvia**), insufficient measures taken to ensure that the existing housing stock was of an adequate standard (**Türkiye**). Other conclusions of non-conformity resulted from the failure to provide information on various aspects of Article 31§1 of the Charter.



Article 31§2 requires States Parties to take measures designed to prevent and reduce homelessness with a view to its gradual elimination.

States Parties were asked to respond to detailed targeted questions for Article 31§2 of the Charter, as well as to provide information responding, where applicable, to previous conclusions of non-conformity, deferrals or conformity pending receipt of information. The targeted questions covered issues such as the prevention of homelessness, the existence and scope of any prohibition of evictions during the Covid-19 pandemic, or the availability and adequacy of emergency accommodation during the Covid-19 pandemic.

Of the nine situations examined during the 2023 cycle, the ECSR adopted one conclusion of conformity and eight conclusions of non-conformity.

Conclusions of non-conformity were based on grounds such as the lack of a legal prohibition on carrying out evictions during winter (**Andorra, Lithuania**), the lack of compensation in the event of an illegal eviction under national law (**Andorra**), notice periods before an eviction that were too short (the Netherlands), the lack of a prohibition of evictions from shelters without the provision of alternative accommodation (**Lithuania, Netherlands, Slovenia**), restrictions on access to emergency accommodation/shelter (**Netherlands, Türkiye**), discrimination as regards access to housing benefits (**Norway**), or insufficient measures taken to reduce homelessness (**Slovenia, Türkiye**). Other conclusions of non-conformity resulted from the failure to provide information on various aspects of the Article 31§2 of the Charter.

Article 31§3 of the Charter requires States Parties to take measures designed to make the price of housing accessible to those without adequate resources.

States Parties were asked to reply to detailed targeted questions for Article 31§3 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals, or conformity pending receipt of information. The targeted questions concerned issues such as social housing or housing benefits.

Of the six situations examined during the 2023 monitoring cycle, the ECSR adopted one conclusion of conformity and five conclusions of non-conformity.

The conclusions of non-conformity were based on grounds such as the failure to gather data on the average waiting time for the allocation of social housing (**Norway**), the inadequate supply of social housing (**Slovenia**), ineffective remedies for excessive waiting times for social housing (**Slovenia**), or discrimination as regards access to social housing (**Slovenia, Türkiye**). Other conclusions of non-conformity resulted from the failure to provide information on various aspects of the Article 31§2 of the Charter.

## Examples of progress in the application of the European Social Charter

When preparing Conclusions 2023, the ECSR noted a number of positive developments in the application of the Charter, either through the adoption of new legislation or changes to practice in the States Parties or, in some cases, on the basis of new information clarifying the situation as regards issues raised in previous examinations (thereby reducing the number of conclusions deferred for lack of information).

The ECSR welcomed these developments which contribute to the better implementation of the Charter at national level and invited the States Parties to continue their efforts with a view to ensuring the concrete and effective implementation of all the rights of the Charter.

This chapter contains a non-exhaustive list of examples of progress by country and provision regarding States bound by the 1961 Charter and States bound by the Revised Charter.

## Article 7§4

**Bosnia and Herzegovina** made improvements in establishing safeguards for young workers and effectively supervising compliance with labour laws related to working time. There were also positive developments in **Cyprus's** and **Georgia's** labour inspection activities and the effectiveness of their enforcement mechanisms regarding the working time of young workers under 18. Furthermore, **Lithuania, Latvia and Estonia** effectively limited the working hours of persons under 18 years of age in accordance with their developmental needs and vocational training requirements.

## Article 7§6

**Cyprus** made positive strides in ensuring compliance with labour regulations regarding vocational training and effective monitoring and **Lithuania** improved its monitoring of compliance with labour regulations regarding vocational training compared to previous assessments. **Montenegro** made legislative changes by enacting a new Labour Law, aligning its legislation with EU standards and ILO recommendations.

## Article 7§10

In 2020, as regards Andorra, an agreement with **Andorra Telecom** was signed to activate a telephone number, 175, which is a helpline for children at risk of abuse.

In **Germany**, the Young Persons Protection Act was amended in 2021 and it now includes an obligation for service providers to provide effective and structural preventive measures to protect against damage to the personal integrity of children and young people in such cases as cyberbullying, cybergrooming or other types of sexual exploitation.

## Article 8

In **Slovenia**, the Parental Protection and Family Benefits Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 26/14, 90/15, 75/17) introduced compensation for nursing breaks. A mother has the right to remunerated nursing breaks until the child is 18 months old, for one hour each day.

## Article 16

In **Poland**, from 1 July 2019, a childcare benefit has been paid for each child in the family up to the age of 18 years. This benefit is not dependent on family income. It amounts to PLN 500 (€120).

Wider access to nurseries was introduced in **Luxembourg**, with 20 hours per week of free childcare per child, regardless of parental income. In line with this measure, childcare in non-formal education facilities was also made free of charge during the school week for children in primary education (i.e. children from the age of four). This applies to childcare facilities, after-school care and childminders.

### **The United Kingdom:**

*Scotland:* the Domestic Abuse (Scotland) Act 2018 created a specific offence of domestic abuse which covers physical and psychological abuse, including coercive and controlling behaviour. The Act incorporates the fact that children are harmed by domestic abuse by providing for statutory aggravation in relation to children.

*Northern Ireland:* the Domestic Abuse and Civil Proceedings (Northern Ireland) Act 2021 came into effect on 21 February 2022 (outside the reference period). This Act introduced a new offence of domestic abuse which encompasses non-physical abuse and controlling or coercive behaviour, and provides for a number of statutory aggravating circumstances if such violence is perpetrated against a child. In the field of employment, it also provides additional leave and pay rights for workers and employees who are victims of domestic abuse. Victims and survivors of domestic abuse are entitled to ten days' paid leave for the purposes of dealing with the issues resulting from domestic abuse. There are also provisions to enhance support for victims of domestic abuse who give evidence in civil / family proceedings, including the use of special measures, such as giving evidence behind a screen, and protection from cross-examination in person by the alleged perpetrator.

## **Article 17**

In **Lithuania**, in 2021, 21.6% of children were at risk of poverty or social exclusion, a significant decline in comparison with 2018, when the percentage was 28.8%. The number of children in institutions decreased from 2,419 in 2018 to 415 in 2021.

In the **Slovak Republic**, in 2021, 19.7% of children were at risk of poverty or social exclusion, a significant decline in comparison with 2018, when the percentage was 23.3%.

## **Article 17§10**

The net enrolment rate in lower secondary education, in **Armenia**, was 99.39% in 2021 and is now in conformity with the Charter.

Since 2019, "Bullying box", a free electronic tool, has been developed in **Lithuania**, to fight bullying in educational institutions. 325 schools have already installed the "Bullying box".

## **Article 19§11**

In **Norway**, in 2021, 76% of the asylum seekers residing in reception centres received training in Norwegian, compared to 51% in 2020. In **Türkiye**, a 120-hour "Social Cohesion and Life Education Course Programme" for foreigners who have the legal right to stay in **Türkiye** and who have reached the age of 17, was approved

in September 2021 and entered into force. All courses that are open to the public directly or in cooperation with other institutions and organisations are organised free of charge by the public education centres.

## Article 19§12

In **Montenegro**, the 2019–2023 Minority Policy Strategy set the goal of improved respect for the principles of multiculturalism and multiethnicity in Montenegro's educational system through further strengthening the capacity of educational institutions. In **Slovenia**, where, in the 2019/20 school year, the number of pupils attending remedial language classes was 419, with funding from the Ministry of Education, Science and Sport of €15,750, the number of pupils in these classes in the 2021/22 school year rose to 564, with funding of €29,835.

In **Türkiye**, as of September 2022, there was a total of 1,172,067 Syrians of school age (5-17 years old) under temporary protection. As of October 2022, 762,414 of them (65.05%) were enrolled in educational institutions. In order to support those students to learn their native language, Arabic was offered as an elective course. In addition, children of migrant workers could take courses in many languages free of charge under non-formal education programmes.

## Article 27

Two more States Parties to the Charter (**Germany and Spain**) accepted Article 27 by ratifying the Revised Charter.

The situation in **Montenegro** under Article 27§§1 and 2 is now in conformity as well as the situation in **Türkiye** under Article 27§1.

In relation to **Article 27§2**, the ECSR noted that in most EU Member States parental leave is remunerated since transposing the Directive (EU) 2019/1158 into their national legislations (it was due to have been transposed by 2 August 2022).

## Governmental Committee of the European Social Charter and the European Code of Social Security: follow-up to the Conclusions of the European Committee of Social Rights

In 2023, the Governmental Committee examined follow-up measures taken by States with respect to conclusions of non-conformity reached by the ECSR on articles of the European Social Charter relating to the thematic group "Labour rights" (Conclusions 2022).

The Governmental Committee held two meetings in 2023 (146th Meeting on 9 to 12 May 2023 and 147th Meeting on 21 to 25 November 2023) with Mr. Aongus HORGAN (Ireland) in the Chair. In accordance with its Rules of Procedure, the Governmental Committee, at its autumn meeting, elected the Chair and the Bureau for a two-year term (until 31 December 2024). The composition of the Bureau was established as Mr. Aongus HORGAN (Ireland) Chair, Ms. Julie GOMIS (France), Ms. Yvette KALDEN (Netherlands), Ms Velga LAZDINA-ZAKA (Latvia), and Mr. Ylber ZEJNULLAHU (Belgium).

The conclusions for the Governmental Committee’s examination in 2023 were:

- ▶ the right to just conditions of work (Article 2),
- ▶ the right to a fair remuneration (Article 4),
- ▶ the right to organise (Articles 5),
- ▶ the right to bargain collectively (Article 6),
- ▶ the right to information and consultation (Article 21),
- ▶ the right to take part in the determination and improvement of the working conditions and working environment (Article 22),
- ▶ the right to dignity at work (Article 26),
- ▶ the right of workers’ representatives to protection in the undertaking and facilities to be accorded to them (Article 28).

As a result of the 2023 examination, the Governmental Committee proposed 35 individual recommendations and 5 grouped recommendations to the Committee of Ministers. The 35 individual recommendations concerned Articles 2§1, 2§2, 2§4, 2§5, 2§7, 4§1, 4§2, 5, 6§2 and 6§3.

<b>ARTICLE 2§1</b>
RESC 2§1 FRANCE
RESC 2§1 MALTA
ESC 2§1 POLAND
RESC 2§1 SPAIN
RESC 2§1 TURKIYE
<b>ARTICLE 2§2</b>
RESC 2§2 GEORGIA
RESC 2§2 MOLDOVA
ESC 2§2 UNITED KINGDOM
<b>ARTICLE 2§4</b>
ESC 2§4 LUXEMBOURG
ESC 2§4 UNITED KINGDOM
ARTICLE 2§5
RESC 2§5 GREECE
ESC 2§5 UNITED KINGDOM
<b>ARTICLE 2§7</b>
RESC 2§7 GEORGIA
RESC 2§7 BOSNIA AND HERZEGOVINA
<b>ARTICLE 4§1</b>
RESC 4§1 ALBANIA
RESC 4§1 AUSTRIA
RESC 4§1 AZERBAIJAN

RESC 4§1 FRANCE
RESC 4§1 GREECE
RESC 4§1 IRELAND
RESC 4§1 ITALY
RESC 4§1 LITHUANIA
ESC 4§1 LUXEMBOURG
RESC 4§1 MALTA
RESC 4§1 ROMANIA
RESC 4§1 SERBIA
RESC 4§1 SPAIN
ESC 4§1 UNITED KINGDOM
<b>ARTICLE 4§2</b>
ESC 4§2 POLAND
RESC 4§2 SPAIN
ESC 4§2 UNITED KINGDOM
<b>ARTICLE 5</b>
RESC 5 ALBANIA
RESC 5 ARMENIA
ESC 5 UNITED KINGDOM
<b>ARTICLE 6§2</b>
RESC 6§2 GEORGIA
<b>ARTICLE 6§3</b>
RESC 6§3 BULGARIA
RESC 6§3 MALTA
<b>ARTICLE 5 AND 6§2</b>
ESC 5 AND 6§2 DENMARK
<b>ARTICLE 4§4</b>
RESC/ESC 4§4 ANDORRA AZERBAIJAN BULGARIA GEORGIA GREECE IRELAND ITALY LATVIA MALTA MOLDOVA POLAND PORTUGAL ROMANIA SLOVAK REPUBLIC SERBIA SPAIN TURKIYE UNITED KINGDOM
<b>ARTICLE 6§2</b>
RESC 6§2 ALBANIA ARMENIA AZERBAIJAN BOSNIA AND HERZEGOVINA BULGARIA ESTONIA GEORGIA HUNGARY LITHUANIA NETHERLANDS CURACAO ROMANIA

Three grouped recommendations concerned Article 4§4; one grouped recommendation concerned Article 6§2; one grouped recommendation concerned the cases where the ECSR could not establish whether the national situation was in conformity with the Charter regarding Article 2§2 (**for France, Greece, Moldova and Serbia**), Article 2§4 (for Bosnia and Herzegovina, Moldova and Spain), Article 2§5 (for Bosnia and Herzegovina), Article 2§7 (for Albania, Georgia and Ireland), Article 4§1 (for Italy, Malta and France), Article 4§2 (for North Macedonia), Article 4§3 (for Andorra, Luxembourg, Malta, Montenegro, North Macedonia, Romania, Serbia and Türkiye), Article 4§5 (for Malta, Moldova and Montenegro), Article 6§1 (for Albania and Armenia), Article 6§2 (for Albania, Bosnia and Herzegovina, Malta and the Netherlands with respect to Curacao), Article 21 (for Albania and Serbia), Article 22 (for Hungary, Serbia and Türkiye), Article 26§1 (for Malta, Montenegro, Lithuania, Serbia and Türkiye) and Article 26§2 (for Malta, Lithuania, Slovak Republic and Serbia).

Moreover, the Governmental Committee proposed one additional recommendation concerning the failure to report addressed to Iceland, which had not submitted its reports to the ECSR in 2021.

As regards the conclusions examined, the Governmental Committee took note of important positive developments in several States Parties and asked Governments to continue their efforts with a view to ensuring compliance with the European Social Charter.

