



European  
Social  
Charter

Charte  
sociale  
européenne



## — Serbia and the European Social Charter —

### Signatures, ratifications and accepted provisions

Serbia ratified the Revised European Social Charter on 14 September 2009 accepting 88 of its 98 paragraphs. It has not yet accepted the system of collective complaints.

### Table of accepted provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3
6.4 <sup>1</sup>	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1
15.2	15.3	16	17.1 <sup>2</sup>	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22
23	24	25	26.1	26.2	27.1	27.2	27.3	28	29	30	31.1
31.2	31.3							Grey = Accepted provisions			

<sup>1</sup> with the exception of professional military personnel of the Serbian Army

<sup>2</sup> al. 1 b and 1 c are accepted

### Reports on non-accepted provisions

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

The Committee considers that there are no major obstacles to acceptance of the following provisions: Articles 10§5, 19§§11,12, and Article 27§§1–3.

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

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

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

#### Reports submitted by Serbia

Between 2011 and 2023, Serbia has submitted 12 reports on the application of the Revised Charter.

The [11<sup>th</sup> report](#), submitted on 17/05/2022, concerns the accepted provisions relating to thematic group 3 "Labour Rights" (Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29).

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

The [12<sup>th</sup> report](#), which was submitted on 28/03/2023, covers the accepted provisions of the Social Charter relating to thematic group 4 "Health, social security and social protection", namely:

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

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

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

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

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

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

► *Article 152 - Right to work - Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)*

- Restriction on access of nationals of other States Parties to employment in the regional and local governments is excessive, which constitutes a discrimination on grounds of nationality;
- It has not been established that legislation provides for a shift in the burden of proof in discrimination cases.
- It has not been established that the national authorities have fulfilled their positive obligations to prevent forced labour and labour exploitation, to protect victims, to effectively investigate the offences committed, and to punish those responsible for forced labour offences.

► *Article 154 - Right to work - Vocational guidance, training and rehabilitation*

- It has not been established that the right to vocational guidance within the education system is guaranteed;
- It has not been established that the right of an employed person to an individual leave for training is guaranteed;
- It has not been established that the right of persons with disabilities to mainstream training is effectively guaranteed.

► *Article 9 - Right to vocational guidance*

It has not been established that the right to vocational guidance within the education system is guaranteed.

► *Article 1053 - Right to vocational training - vocational training and retraining of adult workers*

It has not been established that the right of an employed person to an individual leave for training is guaranteed.

► *Article 1551 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Vocational training for persons with disabilities*

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

► *Article 1552 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Employment of persons with disabilities*

It has not been established that the obligation to provide reasonable accommodation is effectively guaranteed.

► *Article 1553 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Integration and participation of persons with disabilities in the life of the community*

It has not been established that:

- anti-discrimination legislation covers telecommunications;
- persons with disabilities have effective access to transport;
- persons with disabilities have effective access to housing.

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

It has not been established that the right to compensation is provided for in gender pay discrimination cases.

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

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

It has not been established that:

- temporary workers, interim workers and workers on fixed-term contracts enjoy the same standard of protection as workers on contracts with indefinite duration;

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

- domestic workers are covered by occupational health and safety regulations;
- consultation with employers' and workers' organisations is ensured.

► *Article 11§2 - Right to protection of health - Advisory and educational facilities*

It has not been established that screening for diseases responsible for high levels of mortality (besides cancer) is available to the population as a whole.

► *Article 11§3 - Right to protection of health - Prevention of diseases and accidents*

It has not been established that:

- adequate measures were taken to overcome environmental pollution;
- efficient immunisation and epidemiological monitoring programmes are in place;
- adequate measures were taken to prevent tobacco and alcohol consumption.

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

The duration of unemployment benefit for the insurance period of up to 5 years is too short.

► *Article 12§3 - Right to social security – Development of the social security system*

It has not been established that steps have been taken to raise progressively the system of social security to a higher level.

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

- Equal access to family benefit is not guaranteed for all resident children;
- It has not been established that the retention and export of accrued benefits is ensured;
- It has not been established that the maintenance of accruing rights is ensured.

► *Article 13§1 – Right to social and medical assistance – Adequate assistance for every person in need*

- Means of subsistence are not guaranteed to persons in need whose social assistance is withdrawn as penalty for having refused a job offer;
- It is not established that the level of social assistance paid to a single person without resources is adequate;
- It is not established that the right to appeal concerning access and entitlement to social assistance benefits is guaranteed;
- It is not established that foreigners lawfully resident in Serbia are not subject to an excessive length of residence requirement to be entitled to social assistance.