# Procedure on non-accepted provisions

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## Introduction

The European Social Charter is based on a ratification system enabling 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 European Social Charter (Article 20 of the 1961 Charter).

It is in the spirit of the Charter for States to progressively increase their commitments, tending towards acceptance of most - if not all - of the provisions of the Charter, as opposed to an *à la carte* stagnancy.<sup>27</sup> Thus, the same Article A of the European Social Charter (Article 20 of the 1961 Charter) allows States, at any time subsequent to ratification of the treaty, to notify the Secretary General of their acceptance of additional articles or paragraphs.<sup>28</sup>

This principle of progressive acceptance is reflected in Article 22 of the 1961 Charter. It provides that the States Parties, at such intervals as the Committee of Ministers may require, submit to the Secretary General reports on the provisions of Part II of the Charter which they have not accepted at the time of their ratification or approval, or in any subsequent notification. The Committee of Ministers shall determine, from time to time, the provisions on which such reports shall be requested and the form in which they shall be submitted.

In the early years of the Charter, this procedure took the form of a traditional reporting exercise, with States submitting reports describing the situation in law and in practice with respect to the provisions concerned. The Committee of Ministers launched these “exercises” on eight occasions between 1981 and 2002.

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27. 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.

28. See Appendix 7: Number of accepted provisions by year since 1962



In December 2002, the Committee of Ministers decided that “States having ratified the Revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification” and “invited the ECSR to arrange the practical presentation and examination of reports with the States concerned” ([Committee of Ministers Decision of 11 December 2002](#))<sup>29</sup>. Following this decision, since 2003, the ECSR examined – either in meetings or as part of a written procedure – the situation in law and in practice in the States concerned from the standpoint of the situation’s compatibility with the non-accepted provisions of the Charter. The exercise aimed at encouraging States to accept new provisions.

Noting that the exercise had not yielded the expected results, the Committee of Ministers adopted a [decision on 11 December 2019](#)<sup>30</sup>, inviting “the ECSR to make full use of the opportunities for dialogue offered by Article 22 (non-accepted provisions) of the European Social Charter of 1961 (ETS No. 35), 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”.

In July 2022, the ECSR invited the Secretariat to henceforth make public on the Charter’s website the State reports on non-accepted provisions, in addition to the ECSR’s own reports which were already being published on the website. Furthermore, in September 2022, the ECSR adopted a decision to henceforth implement the procedure on non-accepted provisions to all States Parties to either Charter, in a reinforced manner, with a view to strengthening the impact of the European Social Charter. The procedure includes the mandatory submission of written information by States Parties in accordance with a pre-established calendar, and 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 are given the possibility to provide their comments in the three months following receipt of the State report.

Detailed tables of the accepted provisions of the European Social Charter can be found in Appendix 7.<sup>31</sup>

## States Parties concerned in 2023

In 2023, the procedure on non-accepted provisions concerned seven States, three States bound by the revised Charter – Bosnia and Herzegovina, Latvia and Sweden, and four States bound by the 1961 Charter: Croatia, the Czechia, Denmark and Iceland. In January 2023, the ECSR invited these States to submit written information and instructed the Secretariat to explore the possibility of having additional bilateral meetings with the authorities in Bosnia and Herzegovina, Denmark, Iceland, and

29. See CM/Del/Dec(2002)821/4.1 at [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016804d2532](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016804d2532)

30. See CM/Del/Dec(2019)1363/4.1c at [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=0900001680993bba](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680993bba)

31. See Appendix 8: Table of accepted provisions of the Revised European Social Charter (1996) and provisions of the 1961 European Social Charter and of the Additional Protocol of 1988

Latvia. In respect of the 2022 exercise, Albania and North Macedonia succeeded in submitting written information on non-accepted provisions in March and January 2023 respectively.

Czechia, Denmark and Latvia submitted written information on the situation in law and practice in their respective countries.

Bosnia and Herzegovina and Sweden notified the ECSR that they were not at this point in time in a position to accept additional commitments in relation to the previous reference period.

Croatia notified the ECSR that a preparatory process towards the ratification of the revised Charter had been put in motion.

Iceland informed the ECSR that it would be impossible to submit written information on the non-accepted provisions due to the workload allocated to domestic reforms. It, nevertheless, expressed its readiness for further dialogue with the ECSR.

In 2023, the ECSR adopted the monitoring reports on the non-accepted provisions in respect of Albania, North Macedonia and Latvia and conducted meetings on non-accepted provisions in Latvia and Denmark.

## Albania

Albania ratified the Revised Charter on 14 November 2002 and accepted 64 out of 98 paragraphs. It has currently not accepted the following 34 numbered articles and paragraphs: Article 9; Article 10§§1-5; Article 12§§1-4; Article 13§§1-4; Article 14§§1-2; Article 15§§1-3; Article 16; Article 17§§1 and 2; Article 18§§1-4; Article 23; Article 27§§1-3; Article 30 and Article 31§§1-3. Albania has not yet accepted the collective complaints procedure.

The procedure on non-accepted provisions provided for by Article 22 of the 1961 Charter was applied four times. In 2007, 2012 and 2018, the procedure was carried out in the context of meetings between the ECSR and representatives of different Albanian authorities. In 2022, conducted the procedure by inviting the Government to provide written information.

After examining the written information provided by the Government of Albania, in 2023, the ECSR encouraged Albania to consider acceptance of Article 9, Article 10§§1-5, Article 12§§2 and 3, Article 13§§2-4, Article 14§§1 -2, Article 17§§1-2, Article 18§§1-4, Article 23, Article 27§§1-3, Article 31§§1-3

The ECSR invited Albania to consider accepting additional provisions of the Revised Charter as soon as possible so as to consolidate the role of the Charter in guaranteeing and promoting social rights. Furthermore, the ECSR invited Albania to consider accepting the collective complaints procedure.

The next examination of the provisions not yet accepted by Albania will take place in 2027.

The ECSR's report can be consulted at: [Albania and the European Social Charter - Social Rights \(coe.int\)](#)

## North Macedonia

North Macedonia ratified the Revised Charter on 6 January 2012, accepting 63 out of 98 paragraphs. It has currently not accepted the following 35 provisions: Article 3§§1 and 3, Article 4§§1 and 4, Article 7§5, Article 9, Article 10§§1-5, Article 14§§1-2, Article 15§3, Article 18§§1-4, Article 19§§2-4,7, and 9-12, Article 22, Article 23, Article 25, Article 27§§1-2, Article 30, and Article 31§§1-3. The procedure on non-accepted provisions provided for by Article 22 of the 1961 Charter was applied twice, in 2017 and in 2022. North Macedonia has not yet accepted the collective complaints procedure.

In 2017, the procedure on the non-accepted provisions was applied in the context of a meeting between the ECSR and representatives of different domestic authorities. In 2022, the ECSR invited the Government to submit written information.

After examining the written information provided by the Government of North Macedonia in 2023, the ECSR concluded that there do not appear to be obstacles to the acceptance by North Macedonia of Article 3§1, Article 9, Article 10§1, Article 10§3, Article 14§1, Article 18§1, Article 18§2, Article 18§4, Article 19§7, Article 19§9, Article 19§10, and Article 22. The ECSR invited North Macedonia to consider accepting additional provisions of the Revised Charter as soon as possible so as to consolidate the role of the Charter in guaranteeing and promoting social rights. In addition, the ECSR invited North Macedonia to consider accepting the collective complaints procedure.

The next examination of the provisions not accepted by North Macedonia will take place in 2027.

The ECSR's report can be consulted at: [North Macedonia and the European Social Charter - Social Rights \(coe.int\)](#)

## Latvia

Latvia ratified the revised Charter on 26 March 2013, accepting 88 out of 98 paragraphs. It has currently not accepted the following 10 provisions: Article 4§1, Article 12§§ 3 and 4, Article 18§§ 2 and 3, Article 19§§ 2 and 3, Article 23, and Article 31§§ 2 and 3. Latvia has not yet accepted the collective complaints procedure.

In 2018, the procedure on the non-accepted provisions was applied in the context of a meeting between the ECSR and representatives of various domestic authorities. In 2023, the ECSR invited the Government to submit written information and in addition, had a meeting with the authorities and social partners.

After examining the written information provided by Latvia and the results of the subsequent meetings with the authorities and social partners in Riga on 21-22 September 2023, and considering the comments provided by the Free Trade Union Confederation of Latvia, the ECSR was of the view that a favourable evaluation could be given with respect to a possible immediate acceptance of the following provisions: Article 12§§3 and 4, Article 18§§2 and 3, Article 19§§2 and 3 and there are no major obstacles to the acceptance of Article 23 and Article 4§1, which can be accepted in 2024.

The ECSR also invited Latvia to consider accepting the collective complaints procedure, underlining that the collective complaints procedure is a good governance tool intimately linked to core democratic values and to the rule of law.

The ECSR invited Latvia 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.

The next examination of the provisions not yet accepted by Latvia will take place in 2028.

The ECSR's report can be consulted at: [Latvia and the European Social Charter - Social Rights \(coe.int\)](#)



# Strengthening the European Social Charter treaty system

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The protection of social rights in Europe is firmly rooted in the “social progress” objective of the Council of Europe’s Statute. The protection of social rights, as guaranteed by the European Social Charter, was given new impetus by the [Turin Process](#) launched in 2014, which in turn paved the way for the reforms adopted by the Committee of Ministers on 27 September 2022 ([CM\(2022\)114-final](#)). The overall aim is to modernise and strengthen the European Social Charter system, and while the changes primarily concern the ordinary reporting procedure, the reform also introduces the possibility of ad hoc reports on transversal issues and changes to the follow-up procedure to ECSR decisions on collective complaints.

In March 2023, on the basis of a [report](#) by the Committee of Ministers Ad Hoc Working Party on the European Social Charter system (GT-CHARTE), the Committee of Ministers adopted further [decisions](#) on the longer-term substantive and procedural issues aimed at improving the implementation of existing rights and promoting acceptance by States Parties of further commitments under the Charter and of the collective complaints procedure. The Committee of Ministers also indicated that new or evolving situations could be accommodated by existing Charter provisions through the development of the ECSR’s case law or the adoption of new soft-law instruments where necessary.

The message about the importance of the Council of Europe’s work in the area of social rights was further reinforced by the Heads of State and Government of the Council of Europe in the Organisation’s [Fourth Summit](#). In their May 2023 [Reykjavik Declaration](#), they stated that “Social justice is crucial for democratic stability and security and in this regard [reaffirmed their] full commitment to the protection and implementation of social rights as guaranteed by the European Social Charter system.” This statement is a tribute to the importance of the [European Social Charter](#) in the Council of Europe’s human rights architecture, alongside the European Convention on Human Rights. With its legally binding provisions and its monitoring procedures – the reporting procedure and the collective complaints procedure – the Charter is widely regarded as the social constitution for Europe and as the benchmark for social rights protection across the continent.

They also proposed “the organisation of a high-level conference on the European Social Charter, as a step to take further commitments under the Charter where possible.” The Lithuanian authorities have generously accepted to host the [high-level conference](#) on the Social Charter referred to in the Reykjavik Declaration on 3-4 July 2024, in the context of their presidency of the Committee of Ministers (May–November 2024). This conference will be an occasion to review the longer-term substantive and procedural issues referred to by GT-CHARTE.

The year 2023 was therefore pivotal for the Charter system with the [reforms](#) adopted by the Committee of Ministers in September 2022 being rolled out. The ECSR and the Governmental Committee of the European Social Charter and the European Code of Social Security decided to request an ad hoc report from all States Parties to the Charter. The topic chosen was the cost-of-living crisis with inflation reaching levels not seen in the last four decades in many countries and with its effects hitting the most vulnerable, low-income households in our societies disproportionately. The national reports were due by 31 December 2023 and will be examined in 2024.

As per Article 22 of [the 1961 Charter](#), the Committee of Ministers can ask States to send reports at appropriate intervals relating to provisions of the Charter which they did not accept at the time of their ratification or approval, or in a subsequent notification. The implementation of this provision became effective after a [2002 decision of the Committee of Ministers](#), following which States having ratified the Revised European Social Charter must report on the non-accepted provisions every five years after the date of ratification.

In September 2022, the ECSR adopted a [decision](#) to henceforth implement the procedure on non-accepted provisions in a reinforced manner, for all States Parties to either version of the Charter (the 1961 version or the 1996 version).

# Relations with Council of Europe bodies

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## Secretary General and Deputy Secretary General of the Council of Europe

In its [Annual report for 2023](#), the Secretary General of the Council of Europe, expressed her support for the European Social Charter, which remains, with its legally binding provisions, an irreplaceable benchmark for the Continent.

She underlined that, in times of crisis, the commitment made by States to uphold the human rights enshrined in the European Social Charter takes on a particular significance and that the ECSR provides additional valuable insight for States to pursue compliance with social rights exigencies not only in legislation but also in practice. The objective should be that people all over Europe are guaranteed decent living standards that preserve their human dignity.

Against a backdrop of growing social unrest, States are striving to attenuate the impact of the cost-of living emergency. However, its magnitude is placing many people on a slippery slope towards poverty and social exclusion. Unlike the ruthless austerity measures deployed in response to the previous economic crisis but drawing instead inspiration from the social rights-sensitive responses to the pandemic, the social safety net based on Charter standards must be firmly supported to protect those in need.

On the occasion of the [25th anniversary of the entry into force](#) of the [Additional Protocol to the European Social Charter \(ETS No. 158\)](#) the [Deputy Secretary General](#), Bjørn Berge, underlined that social rights are the very foundation of a decent society and human dignity. “A collective complaints procedure was designed to give greater effect to social rights on our continent. And that mechanism has delivered: corporal punishment of children has been banned explicitly in several countries, homophobic statements have been removed from school curricula and equal opportunities, not least equal pay between men and women, have been advanced. And experience shows that trade unions and civil society organisations lodge complaints only after serious consideration – exactly as intended”.

## Committee of Ministers <sup>32</sup>

On 18 October 2023, the President of the ECSR, Aoife Nolan, held an [exchange of views with the Committee of Ministers’ Deputies](#) in Strasbourg and gave an overview of the ECSR’s work in 2022 and 2023.

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32. See also above as the work of GT-CHARTÉ



The President of the ECSR underlined the very important impact of the adoption by the Committee of Ministers of the [reform package of the Charter system](#) in September 2022, updated the Ministers' Deputies on the implementation of the reporting system based on the decisions of the Committee of Ministers. She recalled that the main objective of the reform was to make the reporting process more efficient and targeted, to strengthen the role of the Charter's monitoring bodies and to enhance the dialogue among stakeholders.

Ms Nolan also highlighted the current challenges in the field of social rights and the work in progress on the main challenges facing Europe.

The Committee of Ministers adopted, on 6 September 2023 at the 1473rd meeting of the Ministers' Deputies, [21 resolutions on the application of the European Code of Social Security](#) by 21 Contracting Parties to the Code. The resolutions cover the period from 1 July 2021 to 30 June 2022 and are prepared on the basis of the conclusions of the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) following the annual reports submitted by Contracting Parties in line with Article 74 (on accepted parts of the Code).

## Parliamentary Assembly of the Council of Europe

In 2023, the Parliamentary Assembly of the Council of Europe (the "Assembly") adopted the following Recommendations of particular relevance to the European Social Charter (the "Charter").

On 26 April 2023, the Assembly adopted **Recommendation 2251 (2023) "Political strategies to prevent, prepare for, and face the consequences of natural disasters"**. The Assembly noted that natural disasters have a broad impact on most human rights, such as the rights to life and physical integrity, rights related to basic necessities of life, security of property, economic, social, and cultural rights, and civil and political rights. It further referred to its Recommendation 2211 (2021) "Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe", where the Assembly called on Europe to protect the right to a "safe, clean, healthy and sustainable environment". In view of the 4th Summit of the Council of Europe in Reykjavík (Iceland), the Assembly firmly reiterated its previous call and asked the Committee of Ministers to draw up additional protocols to the European Convention on Human Rights and to the European Social Charter on the right to a safe, clean, healthy, and sustainable environment.

In its comments addressed to the Committee of Ministers, the ECSR welcomed and supported the Assembly's recommendation that the Committee of Ministers draw up an additional protocol to the European Social Charter on the right to a safe, clean, healthy and sustainable environment. The ECSR considered that the express inclusion of this right in the Charter would constitute a necessary step forward in order to strengthen the protection of the environment, on the one hand, and the protection of social rights, on the other hand, which are closely interlinked. It would underline the clear responsibility of States Parties to the Charter with regard to the right to a safe, clean, healthy and sustainable environment that is compatible with

life in dignity and the full enjoyment of other human rights, including social and economic rights for present and future generations.

The ECSR pointed out that the Charter's system, consisting in two monitoring procedures reporting and collective complaints, is well equipped to monitor State compliance with obligations relating to systemic issues such as those related to the environment and the consequences of natural disasters. In this respect, the ECSR emphasised in particular that the express inclusion of the right to a safe, clean, healthy and sustainable environment in the ESC would enhance the ability of international NGOs and - in some circumstances - national NGOs, as well as international and national trade unions and employers' organisations to lodge complaints on environmental issues, without the requirement for exhaustion of domestic remedies and without the complainant organisation necessarily being a victim of the alleged violation.

On 21 June 2023, the Assembly adopted **Recommendation 2255 (2023) "Health and social protection of undocumented workers or those in an irregular situation"**, where it underlined the responsibility of member States to prevent human rights violations against undocumented workers. The Assembly expressed support for the ongoing national efforts and institutional mobilisation to strengthen socio-economic rights for all across Europe, notably through the work of the Committee of Ministers Ad hoc Working Party on improving the European Social Charter system (GT-CHARTE), the Rapporteur Group on Social and Health Questions (GR-SOC) and the ECSR. In this context, the Assembly stressed the need to remove the restriction of the personal scope of application of the European Social Charter (that is, the exclusion of persons from countries that have not ratified it, and of those not lawfully resident or working regularly on the territory of the Party concerned) and suggested adding new provisions to the Charter on enhanced protection of workers in non-standard forms of employment. It called on the Committee of Ministers to insist that all member States sign, ratify and fully implement as many provisions of the European Social Charter and its protocols as possible, and expand the reach of existing rights under the Charter to all persons *de facto* living under their jurisdiction.

In its comments addressed to the Committee of Ministers, the ECSR welcomed and supported the Assembly's call on the need to remove the restriction on the personal scope of application of the Charter and expand the reach of existing rights under the Charter to all persons *de facto* living within the jurisdiction of the States Parties.

The ECSR stressed that the limitation on the personal scope of the Charter set out in the Appendix is incompatible with the nature of the Charter as a human rights treaty and with the spirit of the Charter, which is one of social equality, dignity, solidarity and non-discrimination. Excluding from protection those who are most vulnerable is not consistent with international human rights law. The ECSR recalled that under international human rights instruments ratified by all the member States of the Council of Europe, such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, differences of treatment on grounds of nationality or on residency status are a form of prohibited discrimination unless they are based on legitimate objectives and are not disproportionate. Moreover, the exclusion from the personal scope of application of nationals from non-States Parties cannot be found in other international

and regional instruments aimed at protecting human rights such as the European Convention of Human Rights, the International Covenant on Social, Economic and Cultural Rights, the American Convention of Human Rights.

The ECSR also noted that the High-Level Group of Experts on Social Rights (“SGAs”) recommended that if the Charter were to be amended in the future, the SGAs would favour aligning the definition of the scope of application *ratione personae* with the nature of the Charter as a human rights instrument, and with the current state of international human rights law. In the same vein, in her proposals, the Secretary General recommended that it would be appropriate for the Council of Europe to initiate and facilitate a discussion on the question of social and economic rights that should apply to everyone.

The ECSR expressed readiness to collaborate with States and all stakeholders concerned with a view to bringing the Charter in line with the current state of international human rights law in this important respect.

## European Court of Human Rights

The ECSR often refers to the case-law of the European Court of Human Rights, both in the context of the reporting procedure and its decisions concerning collective complaints.

Similarly, in 2023 the European Court of Human Rights referred to the ECSR and the European Social Charter in a number of cases, including:

- ▶ *Case of Hoppen and trade union of AB Amber Grid employees v. Lithuania*, No. 976/20, judgment of 17 January 2023;
- ▶ *Case of Jírová and Others v. Czechia*, No. 66015/17, judgment of 13 April 2023;
- ▶ *Case of X. and Others v. Ireland*, Nos. 23851/20 and 24360/20, judgment of 22 June 2023;
- ▶ *Case of B.F. and Others v. Switzerland*, Nos. 13258/18 and 3 others, judgment of 4 July 2023
- ▶ *Case of Humpert and Others v. Germany*, Nos. 59433/18, 59477/18, 59481/18 and 59494/18, judgment of 14 December 2023

## Commissioner for Human Rights

The protection of social rights was one of the Commissioner’s priorities in 2023<sup>33</sup>, both in her country and in her thematic work, as the cost-of-living crisis in Europe continued, with more and more families affected by rising food and housing costs in particular. In the Czechia, the Commissioner underlined the right of all children to inclusive and quality education; in Italy, she stressed the need to address shortcomings in sexual and reproductive health and rights for girls; and, in Germany, she expressed concern about the long-term impact of poverty, homelessness and social exclusion on wider access to rights, including health, quality education, the

33. See the [Annual report for 2023 of the Commissioner for Human Rights](#), Dunja Mijatovic

right to privacy, civil rights and political participation (see “Country work - reports and ongoing dialogue”).

On 6 July 2023, the Commissioner attended the opening of a seminar organised by the Secretariat of the European Social Charter to mark the 25th anniversary of the collective complaints procedure. The Commissioner stressed that despite the strong commitment to uphold social rights expressed by political leaders at the highest level, including at the 4th Council of Europe Summit in Reykjavik, many people in Europe still live in poverty and without access to basic services. She called on Member States to honour their commitments to social rights not only in words but also in deeds and to embrace the collective complaints procedure as a unique and innovative tool in the human rights protection system, facilitating rapid action where needed and empowering the social partners, who were the first to identify emerging social rights problems in Member States. It also addressed social rights in a systemic way, which was the only way to address them in a meaningful way.

### Conference of INGOs

The Conference of INGOs of the Council of Europe anticipated the celebration of International Day for the Eradication of Poverty, which takes place each year on 17 October, with a thematic [programme](#) in Strasbourg, on 10 October 2023.

In collaboration with the Permanent Representation of Ireland to the Council of Europe and Ambassador Caitríona Doyle, an information board was uncovered in front of the Palais de l'Europe with the message in English of the Human Rights Stone against Poverty.

In his speech, Christos Giakoumopoulos, Director General of Human Rights and Rule of Law, underlined that *“There can be no human dignity without equality, and there can be no real equality without solidarity, mutual respect between all human beings and the recognition of social and economic human rights. Human dignity is the basis, the very source and the ultimate goal of all human rights, including those enshrined in the European Social Charter.”*



# Relations with other international organisations

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## European Union

On the occasion of the International Human Rights Day, the Council of Europe and the Social Platform organised a [round table discussion](#) in Brussels to promote a better understanding of the key role played by the European Social Charter in safeguarding and advancing social rights.

This roundtable event explored various aspects of the [Conclusions on EU Priorities for Co-operation with the Council of Europe 2023-2024](#), which specifically highlight the fundamental role of the European Social Charter in respecting, protecting and fulfilling social rights as human rights.

Among other speakers, Christophe Poirel, Director of Human Rights at the Council of Europe, Aoife Nolan, President of the ECSR, Laura De Bonfils, Secretary General of the Social Platform, Eamon Gilmore, EU Special Representative for Human Rights, and Olivier de Schutter, UN Special Rapporteur on extreme poverty and human rights opened the event.

The event also brought together representatives of governments, civil society and the social partners, as well as representatives of the Council of Europe, the Social Platform, the European Commission, the European Trade Union Confederation, and others.

The round table aimed to contribute to strengthening the dialogue on the key role of social rights, as enshrined in the European Social Charter, in the fight against poverty and social exclusion and in the promotion of a society based on the principles of social justice, equal opportunities and fair working and living conditions.

## Academic Network on the European Social Charter and social rights (ANESC)

During the academic year 2022-2023, and at the initiative of its Italian section, the [Academic Network on the European Social Charter and Social Rights \(ANESC\)](#) organised the second edition of a “Moot Court” related to the [European Social Charter](#). This bilingual (French-English) competition is based on a fictitious collective complaint and includes a written phase and an oral phase (a simulated « hearing » before the [European Committee of Social Rights](#)).

The oral phase took place on **31 March 2022**, at the **University of Ferrara (Italy)**. The “hearings” took place before the European Committee of Social Rights represented by the jury composed as follows: Diana Balanescu (Council of Europe, Social Rights Department), Jarna Petman (University of Helsinki, former member of the European Committee of Social Rights), Giuseppe Palmisano (University of Roma Tre, former President and General Rapporteur of the European Committee of Social Rights), François Vandamme (former member of the European Committee of Social Rights), Lorenza Mola (University of Turin).

The jury unanimously underlined the high level of the pleadings and at the end it was the University of **Jean Moulin Lyon 3** won the competition. Its team members were: Yaran Yildirim-Nepfe, Romane Poncet, Louise Le Berre, Nina Nogier, Auriane Bejuit. Vrije Universiteit Brussels won the prize for the best written submissions. The prizes for the best litigators were awarded to Nina Nogier (Université Jean Moulin Lyon 3) and Alessandro Casanova (University of Ferrara).

The Department of Social Rights of the Council of Europe, together with the Academic Network on the European Social Charter and Social Rights (ANESC), organised an **event** dedicated to the launch of the 1st and 2nd volumes of the “**The European Social Charter: A Commentary**”, followed by a **panel discussion on the cost-of-living crisis**. The event was held in Strasbourg, on **19 October 2023**.

Cristina Samboan, General Coordinator of Academic Network on the European Social Charter and Social Rights (ANESC), as well as distinguished lecturers and professors from different European universities presented the 2 volumes of the book.

In the panel discussion, among other speakers, the President of the **European Committee of Social Rights**, Aoife Nolan, intervened on the current cost-of-living crisis and social rights.

## United Nations

The ECSR held **an exchange of views** with Gerard QUINN, UN **Special Rapporteur on the rights of persons with disabilities**, during its Plenary session of September 2023

The exchange focused on his work as a UN Special Rapporteur and the ECSR’s own work on the rights of persons with disabilities, for example as reflected in the recent decision in *European Disability Forum (EDF) and Inclusion Europe v. France*, Complaint No. 168/2018.

A **Factsheet on Persons with Disabilities** was also launched and published on this occasion.

## COE-FRA-ENNHRI-EQUINET Collaborative Platform on social and economic rights

The **COE-FRA-ENNHRI-EQUINET Collaborative Platform on Social and Economic Rights**<sup>34</sup> held its 13th meeting on 28 September 2023 in Helsinki (Finland). The meeting focused on social rights in the age of digitalisation, taking stock of the risks of misuse of Artificial Intelligence (AI) and its potential negative impact on social rights. Particular attention was paid to the impact of new technologies on the labour market, on access to social services and on how to ensure a digitally inclusive society.

Digitalisation has a particular **impact on the labour market**, which has been undergoing significant transformations in recent years. The development of digital platforms and the increased prevalence of atypical forms of work are among the most

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34. COE-FRA-ENNHRI-EQUINET Collaborative Platform on Social and Economic Rights: <https://www.coe.int/en/web/european-social-charter/coe-fra-ennhri-equinet>

striking examples of digital transformation in the field of labour. They have brought new opportunities and more flexibility, but also new challenges for the realisation of workers' labour rights as guaranteed by the European Social Charter and other international human rights instruments. New atypical forms of employment can undoubtedly have negative consequences on people's life such as losing social protection, limited unemployment or pension insurance due to an insufficient amount of contributions, etc.

Participants heard about the relevant case law and the ECSR's statements of interpretation relating to digitalisation and its impact on social rights, about the role of trade unions in addressing current and future risks relating to employment relationships, work organisation and workers' rights affected by AI. The risk of dehumanisation of work, lack of accountability on the part of the employer and challenges related to bias due to the use of AI in decision-making were also highlighted.