► *Article 14§1 - Right to benefit from social welfare services - Promotion or provision of social services*

It has not been established that:

- equal access to social services is guaranteed to nationals of all States Parties lawfully residing on Serbian territory;
- the quality of social services meets users' needs.

► *Article 14§2 - Right to benefit from social welfare services - Public participation in the establishment and maintenance of social services*

It has not been established that:

- voluntary organisations are adequately supported by subsidies or tax incentives for the creation or maintenance of social services;
- services managed by the private sector are effective and accessible to all.

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

Adequate resources are not guaranteed to older persons not in receipt of a pension.

► *Article 30 - Right to be protected against poverty and social exclusion*

There is no adequate overall and coordinated approach in place to combat poverty and social exclusion.

### **Thematic Group 3 “Labour rights” - Conclusions 2022**

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

On-call periods during which no effective work is undertaken are considered as rest periods.

► *Article 2§2 - Right to just conditions of work - Public holidays with pay*

It has not been established that work performed on a public holiday is adequately compensated.

► *Article 2§6 - Right to just conditions of work - Information on the employment contract*

- It has not been established that the amount of paid leave is specified in the employment contract or some other document.
- The length of the periods of notice in case of termination of the contract or the employment relationship is not specified in the employment contract or some other document.

► *Article 2§7 – Right to just conditions of work – Night work*

- There is no provision in the legislation for compulsory medical examinations prior to employment on night work and regularly thereafter;
- It has not been established that possibilities of transfer to daytime work are sufficiently provided for.

► *Article 4§1 - Right to a fair remuneration - Decent remuneration*

It has not been established that the minimum wage ensures a decent standard of living.

► *Article 4§3 - Right to a fair remuneration - Non-discrimination between women and men with respect to remuneration*

- It has not been established that the right to adequate compensation is provided for in gender pay discrimination cases,
- It has not been established that in equal pay cases domestic law allows for pay comparisons to be made across companies.

► *Article 4§4 - Reasonable notice of termination of employment – Reasonable notice of termination of employment*

- In general, no notice periods are provided for by legislation in case of dismissal;
- The notice period applicable to dismissal on grounds of underperformance, is manifestly unreasonable for workers with more than three months of service;
- The notice period is manifestly unreasonable for workers on probation with more than three months' seniority.

► *Article 5 - Right to organise*

The conditions imposed by legislation in order to form an employers' organisation constitutes an obstacle to the right to organise.

► *Article 6§4 - Right to bargain collectively - Collective action*

- The range of sectors in which the right to strike may be restricted is too extensive and the restrictions on the right to strike go beyond the limits set by Article G of the Charter;
- Workers are not involved on an equal footing with employers in decisions on the minimum service to be provided during strikes.

► *Article 21 - Right of workers to be informed and consulted*

It has not been established that effective remedies are available to employees or their representatives who consider that their right to information and consultation within the undertaking has not been respected.

► *Article 22 - Right of workers to take part in the determination and improvement of working conditions and working environment*

It has not been established that:

- the right of workers and/or their representatives to participate in the decision-making process within undertakings with regard to working conditions, work organization and working environment, is effectively guaranteed;

- the right of workers and/or their representatives to participate in the organization of social and socio-cultural services within an undertaking is guaranteed, and
- legal remedies are available to workers in the event of infringement of their right to take part in the determination and improvement of working conditions and the working environment.

► *Article 26§1 - Right to dignity in the workplace - Sexual harassment*

- It has not been established that there is adequate prevention of sexual harassment in relation to work;
- It has not been established that there is appropriate and effective redress (compensation and reinstatement) in cases of sexual harassment in relation to work.

► *Article 26§2 - Right to dignity in the workplace - Moral harassment*

It has not been established that there is appropriate and effective redress (compensation and reinstatement) in cases of moral (psychological) harassment in relation to work.

► *Article 29 - Right to information and consultation in procedures of collective redundancy*

It has not been established that there are preventive measures to ensure that redundancies do not take effect until the employers have met their obligation to inform and consult employee representatives.

**Thematic Group 4 “Children, families, migrants” – Conclusions 2019**

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

The protection of children under the age of 15 against child labour is not guaranteed in practice.

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

It has not been established that the protection against child labour for children who are still subject to compulsory education is guaranteed.

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

The duration of working time for young workers under the age of 16 is excessive.

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

Young workers’ wages are not fair.

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

It has not been established that whether young workers under 18 years of age are guaranteed regular medical check-ups during employment and which is the interval between the check-ups and how the medical examinations are performed in practice.