The representative of the ECSR underlined the role of the European Social Charter as a "shield" against the possible negative effects of new technologies on human rights. For example, Article 10 of the Charter provides for the right to vocational training of adult workers necessary in the event of technological development or new trends in employment. Article 7, guarantees, among other things, the right of children to protection against all forms of exploitation and against the misuse of information technologies. The ECSR reminded participants in its statement of interpretation on Article 12§3 (The right to social security) that social security coverage must be provided for persons employed or whose work is managed through digital platforms. The ECSR also tackled the issue of online harassment related to work, recalling that the Charter applies to harassment in all places and circumstances related to work (Article 26). Moreover, one of the primary objectives of Article 23 of the Social Charter is to enable elderly persons to remain full members of society for as long as possible and to suffer no discrimination on the basis of age in all areas of life outside employment.

The representative of the ETUI stressed the trade unions' role in developing policy-level responses to mitigate the adverse effects and referred to the need to conduct impact assessments before using AI systems at the workplace. It was extremely interesting to hear how Spain regulated platform work and included in the legislation a "reinforced" presumption of a labour contract for platform workers.

Several speakers underlined the adverse impact of digital transformation on different groups, including domestic workers, persons employed in the gig economy, and migrant workers.

The Platform agreed that the impact of digitalisation on employment can have different dimensions. Job losses due to automation, lack of social protection, lack of competitiveness due to insufficient digital skills, low wages in some sectors, surveillance, are just some of the consequences of digitalisation. At the same time, job creation is triggered by the emergence of new occupational profiles adapted to the exploitation of the new technologies, as well as by increasing demand for technology-based products and services due to lower prices or new markets, client groups or areas of demand.



Governments have been rapidly digitalising public services to increase the cost-effectiveness of the public sector. However, the **digitalisation of social services** may give rise to many challenges such as reduced access to social security systems for persons who lack skills, capabilities and/or resources. In particular, people with lower socio-economic status, poor local language skills and education, older persons and persons with disabilities are at higher risk of exclusion from digital services.

The use of algorithms by administrations to improve performance in the allocation of social benefits may also raise serious questions of fairness and privacy, risking introducing or reinforcing various forms of discrimination or segregation due to bias in algorithms. The importance of protecting human rights, including social rights, remains all the more relevant at present, when they are put at risk from the use of automated decision making by public authorities in the area of social services.

Participants heard about the Dutch scandal of 2019 where the Dutch tax authority had used a self-learning algorithm to create risk profiles to spot fraud among people applying for childcare benefits. Authorities penalised families over a mere suspicion of fraud based on the system's risk indicators. Having dual nationality was a big risk indicator, as was a low income. The authorities then started claiming back benefits from families who were flagged by the system, without proof that they had committed such fraud. Tens of thousands of families were pushed to poverty because of exorbitant debts to the tax agency. Some victims committed suicide. More than a thousand children were taken into foster care due to the scandal. As governments around the world are turning to algorithms and AI to automate their systems, the Dutch scandal shows just how utterly devastating automated systems can be without the right safeguards.

Another telling example was the implementation of the Social Card Law in Serbia in March 2022. According to the Serbian government, the purpose of this law is to establish the Social Card Register that will enable a fairer distribution of social welfare benefits for the most marginalised communities and prevent fraud. According to *A 11 Initiative for Economic and Social Rights* (NGO), 17% of people within the social protection system in Serbia lost their right to social benefits after the adoption of this law. A 11 Initiative finds that this law, by allowing for the extensive data processing of social security applicants and related persons, appears to not only contradict data processing principles, but also impacts the right to social security and the right to equality and non-discrimination due to the disproportionate effect this law has on the most marginalised people in Serbian society. The Serbian Commissioner for the Protection of Equality is therefore preparing a joint action with civil society organisations to challenge the new Serbian Social Card law.

Introducing technology into human lives can also be an emerging factor of vulnerability and poses the question of how to ensure a **digitally inclusive society** with equal opportunities for all. In addition, robotisation and the increased use of artificial intelligence (AI) are substantially changing the labour market and raising fundamental rights questions such as discrimination and bias in algorithms in automated decision making.

The Covid-19 pandemic exacerbated and accelerated both dependence on and inequality of technology – 93 million additional people have been pushed into

extreme poverty, according to Amnesty International. The rise of tech-first solutions in governance, education, labour, and beyond have accelerated alongside the rise in global inequality. The tax and investment practices of the tech sector are also indirectly responsible for growing inequality worldwide. By engaging in digital transformation to improve their operations, companies and governments alike have dematerialised their processes and have made the Internet the preferred channel of contact with their targets. This has had the effect of excluding or making it difficult for all people in digitally precarious situations to access their services and platforms. On the contrary, digital inclusion should aim to dismantle existing structural social inequalities and enhance well-being for all. Digital inclusion must be equitable, so that everyone online has the same opportunities and that marginalised communities are not left behind. The human rights and equality angle can provide essential safeguards when deploying AI in the public and private space. So far, the devices cannot prevent discriminatory or disproportionate outcomes. The development of AI has enormous potential, and there could be economic gains for European countries. The downside and the risks involved need strong guardrails, specific regulations for using AI in the public and private space.

Although the European Pillar of Social Rights and the European Declaration on Digital Rights and Principles underline the principle that “no one should be left behind” as society progresses, the representative of the European Union Agency for Fundamental Rights (FRA) stressed that there is a risk that the digitalisation of public services may not be accompanied by measures and safeguards to adequately guarantee that older persons and other people in vulnerable situations enjoy fundamental rights equally. In its report “Fundamental rights of older people: ensuring access to public services in digital societies”, the FRA recommends applying a fundamental rights perspective to ageing, tackling ageism and conducting inclusive monitoring and data collection.

The role of civil society in ensuring digitally inclusive societies was highlighted. It was suggested that structural inequality in relation to technology should be seen as intersectional: inequality for populations of concern is inherently interrelated to economic inequality and growing poverty. In addition, structural racism and poverty cannot be addressed without engaging with their histories: States and governments must bring affected communities into decision-making. Moreover, civil society needs to do better at storytelling, better explain its work and demystify technology. Civil society needs to work directly with populations of concern, movement should be led by people who have experienced injustices due to digitalisation.

Against this background, civil society organisations and human rights defenders have a critical role to play in the prevention, mitigation, and oversight of the human rights impacts of digital technologies. Some of them have taken initiatives to increase their capacities to tackle human rights issues arising from the use of AI systems and to raise public awareness on the potential and risks of AI for human rights and social rights in particular.

The Department of Social Rights has been organising **annual training activities** to support national human rights institutions and equality bodies in the field of social and economic rights as guaranteed by the European Social Charter. The overall objective of these activities is to enhance the knowledge of human rights defenders about

the European Social Charter and its monitoring procedures, and to strengthen their engagement with the ECSR. Two training activities were organised in 2023: one on the reporting procedure of the Charter with a focus on the targeted questions on children, families and migrants for the 2023 reporting cycle (February 2023) and one on the reform process of the Charter's system and the consequences for National Human Rights Institutions and Equality bodies (December 2023). The training activities gathered representatives of the ECSR and the Secretariat of the Department of Social Rights, as well as national human rights institutions and equality bodies.

In 2023, the Department of Social Rights granted financial support to two institutions to implement a project in the framework of the **call for proposals open to national human rights institutions and national equality bodies**<sup>35</sup> in the field of social and economic rights. The call was launched on 3 February 2023.

These institutions were:

- ▶ The **National Commission for the Promotion of Equality** (NCPE) of Malta for the implementation of the project "Capacity Building for the staff of the National Commission for the Promotion of Equality (with a focus on Article E of the European Social Charter)"

The objectives of the project were to increase the knowledge of the NCPE on the European Social Charter and its reporting procedure; to improve the use of the Charter as a tool in the research carried out by the NCPE and in its recommendations to policy-makers and legislators; to produce a report documenting the knowledge and findings of the project; to raise awareness of the European Social Charter, equality and non-discrimination among the general public and specific target groups. The following activities were carried out under the project: two capacity-building sessions for NCPE staff, a session report, digital content promoting the European Social Charter. The implementation period was from 17 April to 30 November 2023.

- ▶ The **Protector of Citizens of Serbia** (Ombudsman) for the implementation of the project "Collaboration in monitoring and advancing economic and social rights"

The aim of the project was to strengthen the potential of the Serbian Ombudsman to cooperate with institutions and organisations at local and national level for the continuous monitoring of economic and social rights as laid down in the European Social Charter. The project focused on further promoting the findings of the Ombudsman's Special Report on the availability of social and health services for elderly women living in rural areas, which was prepared in the context of the project "Strengthening the capacities of the Ombudsman for the promotion and protection of socio-economic rights", implemented with the financial support of the Council of Europe. Several activities were carried out within the project, such as a meeting with the Social Protection Network of the Standing Conference of Towns and Municipalities (SCTM), a round table at the National Assembly and four round tables with civil society organisations to consolidate their capacities to monitor the implementation of the European Social Charter at national level. The implementation period ran from 10 June to 10 December 2023.

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35. [Call for proposals 2023 for national human rights institutions and equality bodies in the field of social and economic rights](#)

## Other important activities and events in 2023

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**T**he ECSR held an **exchange of views with the European Committee on Social Cohesion (CCS), in March 2023**, which focused on cooperation between the CCS and the ECSR in order to promote the enjoyment of Charter rights as interpreted by the ECSR in the context of a changing social, political and financial environment.

More particularly, in light of the ECSR's monitoring and the CCS's recent report on the impact of digitalisation and IT developments on social rights and social cohesion, the two committees explored the challenges of digitalisation and its impact on platform workers and "atypical workers" identified in both ECSR monitoring and CCS work, as well as the effect of the transition of jobs.

On **6 July 2023**, on the occasion of the 25th anniversary of the entry into force of the [Additional Protocol to the European Social Charter Providing for a System of Collective Complaints \(ETS No. 158\)](#) in 1998, the Department of Social Rights of the Council of Europe organised an [event](#) to discuss effective social rights protection in the European space.

The aim of this event was to raise awareness, understanding and knowledge about the functioning and the importance of the collective complaints procedure as a good governance tool. It also provided space for a diverse range of leading stakeholders (governments, social partners, civil society, academia, other national and international bodies) to share their experience, challenges and good practices in using the collective complaints procedure to signal situations of possible non-implementation of the Charter in the countries concerned.

This event represented an unreserved call on the Council of Europe member States that have not yet accepted it, to follow the example of the 16 countries that have done so. Such acceptance will contribute to a more coherent legal space for the implementation of social rights in Europe.

On **11 September 2023**, the Department of Social Rights organised an event with representatives from Permanent Representations of Council of Europe member States in Strasbourg. This thematic presentation reflected all sides of the strategic triangle of the Council of Europe - standard-setting, monitoring and cooperation, and focused on the work in the context of the implementation of Committee of Ministers' decisions on the reform of the Social Charter system.

The event offered an opportunity to better understand the complexity, the workload and the needs of the Charter system, to exchange views and ask questions, and discuss possible ways of reinforcing the respect for social rights in the Council of Europe space.

On the occasion of International Human Rights Day, the Council of Europe and the Social Platform organised a [round table discussion](#), on **14 December 2023**, in Brussels to promote a better understanding of the key role played by the European Social Charter in safeguarding and advancing social rights.

This round table event explored various aspects of the [Conclusions on EU Priorities for Co-operation with the Council of Europe 2023-2024](#), which specifically highlight the fundamental role of the European Social Charter in respecting, protecting and fulfilling social rights as human rights.

The round table aimed to contribute to strengthening dialogue on the key role of social rights, as enshrined in the European Social Charter, in the fight against poverty, social exclusion, and the promotion of a society based on the principles of social justice, equal opportunities, and fair working and living conditions.

# Appendices

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## Appendix 1 – Signatures and ratifications of the European Social Charter at 1 January 2024

Signatures and ratifications of the 1961 Charter, its Protocols and the European Social Charter (revised) as of 17th March 2021 Member States	European Social Charter 1961 STE 035		Additional Protocol 1988 STE 128		Amending Protocol 1991 STE 142		Collective complaints Protocol 1995 STE 158		Revised European Social Charter 1996 STE 163	
	<i>Signature</i>	<i>Ratification</i>	<i>Signature</i>	<i>Ratification</i>	<i>Signature</i>	<i>Ratification</i>	<i>Signature</i>	<i>Ratification</i>	<i>Signature</i>	<i>Ratification</i>
<b>Albania</b>	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	21/9/98	14/11/02
<b>Andorra</b>	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	4/11/00	12/11/04
<b>Armenia</b>	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	18/10/01	21/1/04
<b>Austria</b>	22/7/63	29/10/69	4/12/90		7/5/92	13/7/95	(2)	—	7/5/99	20/5/11
<b>Azerbaijan</b>	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	18/10/01	2/9/04
<b>Belgium</b>	18/10/61	16/10/90	20/5/92	23/6/03	22/10/91	21/9/00	14/5/96	23/6/03	3/5/96	2/3/04
<b>Bosnia and Herzegovina</b>	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	11/5/04	7/10/08
<b>Bulgaria</b>	(2)	(2)	(3)	(3)		(2)(2)		(4)(4)	21/9/98	7/6/00
<b>Croatia</b>	8/3/99	26/2/03	8/3/99	26/2/03	8/3/99	26/2/03	8/3/99	26/2/03	6/11/09	—
<b>Cyprus</b>	22/5/67	7/3/68	5/5/88	(3)	21/10/91	1/6/93	9/11/95	6/8/96	3/5/96	27/9/00
<b>Czech Republic</b>	27/5/92*	3/11/99	27/5/92*	17/11/99	27/5/92*	17/11/99	26/2/02	4/4/12	4/11/00	—
<b>Denmark</b>	18/10/61	3/3/65	27/8/96	27/8/96	—	***	9/11/95	—	3/5/96	—
<b>Estonia</b>	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	4/5/98	11/9/00
<b>Finland</b>	9/2/90	29/4/91	9/2/90	29/4/91	16/3/92	18/8/94	9/11/95	17/7/98	3/5/96	21/6/02
<b>France</b>	18/10/61	9/3/73	22/6/89	(3)	21/10/91	24/5/95	9/11/95	7/5/99	3/5/96	7/5/99
<b>Georgia</b>	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	30/6/00	22/8/05
<b>Germany</b>	18/10/61	27/1/65	5/5/88	—	—	***	(1)	—	29/6/07	29/3/21

Signatures and ratifications of the 1961 Charter, its Protocols and the European Social Charter (revised) as of 17th March 2021 Member States	European Social Charter 1961 STE 035		Additional Protocol 1988 STE 128		Amending Protocol 1991 STE 142		Collective complaints Protocol 1995 STE 158		Revised European Social Charter 1996 STE 163	
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<b>Greece</b>	18/10/61	6/6/84	5/5/88	18/6/98	29/11/91	12/9/96	18/6/98	18/6/98	3/5/96	18/03/16
<b>Hungary</b>	13/12/91	8/7/99	7/10/04	1/6/05	13/12/91	4/2/04	7/10/04	—	7/10/04	20/4/09
<b>Island</b>	15/1/76	15/1/76	5/5/88	—	12/12/01	21/2/02	(1)	—	4/11/98	—
<b>Ireland</b>	18/10/61	7/10/64	(3)	(3)	14/5/97	14/5/97	4/11/00	4/11/00	4/11/00	4/11/00
<b>Italy</b>	18/10/61	22/10/65	5/5/88	26/5/94	21/10/91	27/1/95	9/11/95	3/11/97	3/5/96	5/7/99
<b>Latvia</b>	29/5/97	31/1/02	29/5/97	—	29/5/97	9/12/03	(1)	—	29/5/07	26/03/13
<b>Liechtenstein</b>	9/10/91	—	—	—	—	—	—	—	—	—
<b>Lithuania</b>	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	8/9/97	29/6/01
<b>Luxembourg</b>	18/10/61	10/10/91	5/5/88	—	21/10/91	***	(1)	—	11/2/98	—
<b>Malta</b>	26/5/88	4/10/88	(3)	(3)	21/10/91	16/2/94	(2)	—	27/7/05	27/7/05
<b>Republic of Moldova</b>	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	3/11/98	8/11/01
<b>Monaco</b>	(1)		(1)		(1)		(1)		5/10/04	—
<b>Montenegro</b>	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	22/3/05**	3/3/10
<b>The Netherlands</b>	18/10/61	22/4/80	14/6/90	5/8/92	21/10/91	1/6/93	23/1/04	3/5/06	23/1/04	3/5/06
<b>North Macedonia</b>	5/5/98	31/3/05	5/5/98	—	5/5/98	31/3/05	(2)	—	27/5/09	6/1/12
<b>Norway</b>	18/10/61	26/10/62	10/12/93	10/12/93	21/10/91	21/10/91	20/3/97	20/3/97	7/5/01	7/5/01
<b>Poland</b>	26/11/91	25/6/97	(1)	—	18/4/97	25/6/97	(1)	—	25/10/05	—
<b>Portugal</b>	1/6/82	30/9/91	(3)	(3)	24/2/92	8/3/93	9/11/95	20/3/98	3/5/96	30/5/02



Signatures and ratifications of the 1961 Charter, its Protocols and the European Social Charter (revised) as of 17th March 2021 Member States	European Social Charter 1961 STE 035		Additional Protocol 1988 STE 128		Amending Protocol 1991 STE 142		Collective complaints Protocol 1995 STE 158		Revised European Social Charter 1996 STE 163	
	<i>Signature</i>	<i>Ratification</i>	<i>Signature</i>	<i>Ratification</i>	<i>Signature</i>	<i>Ratification</i>	<i>Signature</i>	<i>Ratification</i>	<i>Signature</i>	<i>Ratification</i>
<b>Romania</b>	4/10/94	(2)	(3)	(3)	(2)	(2)	(2)	—	14/5/97	7/5/99
<b>San Marino</b>	(1)	—	(1)	—	(1)	—	(1)	—	18/10/01	—
<b>Serbia</b>	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	22/3/05*	14/9/09
<b>Slovak Republic</b>	27/5/92*	22/6/98	27/5/92*	22/6/98	27/5/92*	22/6/98	18/11/99	—	18/11/99	23/4/09
<b>Slovenia</b>	11/10/97	(2)	11/10/97	(3)	11/10/97	(2)	11/10/97	(4)	11/10/97	7/5/99
<b>Spain</b>	27/4/78	6/5/80	5/5/88	24/1/00	21/10/91	24/1/00	(1)	17/05/21	23/10/00	17/05/21
<b>Sweden</b>	18/10/61	17/12/62	5/5/88	5/5/89	21/10/91	18/3/92	9/11/95	29/5/98	3/5/96	29/5/98
<b>Switzerland</b>	6/5/76	—	—	—	—	—	—	—	—	—
<b>Turkiye</b>	18/10/61	24/11/89	5/5/98	(3)	6/10/04	10/6/09	(2)	—	6/10/04	27/6/07
<b>Ukraine</b>	2/5/96	(2)	(3)	(3)	(2)	(2)	(2)	—	7/5/99	21/12/06
<b>United Kingdom</b>	18/10/61	11/7/62	(1)	—	21/10/91	***	(1)	—	7/11/97	—

\* Date of signature by the Czech and Slovak Federal Republic.

\*\* Date of signature by the State Union of Serbia and Montenegro.

\*\*\* State whose ratification is necessary for the entry into force of the protocol.

## Appendix 2 – Composition of the European Committee of Social Rights at 1 January 2024

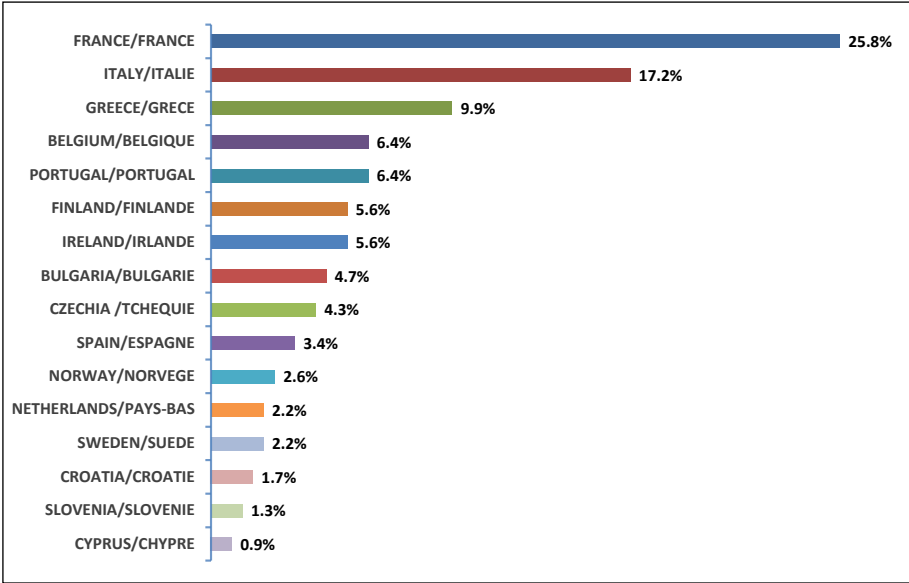
	Term of Office
Aoife NOLAN, President (Irish)	31/12/2028
Eliane CHEMLA, Vice-President (French)	31/12/2024
Tatiana PUIU, Vice-President (Moldovan)	31/12/2024
Kristine DUPATE, General Rapporteur (Latvian)	31/12/2028
József HAJDÚ (Hungarian)	31/12/2024
Karin MØHL LARSEN (Danish)	31/12/2026
Yusuf BALCI (Turkish)	31/12/2024
Paul RIETJENS (Belgian)	31/12/2026
George THEODOSIS (Greek)	31/12/2026
Mario VINKOVIĆ (Croatian)	31/12/2026
Miriam KULLMANN (German)	31/12/2026
Carmen SALCEDO BELTRÁN (Spanish)	31/12/2028
Frantz MARHOLD (Austrian)	31/12/2028
Alla FEDOROVA (Ukrainian)	31/12/2024
Grega STRBAN (Slovenian)	31/12/2028

## Appendix 3 – List of collective complaints registered in 2023

In 2023, the ECSR registered the 14 following complaints:

- ▶ International Federation of Human Rights (FIDH) and International Movement ATD - Fourth World v. Belgium  
Complaint No. 233/2023
- ▶ Associazione Nazionale per l'Industria e il Terziario (A.N.P.I.T.) and Confederazione Italiana Sindacati Autonomi Lavoratori (C.I.S.A.L.) v. Italy  
Complaint No. 232/2023
- ▶ Confederación Intersindical Galega (CIG) v. Spain  
Complaint No. 231/2023
- ▶ European Roma Rights Centre (ERRC) v. France  
Complaint No. 230/2023
- ▶ Federación de Servicios a la Ciudadanía de Comisiones Obreras Región de Murcia (FSC-CCOO) v. Spain  
Complaint No. 229/2023
- ▶ Comisiones Obreras de Castilla y León (CCOO CyL) and Unión General de Trabajadores de Castilla y León (UGT CyL) v. Spain  
Complaint No. 228/2023
- ▶ Amnesty International and Médecins du Monde – International v. Sweden  
Complaint No. 227/2023
- ▶ Fédération SUD Santé-Sociaux v. France  
Complaint No. 226/2023
- ▶ Unión Federal de Policía (UFP) v. Spain  
Complaint No. 225/2023
- ▶ European Federation of National Organisations working with the Homeless (FEANTSA) and International Federation for Human Rights (FIDH) v. France  
Complaint No. 224/2023
- ▶ Associazione professionale sindacale dirigenti area istruzione e ricerca (Dirigentiscuola) v. Italy  
Complaint No. 223/2023
- ▶ Fédération nationale des syndicats de salariés des mines et de l'énergie – Confédération générale du travail (FNME-CGT) v. France  
Complaint No. 222/2023
- ▶ Eurochild v. Bulgaria  
Complaint No. 221/2023
- ▶ European Roma Rights Centre (ERRC) v. Czechia  
Complaint No. 220/2023

## Appendix 4 – Collective complaints breakdown by country –1998-2023

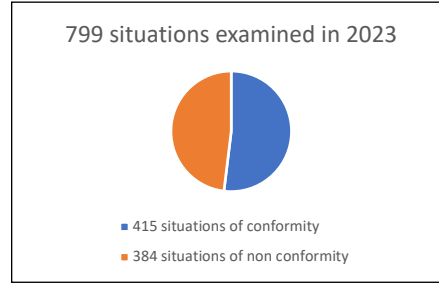


## Appendix 5 – Collective complaints – Statistics by country: 1998 - 2023

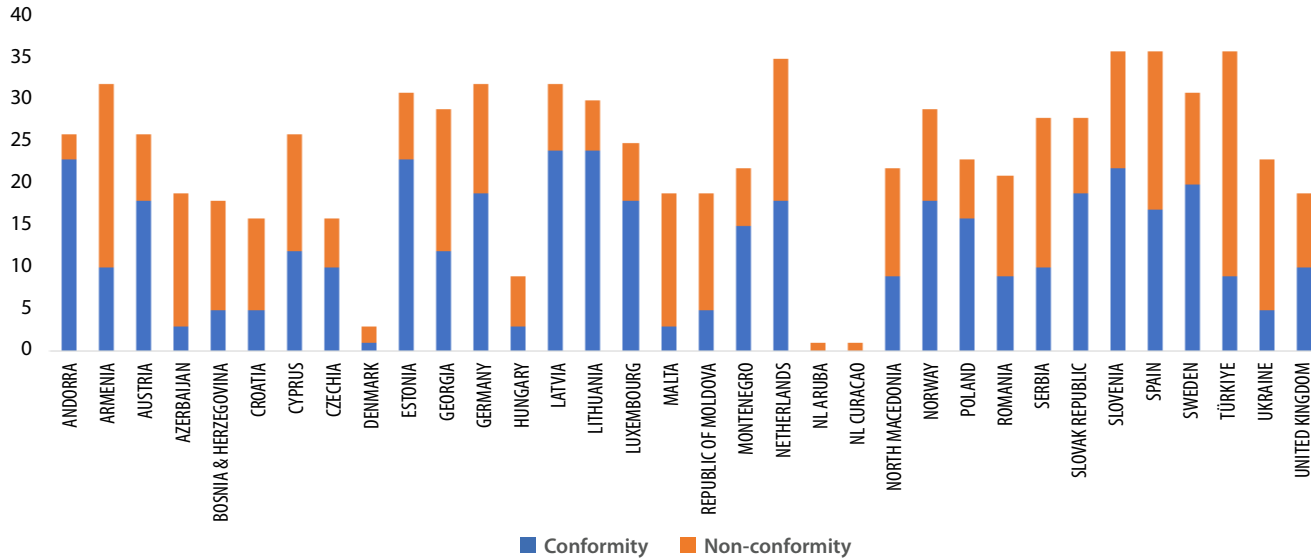
	Registered Complaints	Decisions on admissibility	<i>admissible</i>	<i>inadmissible</i>	Decision on immediate measures/Decisions on admissibility and immediate measures	Decisions on admissibility and the merits	Decisions on the merits	<i>violation</i>	<i>Non violation</i>	Striking-off
Belgium	15	14	14	0	1/2	1	12	11	1	0
Bulgaria	11	11	11	0	0/1	0	8	8	0	1
Croatia	4	4	4	0	0	0	4	4	0	0
Cyprus	2	2	2	0	0	0	1	1	0	1
Czechia	10	10	10	0	0	0	8	7	1	0
Finland	13	13	12	1	0/1	3	12	9	3	0
France	60	58	53	5	0/1	2	45	33	12	0
Greece	23	23	20	3	0/2	0	19	17	2	0
Ireland	13	13	13	0	1/0	1	12	8	4	0
Italy	39	37	32	5	0/2	1	26	14	12	0
Netherlands	5	5	5	0	2/0	0	4	4	0	0
Norway	7	6	5	1	0	0	4	2	2	0