► *Article 8§5 - Right of employed women to protection of maternity - Prohibition of dangerous, unhealthy or arduous work*

It has not been established that there are adequate regulations on dangerous, unhealthy and arduous work in respect of pregnant women, women who have recently given birth or women who are nursing their infant.

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

Not all forms of corporal punishment are prohibited in all settings.

► *Article 19§3 – Right of migrant workers and their families to protection and assistance - Co-operation between social services of emigration and immigration states*

It has not been demonstrated that the cooperation between social services in emigration and immigration countries is sufficiently established and promoted.

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

It has not been established that migrant workers benefit from access to housing on the equal footing with nationals.

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

It has not been established that:

- a family member of a migrant worker may not be denied entry to Serbia for the purpose of family reunion for health reasons;
- the level of means required to bring in the family or certain family members is not so restrictive as to prevent any family reunion;
- the restrictions on the exercise of the right to family reunion are subject to an effective mechanism of appeal or review.

► *Article 19§7 - Right of migrant workers and their families to protection and assistance - Equality regarding legal proceedings*

It has not been established that equal treatment in respect of the right to legal aid is guaranteed to migrant workers.

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

The grounds of non-conformity under Articles 19§3, 19§4, 19§6 et 19§7 apply also to self-employed migrants.

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

**Thematic Group 1 “Employment, training and equal opportunities”**

- ▶Article 1§1 - Conclusions 2020
- ▶Article 10§1 - Conclusions 2020
- ▶Article 10§4 - Conclusions 2020
- ▶Article 18§2 - Conclusions 2020
- ▶Article 18§4 - Conclusions 2020
- ▶Article 24 - Conclusions 2020

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

- ▶Article 3§1 - Conclusions 2021
- ▶Article 3§3 - Conclusions 2021
- ▶Article 11§1 - Conclusions 2021
- ▶Article 13§3 - Conclusions 2021

**Thematic Group 3 “Labour rights”**

- ▶Article 4§2 - Conclusions 2022
- ▶Article 4§5 - Conclusions 2022
- ▶Article 28 - Conclusions 2022

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

- ▶Article 7§10 - Conclusions 2019
- ▶Article 8§1 - Conclusions 2019
- ▶Article 8§2 - Conclusions 2019
- ▶Article 8§4 - Conclusions 2019
- ▶Article 16 - Conclusions 2019
- ▶Article 17§2 - Conclusions 2019
- ▶Article 19§1 - Conclusions 2019
- ▶Article 19§2 - Conclusions 2019
- ▶Article 19§5 - Conclusions 2019
- ▶Article 19§8 - Conclusions 2019
- ▶Article 19§9 - Conclusions 2019



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

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

►In 2013, the Labour Code was amended with a view to extending the protection to women on a fixed-term employment contract (Law on Amendments to the Labour Code of 8 April 2013).

►The Employment of Foreign Nationals Act, adopted in November 2014, enables free access to the Serbian labour market for EU Member State citizens.

►Law on the Professional Rehabilitation and Employment of Persons with Disabilities (Official Gazette Nos. 36/2009 and 32/2013), which came into force on 23 May 2009 and was amended on 16 April 2013. It prohibits all discrimination against persons with disabilities and aims to create the conditions for equal access for persons with disabilities to the open labour market and to promote professional rehabilitation.

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

►A new mechanism has been launched at national level for those municipalities and cities which do not have means to launch social care services: the so-called "earmarked transfer", which under the law regulating funding of local governments, can fund several social care services from the State budget.

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

►Under Article 68 of the amended Labour Code (came into force on 29 July 2014), employees are entitled to annual leave and cannot waive that right. Under Article 114, during annual leave employees are entitled to be paid at the rate of their average salary for the preceding twelve months.

►Under the amended Article 66 of the Labour Code, employees are entitled to a minimum of 12 hours of uninterrupted rest within each 24-hour period, unless otherwise specified in the Code. Employees who agree to flexible working time arrangements (Article 57) are entitled to a minimum of 11 hours' uninterrupted rest within each 24-hour period. Under Article 67, if employees are required to work on their weekly rest day their employer must grant them an uninterrupted rest period of at least 24 hours in the following week, before their next scheduled weekly rest period.

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

►In 2013, the Labour Code was amended with a view to extending the protection to women on a fixed-term employment contract (Law on Amendments to the Labour Code of 8 April 2013).

►A new Employment of Foreign Nationals Act was adopted in November 2014, enabling free access to the Serbian labour market for EU Member State citizens.