Portugal	15	15	13	2	0	0	12	6	6	0
Slovenia	3	3	3	0	0	0	3	3	0	0
Spain	8	5	5	0	0/1	0	0	0	0	
Sweden	5	5	5	0	0	1	4	2	2	0
<b>Total 2023</b>	<b>233</b>	<b>224</b>	<b>207</b>	<b>17</b>	<b>4/10</b>	<b>9</b>	<b>174</b>	<b>128</b>	<b>46</b>	<b>2</b>

## Appendix 6 – Summary of the European Committee of Social Rights Conclusions 2023



### Degree of compliance with the provisions of the charter on children families and migrants



## Appendix 7 – Number of provisions by year since 1962

Year of ratification/ acceptance of additional provisions	CHARTER 1961			REVISED CHARTER 1996			Overall total of the accepted provisions (both Charters)
	States	Accepted provisions	Total	States	Accepted provisions	Total	
1962	1. United Kingdom	60	60				60
	2. Norway	60	120				120
	3. Sweden	66	186				186
1963			186				186
1964	4. Ireland	63	249				249
1965	5. Germany	67	316				316
	6. Denmark	49	365				365
	7. Italy	76	441				441
1966			441				441
1967			441				441
1968	8. Cyprus	43	484				484
1969	9. Austria	62	546				546
1970			546				546
1971			546				546
1972			546				546
1973			546				546



Year of ratification/ acceptance of additional provisions	CHARTER 1961			REVISED CHARTER 1996			Overall total of the accepted provisions (both Charters)
	States	Accepted provisions	Total	States	Accepted provisions	Total	
1974	10. France	72	618				618
1975			618				618
1976	11. Island	41	659				659
1977			659				659
1978			659				659
1979			659				659
1980	12. Netherlands	75	734				734
	13. Spain	76	810				810
1981			810				810
1982			810				810
1983			810				810
1984	14. Greece	71	881				881
1985			881				881
1986			881				881
1987			881				881
1988	15. Malta	55	936				936
1989	16. Türkiye	46	982				982

Year of ratification/ acceptance of additional provisions	CHARTER 1961			REVISED CHARTER 1996			Overall total of the accepted provisions (both Charters)
	States	Accepted provisions	Total	States	Accepted provisions	Total	
1990	17. Belgium	72	1054				1054
1991	18. Finland	66	1120				1120
	19. Portugal	72	1192				1192
	20. Luxembourg	69	1261				1261
1992			1261				1261
1993			1261				1261
1994			1261				1261
1995			1261				1261
1996			1261				1261
1997	21. Poland	58	1319				1319
1998		-66	1253	1. Sweden	83	83	1336
	22. Slovak Republic	64	1317			83	1400
1999		-72	1245	2. France	98	181	1426
		-76	1169	3. Italy	97	278	1567
	23. Hungary	44					
	24. Czech Republic	56	1345	4. Romania	65	343	1688
		-76	1269	5. Slovenia	95	438	1707

Year of ratification/ acceptance of additional provisions	CHARTER 1961			REVISED CHARTER 1996			Overall total of the accepted provisions (both Charters)
	States	Accepted provisions	Total	States	Accepted provisions	Total	
2000			1269	6. Bulgaria	61	499	1768
			1269	7. Estonia	79	578	1847
		-43	1226	8. Cyprus	63	641	1867
		-63	1163	9. Ireland	93	734	1897
2001		-60	1103	10. Norway	81	815	1918
			1103	11. Lithuania	86	901	2004
			1103	12. Republic of Moldova	63	964	2067
2002		-72	1031	13. Portugal	98	1062	2093
		-66	965	14. Finland	89	1151	2116
	25. Latvia	25	990			1151	2141
			990	15. Albania	64	1215	2205
2003	26. Croatia	43	1033				1033
2004			1033	16. Armenia	67	1282	2315
		-72	961	17. Belgium	87	1369	2330
				18. Azerbaijan	47	1416	1416
			961	19. Andorra	75	1491	2452
2005	27. North Macedonia	41	1002			1491	2493

Year of ratification/ acceptance of additional provisions	CHARTER 1961			REVISED CHARTER 1996			Overall total of the accepted provisions (both Charters)
	States	Accepted provisions	Total	States	Accepted provisions	Total	
		-55	947	20. Malta	72	1563	2510
				21. Georgia	63	1626	1626
2006		-75	872	22. Netherlands	97	1723	2595
				23. Ukraine	74	1714	1714
2007		-46	826	24. Türkiye	91	1888	2714
		-44	782	25. Hungary	60	1948	2730
				Bulgaria	1	1949	1949
2008				26. Bosnia and Herzegovina	51	2000	2000
2009		-64	718	27. Slovak Republic	86	2086	2804
				28. Serbia	88	2174	2174
				29. Russian Federation	67	2241	2241
2010				30. Montenegro	66	2307	2307
2011	Poland	-1	717				
		-62	655	31. Austria	76	2383	3039
				Cyprus	9	2392	2392
2012		-41	614	32. North Macedonia	63	2455	3070
				Estonia	8	2463	3078

Year of ratification/ acceptance of additional provisions	CHARTER 1961			REVISED CHARTER 1996			Overall total of the accepted provisions (both Charters)
	States	Accepted provisions	Total	States	Accepted provisions	Total	
2013		-25	589	33. Latvia	90	2553	3143
2015				Belgium	4	2557	3147
2016		-71	518	34. Greece	95	2652	3171
2017				Ukraine	2	2654	3173
2021		-60	458	35. Germany	88	2742	3200
		-72	386	36. Spain	98	2840	3226
	United Kingdom	-1	385				3225
2022				Bulgaria	7	2847	3232

## Appendix 8 – Intervention by Aoife Nolan, President of the European Committee of Social Rights, before the Committee of Ministers of the Council of Europe, 18 October 2023

Dear President,  
Dear Ambassadors,  
Dear colleagues.

I am delighted to have this opportunity to speak to you today.

As you will know, we are at a crucial juncture in terms of the development of the European Social Charter system. It is a crucial time for the European Social Charter, the social constitution of Europe. It is also a crucial time for social rights in Europe as we live through the cost of living, climate, pandemic and Ukraine-related polycrisis that stalks our continent.

Responding to this, our Committee is working at full tilt – not just in terms of our collective complaints work and the final year of the old statutory reporting process but also in terms of implementing the reforms based on the CM's decisions of last September. We have continued to develop our work in relation to the key challenges facing Europe – including the climate emergency, the role of digital technology and AI, increased inequality, immigration and of course the conflict in Ukraine. We have been greatly energised by the focus on social rights in the Reykjavik outcome document – to which I will return later – and the increasing attention paid to social rights within the COE as a result of the summit and, of course, the reform efforts on the part of GT-Charte and the CM. All of these reflect commendable and very welcome state commitment to social rights.

I want to begin by providing you with a sense of what we have done in the last year.

Let me start with our reporting system work.

Last year – 2022 – as part of the reporting procedure, the ECSR examined the national reports submitted by 33 States Parties on the provisions of the Charter relating to the thematic group “Labour rights”.

In addition to detailed consideration of the 33 national reports, the ECSR examined the submissions of trade unions, national human rights institutions and non-governmental organisations.

The application of the reporting procedure in 2022 led to the adoption of a total of 611 conclusions: 255 conclusions of conformity and 245 conclusions of non-conformity. In 111 cases the was unable to assess the situation due to lack of information (“deferrals”). We also adopted three Statements of interpretation – namely, authoritative guidance for States on specific elements of the Charter. These pieces of guidance deliberately engaged with pressing issues faced by the social rights-holders in Europe, including online harassment at work and reasonable periods of notice for termination of employment.

It is important to note that our work in terms of reporting has increased hugely over the years. In 1998, there were 23 States Parties, mostly to the 1961 Charter, having accepted a grand total of **1,400** Charter provisions that had to be examined by

the ECSR. In 2023, there are 42 States Parties, mostly to the revised Charter which contains many more provisions. The grand total of accepted provisions that must be examined now stands at around **3,160**.

While the reformed statutory reporting process will help us to adopt a more focused approach, the fact remains that we are responsible for monitoring over double the number of provisions that we had 25 years ago. And I would remind the CM that we have not had a meaningful increase in committee membership over that time – we have been 15 since 2005. And during 3 certain periods we have had to function with a reduced number, as has been the case now for almost two years, due to having only 14 members for nearly all of 2022 and 2023.

Let me now turn to our other key monitoring process: the collective complaints system. It remains very unfortunate that only 16 States are parties to the Additional Protocol providing for the complaints system. It is deeply worrying from the perspective of the system that so many States remain outside the complaints system. This situation runs directly contrary to the spirit of the Charter. It is important to stress that not signing up to the complaints system does not mean that they are unaffected by it: the standards developed in the context of the complaints system feed directly into our assessment of States as part of our reporting process. Where States participate in the complaints mechanism, they have an important opportunity to shape those standards in a way that is not available to States who do not participate. There is also of course – rightly – a very significantly reduced reporting burden for the States who are parties to the complaints system. And indeed should all States parties to the Charter accept the collective complaints procedure, the reporting dimension could be reduced further and considerably.

Our Committee regards our role and that of the collective complaints system as supportive of state efforts to give effect to social rights. The collective complaints mechanism is adversarial – as it should be – but it is not punitive. With our decisions, we provide guidance to States on the parameters of social rights-compliant law and policy. While States will not always be found in conformity, they will come away with a sense of how they can better give effect to the social rights that they have already made clear they are committed to. We know that some States are moving towards accepting the complaints procedure and we would welcome States considering doing so to be in contact with us about any concerns they might have about the process.

In terms of our collective complaints work, in 2022, we adopted 10 decisions on admissibility and 14 on merits. So far in 2023, we have adopted 10 on admissibility and 9 merits decisions 4 and will have many more by the end of the year. These have ranged in topic from the nature, purpose and limits of ‘internships’ for the purpose of the Charter, to compensation and remedies for unlawful dismissal, to disabled people’s rights during COVID, to forced evictions of Roma.

However, while decisions are worked on and advanced constantly, this is against a large and increasing backlog. To give some background: 39 complaints were registered during the years 1998 to 2006, rising to 80 in the period 2007 to 2015, and 104 between 2016 and 2023. In parallel, the ECSR has enriched the while enhancing the adversarial dimension by offering respondent Governments the opportunity to reply at every stage of the process and ensuring that they have the “last word”. It

is strongly regrettable, however that while we were once celebrated for the speed of our decision-making compared to other human rights complaints bodies, this is no longer the case. While the average duration of the admissibility stage stands at 7.4 months, the average time for the ECSR to reach a merits decision remains around 40 months, which is too long. States parties and the people they serve stand to lose when the procedure is unable to provide results rapidly.

We are hugely aware of the need for efficiency and we seek to maximise it. Let's take the complaints mechanism as an example. Here, the last few years have seen us adopt a series of measures focused on enhancing our efficiency, ranging from deploying new software to changes to our rules and working methods. We have streamlined length of deadlines in complaints, developed the possibility of joining complaints, and developed strict rules around closing written procedure. In the reporting procedure the introduction of targeted questions has been a major efficiency gain. But here the much increased engagement by civil society in recent years has increased the workload considerably: we now process many times more "third-party" comments than we did just ten years ago. This increase in workload and stakeholder engagement is clear indicator of success but we do not currently have the resources we need to build on this success.

Let me now turn to the CM reform decisions. We are currently pushing forward with the changes envisaged by the CM. 2024 will see us engage with a huge challenge faced by the 700 million persons of the COE: namely, the cost-of-living crisis. We are using the opportunity afforded by the new system of ad hoc reports to address this urgent, transversal and Pan-European issue. An ad hoc report does not, of course, involve legal assessment of state performance in terms of the Charter. Rather, we will be using this report to provide guidance to States and others about how the Charter applies to the cost-of-living crisis, the standards the ECSR will use when seeking to establish whether the situation in a specific State satisfies the requirements of the Charter in this context, as well as examples of best practice.

We have also pushed ahead with the enhanced dialogue part of the reforms, which we particularly welcome. We are keen to deepen our engagements with States and other stakeholders. So far we have held two such dialogues – one with Ukraine, one with Finland and we have a number of others planned. I should issue a note of caution here, however – and this is, again, to do with resources. The reforms have increased our functions and, as a result, the resources needed to carry out those functions effectively. If there is not an increase in resources commensurate with the requirements of these functions, we cannot give proper effect to them. Ultimately, we are mandated by treaty to do the collective complaints and reporting work. Where resources are insufficient, we will need to prioritise these activities. There is a real risk that a failure to finance reform-related activities adequately will serve to undermine the vision of the CM, particularly when it comes to elements such as enhancing dialogue which are not treaty-mandated. Let me be clear: this is not a question of will – we are fully committed to giving effect to all aspects of the reform. Rather, it is a question of capacity.

We have now at a point where it is my considered opinion that the balance (or rather the imbalance) between workload and available resources for our two key



monitoring processes has reached a level at which the quality of the ECSR's monitoring is endangered. This is a profound threat to the effectiveness of our monitoring work and our ability to do justice to our mandate. The Internal Oversight evaluation report of the Council of Europe monitoring bodies stressed that if the gap between resources available and the needs is too significant, this will affect the quality of the analysis delivered by monitoring mechanisms and the quality of their outputs. The report went on to highlight the negative impact that this could have on the implementation of those outputs, with the risk that parties lose interest in the monitoring mechanisms concerned. It would be irresponsible of me not to flag that resources issues mean we risk fast approaching this point with our monitoring work and that the CM reforms of September 2022 will not prevent this from happening, certainly in the first few years of the new system.

I will finish by speaking again about Reykjavik which was such a significant and inspiring moment in COE history. You will all know that the outcome document States that: "Social justice is crucial for democratic stability and security and in this regard COE STATES reaffirm our full commitment to the protection and implementation of social rights as guaranteed by the European Social Charter system." In that document, States committed to considering the organisation of a High-Level Conference on the Charter, "as a step to take further commitments under the Charter where possible." The ECSR is delighted that Lithuania is considering hosting the conference and I thank the ambassador and permanent representation for all their work around this. I also want to stress that the timing of such a conference is vital: if it goes beyond the end of 2024, we risk losing the excellent momentum and state support that has emerged from the reform process.

The last year has provided us with excellent opportunities to engage with and collaborate with States and we look forward greatly to advancing this work in future.

Thank you and I welcome questions.

## Appendix 9 – Statement by Aoife Nolan, President of the European Committee of Social Rights, on the earthquakes in Türkiye and Syria

As President of the European Committee of Social Rights, I would like to convey my deepest sympathy and solidarity with the people of Türkiye and Syria following the earthquake of **6 February 2023**.

The loss of life has been vast and the earthquake's social and economic consequences will affect millions of people over the coming months and years. In addition to the human loss, huge numbers of people have seen the destruction of their homes and their belongings, with some facing destitution and/or displacement.

The situation poses a grave threat to the enjoyment of fundamental social rights as guaranteed by the European Social Charter, including the right to housing, the right to protection of health, the right to social and medical assistance, and the rights to social, legal and economic protection of children and the family. Emergency assistance, healthcare and shelter (including access to water, heating, waste disposal, sanitation facilities and electricity) must be provided immediately, while longer-term housing of an adequate standard and other infrastructure and services will have to be put in place as soon as possible.

The earthquake and its impacts underline the importance of the Charter's core value of solidarity. They reinforce the basic principle enshrined in Part I of the Charter, according to which "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 rights and principles set forth by the Charter may be effectively realised". In the context of the earthquake and its aftermath, this principle denotes a duty of international assistance and cooperation that is incumbent on each and every State Party to the Charter, so as to enable the attainment of conditions in which the rights of a very large number of extremely vulnerable people are effectively secured. As States Parties respond to the earthquake, it should be recalled in particular that the basic social rights of refugees must be respected wherever they are and at all times, so as to ensure dignity for all.

I invite the States Parties to the European Social Charter to consider how they can assist the affected countries and support their people in overcoming the devastation of this disaster, having regard to the standards set out in the European Social Charter and the case law of the European Committee of Social Rights.

## Appendix 10 – Statement of the President of the European Committee of Social Rights on the occasion of the International day for the eradication of Poverty – 17 October 2023

Today, on the occasion of the International day for the eradication of Poverty, Aoife Nolan, the President of the [European Committee of Social Rights](#), issued the following statement :

Recent studies and statistics have made clear that poverty has increased significantly in Europe in recent times, with the lasting impacts of the Covid-19 pandemic and the cost-of-living crisis seriously exacerbating the situation.

According to [Eurostat](#), in 2022, 95.3 million people in the EU were at risk of poverty or social exclusion. This equates to 21.6 % of the EU population. Furthermore, over one-fifth (22.4 %) of the EU population living in households with dependent children was at risk of poverty or social exclusion in 2022. It was also clear that women were more likely to be at risk of poverty or social exclusion than men: 22.7 % of women as compared to 20.4 % of men.

This state of affairs cannot be allowed to continue. Poverty is both a cause of human rights violations and a potential outcome of such violations. It is also, in and of itself, a violation of a wide range of human rights set out in the European Social Charter.

The Revised [European Social Charter](#) is a key instrument for the purpose of tackling poverty and social exclusion. Article 30 of that human rights treaty obliges States Parties to protect individuals and families against poverty and social exclusion by taking effective and coordinated measures to promote effective access to, amongst other things, employment, housing, training, education, culture and social and medical assistance.

The [European Committee of Social Rights](#) has made clear that Article 30 imposes an obligation on States Parties to adopt an overall and coordinated approach to tackling poverty. This must consist of an analytical framework, a set of priorities and corresponding measures to prevent and remove obstacles to access to social rights. National authorities must link and integrate public policies in a consistent way, embedding the fight against poverty and social exclusion in all strands of policy. Effective coordination mechanisms should exist at all levels, including in relation to the delivery of assistance and services to rights-holders. It is vital that adequate resources should be made available for the implementation of the measures envisaged in terms of Article 30.

Unfortunately, only 19 of the 42 States Parties to the Charter have [accepted Article 30](#) and of those who have accepted it, not all are fulfilling their commitments in terms of that article.

This is patently insufficient. States parties can and must do more if poverty and social injustice are to be defeated in Europe.

## Appendix 11 – Selection of events organised in 2023

The European Committee of Social Rights and the Secretariat of the Social Rights organised and participated in a number of activities in 2023. A selection of those is presented below:

- ▶ **17 January 2023, Strasbourg**  
**10th annual meeting of the Secretary General of the Council of Europe with the Chairpersons of the monitoring and advisory bodies**  
E. CHEMLA
- ▶ **31 January 2023, Strasbourg**  
**Meeting with the European Network of Ombudspersons for Children (ENOC)**  
N. CASEY, H. KRISTENSEN
- ▶ **9 February 2023, online**  
**How can National Human Rights Institutions and Equality Bodies engage with the European Committee of Social Rights under the reporting procedure of the European Social Charter**  
A. NOLAN, N. CASEY, T. MONTANARI
- ▶ **31 March 2023, University of Ferrara, Italy**  
**Second Moot Court Competition on the European Social Charter organised by ANESC**  
D. BALANESCU, C. COJOCARIU and three former members of the ECSR:  
G. PALMISANO, J. PETMAN, F. VANDAMME
- ▶ **28 April 2023, London, United Kingdom**  
**Human Rights of Older People Networking Conference: “Human Rights and Older People Post Covid 19 from a European and UK perspective”**  
A. NOLAN
- ▶ **4-5 May 2023, Osijek, Croatia**  
**Panel discussion: “Challenges of the new normative framework” during the 2nd Congress of Social Work Students**  
M. VINKOVIC
- ▶ **11 May 2023, Alicante, Spain**  
**Presentation: “Adequate compensation, appropriate reparation and dissuasive function of unjustified dismissal, according to the principle of equal treatment” Study days on Labour law, co-organised by CCOO and the General Council of the Judiciary -**  
C. SALCEDO BELTRÁN
- ▶ **17 May 2023, online**  
**Launching of the project “Enhancing social and employment rights of persons from vulnerable groups in the Republic of Moldova”**  
A. NOLAN, T. PUIU, H.E. S. AVALLONE, G. RUSU, C. AJDER, G. RE
- ▶ **17 May 2023, online**  
**Book Launch Webinar: The European and International contribution to the right to housing: standards, litigation and advocacy, Online event organised by the European Federation of National Organisations Working with the Homeless, with Abbe Pierre Foundation, and University of Galway**  
A. NOLAN

- ▶ **2 June 2023, Santiago de Compostela, Spain**  
**Conference: “La interpretación del Comité Europeo de Derechos Sociales sobre despido improcedente: delimitación y elementos esenciales para su efectividad”**  
 C. SALCEDO BELTRÁN
- ▶ **12 June 2023, Online**  
**Conference: “La CSE y el ordenamiento español. El procedimiento de reclamaciones colectivas y su trascendencia práctica”, Consejo General del Poder Judicial”**  
 C. SALCEDO BELTRÁN
- ▶ **14-15 June 2023, Bihać, Bosnia and Herzegovina**  
**Conference “Bosnia and Herzegovina and the European Social Charter”, Faculty of Law of Bihać**  
 M. VINKOVIC
- ▶ **15 June 2023, Albacete, Spain**  
**Conference: “Las garantías de los derechos laborales en la Carta Social Europea”**  
 C. SALCEDO BELTRÁN
- ▶ **6 July 2023, Strasbourg**  
**25th Anniversary of the Collective Complaints procedure**  
 B. BERGE, C. POIREL, A. NOLAN, E. CHEMLA, E. GILMORE, D. MIJATOVIC, M EHNBERG, K. LUKAS, G. PALMISANO, A. RURKA, G. QUINN, S. CLAUWAERT, L. R. MORALES, I. BYRNE, A. BERGHEIM-NEGRE, K. BABICKA, S. SALI
- ▶ **11 July 2023, Valencia, Spain**  
**25th Anniversary of the Collective Complaints Protocol**  
 C. SALCEDO BELTRÁN
- ▶ **12 July 2023, online**  
**Virtual briefing session on the human rights of older persons under the UN Open-ended Working Group on Ageing**  
 A. NOLAN
- ▶ **11 September 2023, Strasbourg**  
**Open Day: Social Rights Implementation of Work under the European Social Charter, the Reform of the Charter System and related questions**  
 A. NOLAN, A. FEDOROVA, A. HORGAN, J. GOMIS, C. POIREL, J. MALINOWSKI, H. KRISTENSEN, N. CASEY, A. UBEDA, M. GALSTYAN, L.VIOIU, T. MONTANARI, I. VARFI-BOEHRER
- ▶ **11 September 2023, Strasbourg**  
**Meeting with judges of the High Judicial Council from Spain**  
 C. SALCEDO BELTRÁN
- ▶ **21-22 September 2023, Strasbourg**  
**EUROFEDOP seminar on “Preserving the rule of law and a functioning democracy; the role of workers in the public sector”**  
 J. HAJDU, H. KRISTENSEN

- ▶ **28 September 2023, Helsinki, Finland**  
13th Meeting of the COE-FRA-ENNHRI-EQUINET Collaborative Platform on Social and Economic Rights: Realising social rights in the age of digitalisation: opportunities and risks  
M. VINKOVIC, T. MONTANARI, V. KRYVENKOVA
- ▶ **19 October 2023, Strasbourg**  
Presentation of the Book Project “Commentary on The European Social Charter” and Panel Discussion on the Cost-of-Living Crisis”, co-organised with the Academic Network on the European Social Charter (ANESC)  
A. NOLAN, H. KRISTENSEN, D. DAVITADZE, I.VARFI-BOHRER, I. UZUNHASAN
- ▶ **25 October 2023, San Sebastián, Spain**  
*XVIII Foro Aranzadi Social, “La Carta Social Europea y el procedimiento de reclamaciones colectivas: un nuevo marco legislativo laboral y su impacto en la práctica jurídica”*  
C. SALCEDO BELTRÁN
- ▶ **26 October 2023, Bilbao, Spain**  
*XXI Foro Aranzadi Social, “La Carta Social Europea y el procedimiento de reclamaciones colectivas: un nuevo marco legislativo laboral y su impacto en la práctica jurídica”*  
C. SALCEDO BELTRÁN
- ▶ **27 October 2023, Málaga, Spain**  
Jornadas jurídicas La protección frente al despido, “¿Constituye el art. 24 de la Carta Social Europea revisada una protección eficaz contra el despido de los trabajadores?”  
C. SALCEDO BELTRÁN
- ▶ **26-27 October 2023, Tbilisi, Georgia**  
Series of events as part of the “Strengthening Protection of Social and Economic Rights in Georgia” project: Workshop on accepted provisions, round table on unratified provisions and session on collective complaints  
T. PUIU, C. COJOCARIU
- ▶ **7 November 2023, Strasbourg**  
ForumTalk-EconomicsofPeace(sideeventduringtheWorldForumforDemocracy 2023), co-organised by the Department of Social Rights together with the Civil Society and Democratic Innovation Division Council of Europe  
T. PUIU, L.VIOIU, D. DAVITADZE
- ▶ **8 November 2023, Turin, Italy**  
Conference: International Levers and Local Implementation of Active Ageing Rights, organised by the University of Turin  
T. PUIU, T. MONTANARI
- ▶ **9 November 2023, Gran Canaria, Spain**  
*XLI Jornadas de Derecho del Trabajo, Seguridad Social y Recursos Humanos Ilustre Colegio Oficial De Graduados Sociales De Gran Canaria y Fuerteventura, “La aplicación de la Carta Social Europea y la jurisprudencia del Comité Europeo de Derechos sociales en el ámbito judicial”*  
C. SALCEDO BELTRÁN

- ▶ **9-10 November 2023, Copenhagen, Denmark**  
 “The European Social Charter in Denmark” organised by the Department of Social Rights and the Ministry of Employment of Denmark  
 K.M. LARSEN, M.KULLMANN, G. PALMISANO, H. KRISTENSEN, L. VIOIU, C. GHERIBI
- ▶ **3 November 2023, Spain**  
*Jornada Derecho vivo de la Seguridad Social, Consejo General del Poder Judicial, “La conciliación de la vida familiar y laboral según la Carta Social Europea: tiempo de trabajo versus tiempo de descanso en clave de efectividad”*  
 C. SALCEDO BELTRÁN
- ▶ **15 November 2024, Strasbourg**  
 European Roundtable on Advancing Healthcare Access for LGBTI People in Europe  
 T. PUIU
- ▶ **16 November 2023, Murcia, Spain**  
*XXIII Foro Aranzadi Social, “La Carta Social Europea: problemas aplicativos y nuevas perspectivas. Especial referencia al cálculo de la indemnización por despido”*  
 C. SALCEDO BELTRÁN
- ▶ **30 November-1 December 2023, Strasbourg**  
 Launching meeting of the Consultation Group on the Children of Ukraine (CGU)  
 A. NOLAN
- ▶ **1 December 2023, Madrid, Spain**  
*II Congreso ICON-S España, Mesa plenaria Transiciones Sociales*  
 C. SALCEDO BELTRÁN
- ▶ **14 December 2023, Brussels**  
 Social Rights are Human Rights: (marking the International Day of Human Rights), in partnership with the Social Platform  
 A. NOLAN, G. PALMISANO, P. RIETJENS, C. POIREL, J. MALINOWSKI, L. VIOIU, I. VARFI-BOEHRER

## Appendix 12 – Selection of judicial decisions from 2023 referring to the European Social Charter

### Belgium

**Belgian Constitutional Court, 1 June 2023**, Judgment No. 85/2023: references Article 15§1 of the Revised Charter and the Digest of the Committee of Ministers.

**Belgian Constitutional Court, 17 May 2023**, Judgment No. 78/2023: references Articles 5, 6, 24, 28, and G of the Revised Charter, along with the Digest of the Committee.

**Belgian Constitutional Court, 27 April 2023**, Judgment No. 69/2023: references Article 12§1 of the Revised Charter.

### France

**Decision of the Administrative Court of Appeal of Douai No. 22DA01470, 12 October 2023**: relates to the interpretation and application of Article 9 of the Revised Charter. This article requires States Parties to ensure the right to vocational guidance, which should be available to all persons free of charge.

**Council of State, 29 September 2023, No. 464677**: Article 15§3 of the Revised Charter requires additional legal acts to produce effects for individuals, because this Charter provision is intended exclusively to govern relations between states.

**Decision of the Administrative Court of Appeal of Nantes, 21 July 2023, No. 22NT00447, and Decision of the Administrative Court of Appeal: 14 March 2023, No. 22NC01643**: Article 1 of the Charter has no direct effect in disputes between individuals.

**Court of Cassation Civil Division Social Division, 11 October 2023, No. 21-24.857**: provisions of the Charter do not have direct effect in domestic law disputes between individuals, thus Article 24 cannot exclude the application of Article L. 1235-3 of the French Labour Code.

### Hungary

**Constitutional Court (AB) Decision number: 1/2023 (I.4.) AB (Constitutional Court case number II/1665/2022.)**: Section [11] of the Petition: Reference to Art. 5 in the petition, claiming that the regulatory requirements of limitations permitted in case of the police and the armed forces are protecting the core of “trade unionism” of which strike action is an inseparable part and which is infringed by the legislation.

### Italy

In a series of judgments, the Revised Charter was referenced alongside other international and EU sources to support legal arguments.

In the **judgments of the Supreme Court of Cassation** (Nos. 28320, 28321, 28323, 27711, and 27769), Article 4 of the Charter, which addresses the right to fair remuneration, was cited. These cases collectively emphasized the importance of ensuring fair compensation for work performed, drawing upon the Charter to reinforce the legal framework surrounding fair pay.



In **Supreme Court of Cassation decision No. 31464**, Article 15, which pertains to the rights of persons with disabilities to vocational training and employment, was referenced. The case involved the obligation to relocate a disabled worker in the event of supervening unfitness for their assigned tasks. The Charter was used to underscore the necessity of accommodating disabled workers in line with broader international standards.

In the **Tribunal of Udine's decision on 31 January 2023**, concerning the right of a third-country national to access housing, Article 31 of the Charter, which guarantees the right to housing, was invoked. This case highlighted the rights of individuals from outside the EU to secure adequate housing, supported by the principles laid out in the Charter.

## Poland

**Supreme Administrative Court decision of 6 July 2023, No. I OSK 677/21**: the applicant relied on Articles 13-16 of the Charter in case concerning the care allowance of a legal guardian for a totally incapacitated ward who is severely disabled. The Court found no grounds for infringement of the national provisions in question in relation to the provisions of the THE CHARTER, which merely establish the framework nature of the obligations undertaken by the signatories to the Charter

**Voivodship Administrative Court in Warsaw, 27 April 2023, No. III SA/Wr 286/21**: reference to Articles 1 and 16 of the Charter: the Court pointed out that these provisions have no functional connection with the essence of the case at hand (the interpretation of the provisions of the Social Assistance Act), as they do not interfere with the shape of the specific legal norms on enforcement proceedings that form the basis of the contested order.

**Constitutional Court, 28 November 2023, No. K 17/19: Article 37(3)** reference to Article 4§2 of the Charter: the Court stated that Article 37(3) of the Act of 12 October 1990 on the Border Guard, in so far as it includes the expression: "to the same extent", by failing to grant an officer of the Border Guard increased time off for time on duty in excess of the standard set out in Article 37(2) of that Act, is incompatible with point 2 of the first paragraph of Article 4 of the Charter.

## Portugal

**Constitutional Court, 21 December 2023, No. 927/2023**: Invoked the Charter in an obiter dictum while discussing the right of children to special constitutional protection.

**Supreme Administrative Court, 16 November 2023, No. 0455/23.5BELSB**: Emphasised that the Portuguese Constitution must be read having in mind a multilevel perspective of human rights protection, including the Charter.

## Romania

Superior Council of Magistracy, 2023: 114 cases referencing the Charter, including:

Decision No. 13/2023 of 13 March 2023 The Panel for Preliminary Ruling on Questions of Law	Article 453
Decision No. 1347/2023 of 9 March 2023 Administrative and Tax Litigation Chamber	The Revised Charter is referred as it is mentioned in art. 4 of Law no. 448/2006 regarding the protection and promotion of the rights of persons with disabilities
Decision No. 295/2023 of 21 March 2023, annulment of administrative act (Administrative and fiscal litigation)	The Revised Charter. is referred as regarding the protection and promotion of the rights of persons with disabilities
Decision No. 257/2023 of 19-Apr-2023, annulment of administrative act (Administrative and fiscal litigation)	The Revised Charter. is referred as it is mentioned in Article 4 of Law No. 448/2006 regarding the protection and promotion of the rights of persons with disabilities
Decision No. 92/2023 of 21-Feb-2023, annulment of administrative act (Administrative and fiscal litigation)	The Revised Charter is referred as it is mentioned in art. 4 of Law No. 448/2006 regarding the protection and promotion of the rights of persons with disabilities
Decision No. 133/2023 of 2 March 2023, annulment of administrative act (Administrative and fiscal litigation)	The Revised Charter. is referred as it is mentioned in art. 4 of Law No. 448/2006 regarding the protection and promotion of the rights of persons with disabilities
Decision No. 618/2023 of 20 June 2023 (labor and social insurance litigation)	Article 24 of the Revised Charter
Decision No. 902/2023 of 07 November 2023 (labor and social insurance litigation)	Articles 13 and 15 of the Revised Charter
Decision No. 2027/2023 of 24.10.2023 (Administrative and fiscal litigation)	The Revised Charter. is referred as regarding the equal treatment and fair remuneration
Decision No. 154/2023 of 06.03.2023 (Administrative and fiscal litigation)	The Revised Charter. is referred as it is mentioned in art. 4 of Law No. 448/2006 regarding the protection and promotion of the rights of persons with disabilities

<a href="#">Decision No. 3144/2023 of 14.11.2023</a> (labor and social insurance litigation)	The Revised Charter. is referred to in art. 4 of Law No. 448/2006 regarding the protection and promotion of the rights of persons with disabilities
<a href="#">Decision No. 266/2023 of 24.02.2023</a> (presidential ordinance - minors and family)	The Revised Charter. is referred to regarding the protection and promotion of the rights of persons with disabilities
<a href="#">Sentence No. 2866/2023 of 21.12.2023</a>	The Revised Charter. is referred as regarding the protection and promotion of the rights of persons with disabilities
<a href="#">Sentence No. 2041/2023 of 28.11.2023</a>	The Revised Charter. is referred as regarding the equal treatment and fair remuneration
<a href="#">Sentence No. 704/2023 of 23.11.2023</a>	The Revised Charter. is referred as regarding the protection and promotion of the rights of persons with disabilities
<a href="#">Sentence No. 565/2023 of 23.11.2023</a>	The Revised Charter. is referred as it is mentioned in art. 4 of Law No. 448/2006 regarding the protection and promotion of the rights of persons with disabilities
<a href="#">Sentence No. 706/2023 of 23.11.2023</a>	The Revised Charter. is referred as regarding the protection and promotion of the rights of persons with disabilities
<a href="#">Sentence No. 606/2023 of 25.10.2023</a>	The Revised Charter. is referred as regarding the protection and promotion of the rights of persons with disabilities
<a href="#">Sentence No. 607/2023 of 25.10.2023</a>	The Revised Charter. is referred as regarding the protection and promotion of the rights of persons with disabilities
<a href="#">Sentence No. 560/2023 of 10.10.2023</a>	The Revised Charter. is referred as regarding the protection and promotion of the rights of persons with disabilities
<a href="#">Sentence No. 564/2023 of 10.10.2023</a>	The Revised Charter. is referred as regarding the protection and promotion of the rights of persons with disabilities
<a href="#">Sentence No. 528/2023 of 03.10.2023</a>	The Revised Charter. is referred as regarding the protection and promotion of the rights of persons with disabilities
<a href="#">Sentence No. 394/2023 of 27.09.2023</a>	The Revised Charter. is referred as it is mentioned in art. 4 of Law No. 448/2006 regarding the protection and promotion of the rights of persons with disabilities

## Slovenia

[Higher Labour and Social Court decision of 5 January 2023, No. Pdp 483/2022](#): Dismissed a reference to the Revised Charter as irrelevant in a case concerning reduced working time and wage calculation.

Republic Constitutional Court decision of 11 October 2023, No. U-I-806/21: Slovenian Advocate of the Principle of Equality challenged one of the anti-Covid-19 legislative acts, arguing for discrimination based on residence and indirect discrimination based on citizenship when providing certain social advantages.

Republic Constitutional Court decision of 5 January 2023, No. U-I-198/19: Upheld limitations on additional work for medical doctors as constitutional, referencing several international and EU laws, including Article 251 of the Revised Charter.

## The Netherlands

Various courts referenced the THE CHARTER in 2023, including decisions by:

- ▶ Central Appeals Tribunal decision of 19/01/2023
- ▶ District Court of The Hague in the Netherlands decision of 11/08/2023
- ▶ Council of State decision of 1/02/2023
- ▶ Rotterdam District Court decision of 31/10/2023
- ▶ Council of State decision of 19/07/2023
- ▶ Rotterdam District Court Decision of 6/05/2023
- ▶ Office of the Advocate General at the Supreme Court of the Netherlands decision of 22/12/2023
- ▶ East Brabant District Court) in the Netherlands decision of 22/03/2023
- ▶ Middle Netherlands District Court in the Netherlands decision of 22/02/2023
- ▶ Office of the Advocate General at the Supreme Court of the Netherlands decision of 24/02/2023
- ▶ Central Appeals Tribunal decision of 10/11/2023

## Ukraine

In 2023, Ukrainian courts frequently referenced the Revised Charter in their judgments, primarily in cases of administrative jurisdiction.

*Supreme Court References:*

- ▶ The Administrative Cassation Court, the Commercial Cassation Court, and the Civil Cassation Court referred to the THE CHARTER in over 20 judgments.
- ▶ One reference was made by the Constitutional Court of Ukraine.

*Commercial Cassation Court:*

- ▶ Referenced Article 31 of the Charter in Case No. 924/57/19 (June 14, 2023) regarding housing rights.
- ▶ Referenced Paragraph 4 of Part I of the Charter in Case No. 910/6968/16 (February 21, 2023) on unlawful dismissal and salary arrears.

*Civil Cassation Court:*

- ▶ Plaintiffs also referenced the Charter in their complaints, e.g., Case No. 760/9010/21 (November 29, 2023) regarding unlawful acts and reinstatement in service.

*Constitutional Court of Ukraine:*

- ▶ Reference to the Charter in judgment No. 3-p(II)/2023 (March 22, 2023) on pension guarantees, emphasizing the right to a standard of living not lower than the subsistence minimum.

*Other noteworthy references and cases:*

- ▶ Pension Issues: Paragraph 23 of Part I of the Charter was frequently cited, particularly by the Administrative Cassation Court. Examples include:
  - Case No. 540/1625/21 (23 November 2023)
  - Case No. 420/8355/22 (20 July 2023)
  - Similar references in other cases by various administrative courts.
- ▶ Illegal Dismissals and Compensation: References to Paragraph 24 of Part I and Article 24 of the Charter in cases involving illegal dismissals and compensation for forced absence. Notable cases include:
  - Case No. 826/17611/14 (20 July 2023)
  - Case No. 816/3418/15 (2 February 2023)
  - Case No. 580/1605/21 (30 November 2023)
  - Detailed reference in Case No. 380/23651/21 (1 May 2023)
- ▶ Employment of Persons with Disabilities: Case No. 120/4975/22 (3 August 2023) referenced Article 15 of the Charter.
- ▶ Old-Age Pensions: References to the Charter in cases regarding old-age pensions and additional payments for service in special conditions, e.g., Case No. 280/5941/22 (7 August 7 2023).

## Appendix 13 – Bibliography on the European Social Charter (publications referenced in 2023)

### Periodicals and Reports

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Activity Report 2022 of the European Committee of Social Rights

Factsheet, Rights of persons with disabilities, Article 15 of the Revised, European Social Charter

The European Charter at a glance (revised)

Council of Europe Commissioner for Human Rights Dunja Mijatović's report on her visit to Spain with recommendations on social rights, in particular the right to housing and the right to health, the freedoms of expression and assembly and the human rights of refugees, asylum seekers and migrants.

Council of Europe Commissioner for Human Rights' report on her visit to the Czechia Report: *State Human Rights Obligations Regarding the Distribution of Scarce Health Resources*, relevant to the *Open Society European Policy Institute (OSEPI) v. Bulgaria*, Complaint No. 204/2022. (2023)

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Conclusions 2022/xxii-3 of the European Committee of Social Rights on labour rights: Non-compliance progresses (in)adequately (quousque tandem abutere, catilina, patientia nostra?). *Revista General de Derecho Europeo*. (2023)

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Lodestar in the time of Coronavirus? Interpreting international obligations to realise the right to health during the COVID-19 pandemic. *Human Rights Law Review*, 23(1). (2023)

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*Frontiers of Gender Equality: Transnational Legal Perspectives*, University of Pennsylvania Press (2023)

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**LITINS'KA, Y.**

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What Healthcare Services Temporary Protection Entitles to Have? Navigating the European Social Charter. *European Journal of Health Law*, relevant to *Amnesty International v. Sweden*, Complaint No. 227/2023. (2023)

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Quelle autorité européenne pour les droits sociaux? Les négociations de la Charte sociale européenne (1953-1961) et la création du Comité d'experts indépendants. (2020)

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The European Committee of Social Rights: Legal Value of its Resolutions in *Documentación Laboral*. 25. pp. 75-90 (2022)

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<https://revista.laborum.es/index.php/revsegsoc/article/view/864>

**Web site**

[www.coe.int/socialcharter](http://www.coe.int/socialcharter)



The European Social Charter, adopted in 1961 and revised in 1996, is the counterpart of the European Convention on Human Rights in the field of economic and social rights. It guarantees a broad range of human rights related to employment, housing, health, education, social protection and welfare.

No other legal instrument at pan-European level provides such an extensive and complete protection of social rights as that provided by the Charter.

The Charter is therefore seen as the Social Constitution of Europe and represents an essential component of the continent's human rights architecture.

[www.coe.int/socialcharter](http://www.coe.int/socialcharter)  
[@CoESocialRights](https://twitter.com/CoESocialRights)

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[www.coe.int](http://www.coe.int)

The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.



European  
Social  
Charter

Charte  
sociale  
européenne

